RIVERSIDE ENERGY PARK DCO

LB Bexley Deadline 3 Submissions

18 June 2019

LONDON BOROUGH OF BEXLEY

Contents

1 INTRODUCTION

1.1 The information is being submitted in response to:

- matters raised at the hearings;
- additional documents submitted by Cory for deadline 2; and
- responses to written questions.

1.2 The summary of oral submissions on Environmental Matters and Draft DCO are attached as appendices.

2 REQUIREMENT FOR A WASTE CAP

2.1 The London Borough of Bexley (LBB) consider it essential that the amount of waste delivered to the proposed waste facilities are capped and this is secured through Schedule 1 and Schedule 2 to the DCO through the imposition of fixed maximum waste tonnage for both the proposed new Energy from Waste (EfW) plant and the proposed new Anaerobic Digestion (AD) plant.

2.2 The need for a cap on the waste throughput's for both these proposed facilities were discussed in the environmental and the DCO hearings that took place on the 5th and 6th June 2019.

2.3 Further to these discussions, and the matters relating to waste need and capacity set out in paragraphs 3.5, 3.6 and 3.12 of the Council's Written Representation and paragraphs 4.22 to 4.24 of the Councils Local Impact Report, LBB wish to make the following additional points for the Applicant and the Examining Authority (ExA) to take into account.

2.4 There should be a cap on the waste throughput of both the proposed EfW and the AD plants that is fixed in Schedule 1 of the DCO, as proposed in the mark-up of the DCO by LBB at deadline 2. The level of this cap is a matter for the ExA to determine but should not exceed the levels assessed in the Applicant's ES, which are 40,000 tpa for the proposed AD plant and 805,920 tpa for the proposed EfW plant.

2.5 This capping of the waste throughput for waste management facilities is a well-established approach adopted by decision makers at a local and national level. It is noted that the existing RRRF facility also has a cap on waste throughput. The cap is set out in condition 4 of planning permission (Ref: 16/02167/FUL) granted by the LBB. Condition 4 limits the existing RRRF facility to 785,000 tpa and the reason given for this condition is stated as: "To ensure that the development is operated generally in accordance with the environmental impact assessed in the supporting documents".

2.6 A cap on the waste throughput has also been applied to waste DCOs granted, for example, the East Northamptonshire Resource Management Facility Order 2013 (SI 2013 1752) states in Schedule 1:

2.7 "Works No.1 – A hazardous waste landfill facility for the disposal at a direct input rate of up to 150,000 tonnes per annum of hazardous waste and low level waste on the area and phases identified on the works plan (WS010001/ENRMF/PLANS/WORKS) including a landfill gas pump and gas flare, extraction and stockpiling of clay and other suitable materials for engineering purposes and the exportation of some clay and other suitable materials, all other associated engineering works to construct the landfill phases including a leachate collection system.

2.8 Works No.2 – A hazardous waste facility, namely the alteration of an existing soil treatment facility the details of which are as shown on the plan Elevations of the infrastructure associated with the soil treatment plant (WS010001/ENRMF/PLANS/ELEVATION5) with an increase from the currently consented capacity of 100,000tpa to 150,000tpa of contaminated materials comprising predominantly hazardous wastes and comprising a modular plant located on a concrete pad with associated surface water drainage and collection and adjacent stockpiles. The components of the plant include stocking areas and stocking bays with concrete A frame walls, process, reagent and water or other liquid storage tanks and silos, feed hoppers, screens, conveyors, washing units, separators, mixing vessels, sedimentation units, bioremediation area, a mobile crusher on a campaign basis, open concrete lined settlement tanks, a process control office and staff welfare

facilities, bunded fuel storage tanks and an electricity generator in an insulated container."

2.9 Furthermore, the White Moss Landfill Landfill Order 2015 (SI 2015 1317) following this DCO application states in Schedule 1:

> *(1)"The construction of a new hazardous waste landfill facility for the disposal at a direct input rate of up to 150,000 tonnes per annum of hazardous waste in the area and phases identified on the works plan including the operation of a landfill gas collection and flare system, the operation of a leachate collection, treatment and lagoon system, the extraction, stockpiling and exportation of clay, mudstones, coal and other suitable materials including…"*

2.10 The imposition of a cap on the waste throughput in tonnes per annum is not just a matter of precedent. Failure to limit or cap the throughput of waste could lead to the operational impacts of the development being greater than those assessed in the Applicant's ES. This is considered unacceptable by the LBB. The operational control of the development must not exceed the limitations set out and assessed within the EIA.

2.11 The ES is clear as to the maximum capacity of the proposed waste facilities. With regard to the WtE plant the ES states in paragraph 3.3.5 that: "…throughput of 805,920 tpa has been assumed in the Environmental Impact Assessment (EIA) on a precautionary basis and represents the reasonable worst case". However, during the environmental hearing Mr Pike for the Applicant stated that the 805,920 tpa capacity was the "absolute maximum" and Mr Griffiths for the Applicant stated that it was the "theoretical capacity of the plant".

2.12 With regard to the AD plant the Applicants ES states in paragraph 3.3.40 that: "The AD element of the REP would be capable of processing up to a maximum 40,000 tpa of food and green waste".

2.13 The Applicant has suggested that their justification for their being no cap on the waste throughput to the EfW or AD plants is that due to future efficiencies in the plant operations it may be feasible for the plant to accept more waste than currently predicted.

2.14 Although the LBB do not wish to restrict or limit efficiency improvements of the plant, it requires that any maximum throughput level should be both realistic and within the parameters set out and assessed in the ES.

2.15 In light of the responses from the Applicant in paragraphs 1.2.2 – 1.2.14 of the Applicants responses to ExA first written questions there is now some doubt as to the realistic nature of the upper / maximum throughput figure of 805,920 tpa suggested for the proposed EfW plant.

2.16 In paragraphs 1.2.2 – 1.2.5 of the Applicants responses to ExA first written questions the Applicant has suggested that the nominal and upper throughput figures (655,000 tpa and 805,920 tpa respectively) have been based on two factors – these being:

- the calorific value (CV) of the waste (the lower the CV figure the more waste throughput can be achieved); and
- the number of hours that the plant will operate each year (this equating to operational availability – with the more hours of operation equating to more waste throughput).

2.17 As these assumptions do not appear to have been set out previously or followed through in the ES, further details on the viability of these assumptions are sought by the LBB. The upper throughput (805,920 tpa) is stated in paragraph 1.2.5 of the Applicants responses to ExA first written questions to be based on 100% plant availability and the

lowest calorific value for the plant which in paragraph 1.2.8 of the Applicants responses to ExA first written questions is stated to be a CV of 7 MJ/kg.

2.18 How likely it is for the throughput of the EfW plant to ever achieve these levels is questioned. The reasons for this are set out below:

- In terms of operational availability, the upper limit (805,920 tpa) is based on 100% availability. However, the current RRRF facility made an assumption, based on operational performance, in its application to extend the capacity of the plant to 785,000 tpa in September 2014 (only 5 years ago) that the annual availability of the plant could range from 90-94% (paragraphs 2.16 and 2.17 of this earlier ES (September 2014)) not 100% due to required shutdowns of the plant. The Applicants Combined Heat and Power Supplementary report in paragraph 3.3.3 also references that shut downs to the plant will occur. As such is the assumption of 100% availability realistic?
- In terms of the calorific value of the waste this earlier application by Cory to extend the RRRF plant in September 2014 stated that the RRRF plants operational data showed a CV of waste at the plant being in the range of 9-10 MJ/kg (paragraph 2.18 of this earlier ES (September 2014)). As such is a CV of 7 MJ/kg realistic or should any capacity be based on a CV of 9 MJ/kg as per the application made by Cory in September 2014 (paragraph 2.20 of the earlier ES (September 2014))?

2.19 On account of the above the LBB question if the upper limit (805,920 tpa) would in reality ever be achieved and LBB fail to understand how any likely efficiencies could extend the throughput of the plant beyond this upper limit. However, even if efficiency improvements could be extended, it does not change the fact that the operational impacts of the development may be greater than those assessed in the Applicant's ES.

2.20 In paragraph 1.2.10 of the Applicants responses to ExA first written questions the Applicant suggests air quality and transport to be the issues of concern to the planning regime. However, the LBB would like to put on record that there are more issues of importance to the planning regime than just these matters as identified in the scope of the EIA undertaken in support of the application. Any increase in throughput of waste to the plant could impact other environmental factors than just air quality and transport movements. For example, if there was no restriction on waste inputs and the plant was to increase the throughput of waste, this would lead to more NOx releases that as well as having air quality impacts would also have impacts on ecological features. Impacts that have not been assessed within the ES.

2.21 The Applicant also made reference in the DCO hearing that the environmental permit would provide a control on the development. In paragraphs 1.2.13 and 1.2.14 of the Applicants responses to ExA first written questions the Applicant confirms that this permit application contains maximum capacities for the EfW plant of 805,920 tpa and 40,000 tpa for the AD plant. Any future change to the capacity of these plants should not be able to be achieved through a change to the environmental permit only. If there are further changes proposed by the Applicant in the future these should be subject to further environmental assessment and consideration through the planning process.

2.22 It is understood that a change to the capacity of these facilities under the environmental permitting regime may potentially be achieved through a variation of the permit as opposed to a new permit application. This could take the form of a normal variation or a substantial variation, the former of which does not necessarily require the Environment Agency to consult with the Local Planning Authority. Furthermore, the assessment work undertaken in support of a permit application does

not reflect the scope of assessments undertaken in the EIA to support this application. In consequence, LBB consider that if there are further changes to the proposed throughput of the either the EfW or the AD plants proposed by the Applicant in the future these should be subject to further environmental assessment and consideration through the planning process.

2.23 In our experience waste facilities have waste capacity limits in place through both the planning and permitting regimes and it is not uncommon for these levels to be different. Indeed, the original RRRF plant use to have different waste throughput levels under its extant planning and permit consents (paragraph 2.37 of the earlier ES (September 2014) states the permit levels being 700,000 tpa not 670,000 tpa which was the planning level before the RRRF application to extend the capacity of this facility from 670,000 tpa to 785,000 tpa was granted consent in 2015).

3 JUSTIFICATION FOR AIR QUALITY MONITORING

Justification for Financial Contribution by the Applicant

3.1 It is assumed that, if the DCO is granted, it will have been demonstrated that the proposed Riverside Energy Park (REP) will not have significant effects on air quality in relation to compliance with air quality standards and guidelines.

3.2 Nevertheless, has requested a financial contribution from the Applicant in respect of air pollution emissions. The Applicant has responded to this request as part of negotiations relating to the draft Statement of Common Ground (SoCG) (which is currently being negotiated (but is not agreed) between both parties) as follows: "*Given the conclusions of the EIA and EP submission / requirements from the ES, the Applicant would need to understand the reasoning for such a request since all effects are Negligible.*"

3.3 The reasoning for this request, and hence the inclusion of requirement 11A in the tracked changed mark-up of the DCO submitted by LBB at deadline 2, is that, even if air quality standards and guidelines are not exceeded, any additional emission of NO_x, PM_{10}, $PM_{2.5}$ and other pollutants makes an additional contribution to the very significant overall health impacts of air pollutants. This is reflected in Defra's "damage costs" approach to valuing the health burden of emissions of air pollutants to the atmosphere.

3.4 Defra's damage costs were updated in 2019,[1] and provide specific information to enable the costs of pollutants emitted from Part A processes to be quantified. The proposed facility would be classified as a Part A process with a stack height between 50 and 100 metres in an area with average population density above 1,000 persons per km^2. Hence, the applicable damage cost estimates and sensitivity bounds (2017 prices, impacts discounted to 2017) are (£/tonne emitted):

- $PM_{2.5}$
  Central: £9,708/tonne
  Range for sensitivity testing: £2,688 to £28,293/tonne
- NOx
  Central: £2,576/tonne
  Range for sensitivity testing: £355 to £8,871/tonne

3.5 Based on information in the Applicant's Environmental Statement Table 7.17, the damage costs of the proposed REP, based on the central values, are estimated as follows (2017 prices):

- $PM_{2.5}$ 19 Tonnes per year £180,000 per year
- NOx 451 Tonnes per year £1,160,000 per year
- **Total** **£1,350,000 per year**
  (values subject to rounding)

3.6 These costs would be mainly distributed among the 21 local authorities lying within 21 km of the proposed facility, with greater costs incurred in the closest lying and most densely populated authorities. This calculation can be used to provide the basis for discussion with the Applicant, and may be subject to revision: however, it confirms

[1] Ricardo Energy and Environment for Defra, "Air Quality damage cost update 2019," Report ref. AQ0650, 27 February 2019

LBB's view that the proposed development would incur additional costs for residents, service providers and other stakeholders within the borough, and a financial contribution in respect of these costs is justified.

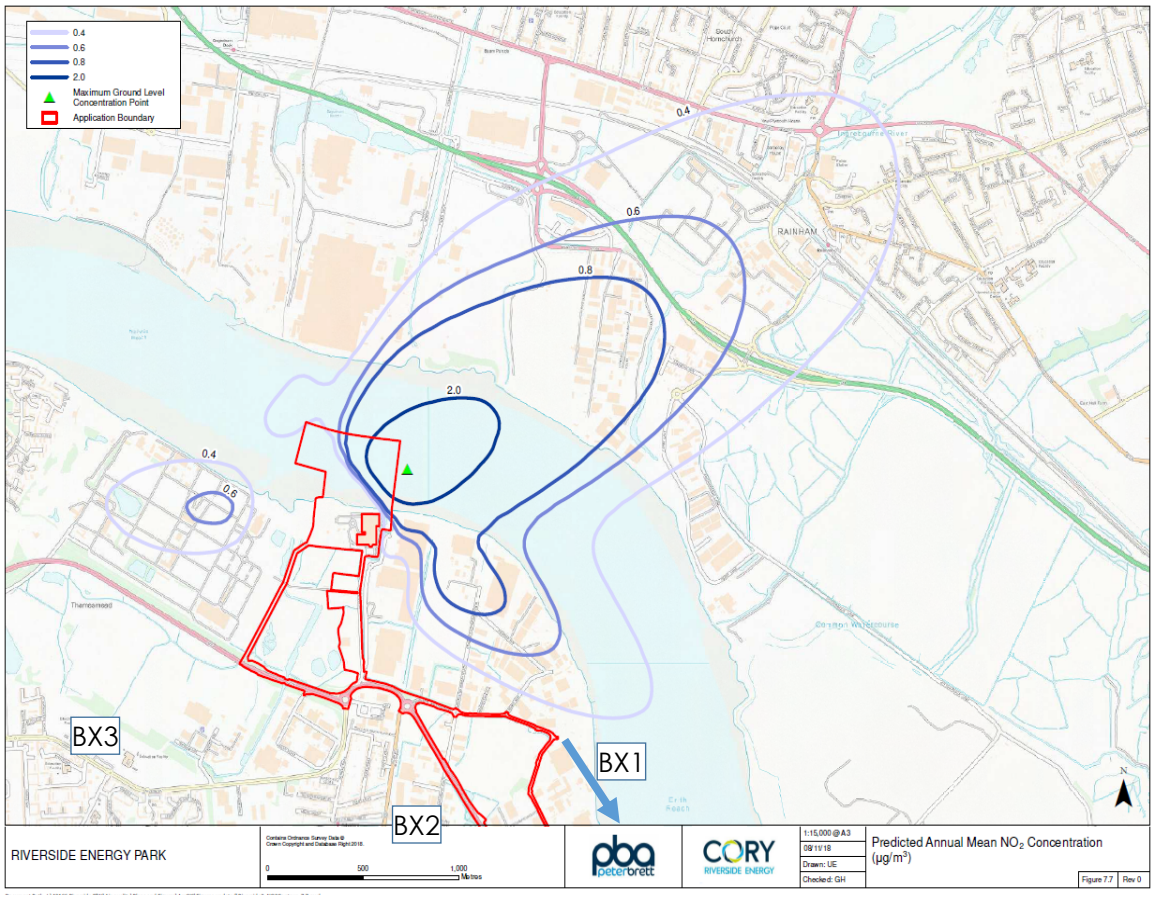
3.7 In response to this request and as part of the negotiations relating to the draft SOCG, the Applicant has also stated that "*There is no national, regional or local planning policy basis for requesting such a contribution. The ES conclusions do not justify a contribution. As part of REP, the Applicant is investing heavily in NOx abatement technology ... In any event, CRE is already providing a contribution to additional monitoring within the locality.*" LBB considers that it is not appropriate to refer to the investment in NOx abatement technology, which is needed to make the development acceptable in planning and permitting terms, as representing an investment in the local community. Nor is it appropriate to refer to the Applicant's current investment in air monitoring as addressing this requirement, as the current investment is provided in fulfilment of a permit requirement for the existing facility.

Need for Investment in Air Quality Monitoring in Bexley

3.8 LBB currently carries out monitoring at three locations in the vicinity of the existing RRRF and proposed REP:

- BX1 Whitehall Lane, Slade Green
- BX2 Belvedere Primary School, Mitchell Close
- BX3 Harris Garrard Academy, Yarnton Way

3.9 Monitoring stations BX2 and BX3 are closest to the proposed REP, and are shown superimposed on Environmental Statement Figure 7.7 below.



3.10 Monitoring station BX3 is currently funded by the Applicant, under a legal agreement with LBB, in order to fulfil a permit condition specified for the existing RRRF plant.

3.11 LBB has a requirement for [financial] support to continue, and potentially expand, the air monitoring programme in this area, for the following reasons:

- The instrumentation installed at monitoring stations BX1 and BX2 are nearing the end of their operational lives and will require replacement. There are no other sources of funding available to LBB for the investment required to update and continue operating the equipment at monitoring stations BX1 and BX2.
- Additionally, the instruments used for measuring airborne particulate matter at BX1 and BX2 will soon no longer be supported by the supplier and will therefore become obsolete.
- A key aspect of assessing evidence for a detectable air quality impact of the existing and proposed facilities is to compare measured concentrations at locations BX1, BX2 and BX3, and evaluate these datasets together. If it is necessary to withdraw BX1 and/or BX2 from service, the data provided by monitoring station BX3 would be of substantially less value to LBB and its residents.
- The proposed REP facility displays a different range of impacts due to process and traffic emissions than the existing RRRF plant. The figure above shows the forecast dispersion pattern of the proposed REP facility. In view of this, LBB may wish to relocate one of its monitoring stations, or add an additional station, to measure pollution levels associated with the proposed REP.

3.12 LBB therefore requests funding to enable the existing BX1 and BX2 stations to continue operating. LBB may also request funding to relocate monitoring station BX2, and/or to set up an additional monitoring station.

3.13 The purpose of the monitoring survey will be to confirm that the forecasts made in the Applicant's Environmental Statement are borne out in practice, providing assurance to LBB residents and other stakeholders regarding the impact of the new facility on local air quality.

4 CAP ON TRANSPORT MOVEMENTS

4.1 The London Borough of Bexley (LBB) consider it essential that the number of HGV movements to the proposed waste facilities are capped and this is secured through Schedule 2 to the DCO through the imposition of fixed maximum HGV limits for both the proposed new Energy from Waste (EfW) plant and the proposed new Anaerobic Digestion (AD) plant.

4.2 The need for a cap on the HGV movements delivering waste for both these proposed facilities were discussed in the environmental and the DCO hearings that took place on the 5th and 6th June 2019.

4.3 Further to these discussions, and the matters relating to transport set out in Section 8 of the Council's Written Representation and Section 9 of the Councils Local Impact Report, LBB wish to make the following additional points for the Applicant and the Examining Authority (ExA) to take into account.

HGV Figures as Presented in the Applicant's ES

4.4 The Transport Assessment contained in Chapter 6 of the Applicant's Environmental Statement (ES) provides for three transport scenarios, set out in Table 6.6 of the ES, these being:

- The 'nominal' scenario which REP will likely operate day-to-day – this assumes 75% of waste input to the proposed EfW plant by river and 25% by road, all consumables by road, APCR output by road and bottom ash transported by river. Under this scenario all waste delivered for the proposed AD plant and all outputs from the AD plant would be transported by road. The split adopted is secured by conditions attached to an extant planning permission for the existing RRRF plant (LBB Planning Permission Ref: 16/02167/FUL) and also appears to be based on observed data collected in March 2018 (contained in the Transport Assessment Appendix B.1) relating to how much waste and by-products must be transported.
- The 'reasonable worst case road' scenario - this assumes all waste for the proposed EfW facility is delivered by road with other transport movements for the EfW plant being as per the 'nominal' scenario. The transport movements for the proposed AD plant are as per the 'nominal' scenario.
- The 'reasonable worst case river' scenario - this assumes all waste for the proposed EfW facility is delivered by river with other transport movements for the EfW plant being as per the 'nominal' scenario. The transport movements for the proposed AD plant are as per the 'nominal' scenario.

4.5 The forecast number of HGV movements have been derived with the assumption that 805,920 tpa of waste is delivered to the EfW plant and 40,000 tpa is brought to the AD plant. These figures form part of the application for the REP.

4.6 Furthermore, it is assumed that all waste is delivered by Refuse Collection Vehicles (RCV's) with a tonnage capacity of 7 tonnes per vehicle. The ES acknowledges that this is unlikely to be the case for the proposed EfW facility since all LBB's waste is already provided for in the existing RRRF facility and thus the use of 20 tonne articulated HGV's is considered more likely. In consequence, the HGV movements are considered to be the worst case, since in reality the waste to be delivered to the proposed REP will come from outside the local area and thus will be brought in by larger capacity waste vehicles. This principle is recognised in the calculation set out in Chapter 6 of the Applicant's ES of the expected HGV movements for the AD plant. Here it is assumed that the food and green waste from the LBB will be delivered in 7 tonne RCV's and the other waste from outside of LBB will be delivered in 20 tonne HGV's.

4.7 Plate 6.2 of Chapter 6 of the Applicant's ES sets out the level of HGV traffic movements under the nominal scenario which is stated to be 78.9 HGV's in and out per day. Plate 6.1 of Chapter 6 of the Applicant's ES sets out the level of HGV traffic movements under the worst case road scenario which is stated to be 315.4 HGV's in and out per day. Plate 6.3 of Chapter 6 of the Applicant's ES sets out the level of HGV traffic movements for the AD plant which is stated to be 15.4 RCV's and 1.64 articulated HGV's in and out per day. These figures are two-way based on the principle of one in and one out (following a loop pattern).

4.8 Table 6.8 of Chapter 6 of the Applicant's ES sets the level of HGV movements for the REP under the 'nominal' scenario which has regard to the EfW facility, AD plant inputs and outputs by road as well as other consumables. This gives a total number of HGV two way movements of 213 HGV's per day [this is understood to include for some 79 HGV's both in and out for the EfW plant, 18 HGV's both in and out for the AD plant plus other HGV movements].

4.9 Table 6.9 of Chapter 6 of the ES sets the level of HGV movements for the REP under the 100% by road scenario, which has regard to the EfW facility, AD plant inputs and outputs by road as well as other consumables. This gives a total number of HGV two way movements of 686 HGV's per day [this is understood to include for some 316 HGV's both in and out for the EfW plant, 18 HGV's both in and out for the AD plant plus other HGV movements].

Proposed Transport HGV Movements Contained in the Tracked Changed DCO's Provided by the Applicant and LBB

4.10 The LBB position is that the EfW facility proposed as part of the REP is not to serve the local area, with local authority waste in the vicinity of the site already committed to the existing RRRF EfW plant. The LBB supports the principle of EfW but considers that the proposed new EfW plant to be a facility that must make use of the sites existing river infrastructure and in accordance with London Plan and LBB planning polices maximise the use of the river. For these reasons as outlined in the DCO hearings LBB propose that HGV traffic serving the proposed EfW facility should be minimised and less than that capped (25% of the capacity of the RRRF can be brought to the site by road) for the existing RRRF plant. Schedule 2 requirement 17A of the tracked changed version of the DCO submitted by LBB at deadline 2 therefore seeks to limit the amount of waste brought to the proposed EfW plant to 10% of the nominal expected throughput of the proposed plant (65,500 tonnes per annum).

4.11 The wording of this requirement also seeks to ensure that all bottom ash material from the proposed EfW plant is transported by river. This approach accords with the assumptions made by the Applicant in their transport assessment. The LBB also seeks for a dedicated area, to store empty and / or full containers for bottom ash, to be maintained on the site as is the case for the current RRRF plant. This approach is proposed to provide capacity for bottom ash storage in the event of a jetty outage. The Applicant suggested at the DCO hearing that such an area is not required as it has never been required to be used by the Applicant, although the photograph used in Figure 2.2 of the ES submitted by Cory in September 2014 does show this area to hold containers (this area is highlighted in red below). In the event that the Applicant considers this area not to be required, the LBB do not understand why the Applicant would object to the requirement for all bottom ash to be sent from the site by river.

Extract from Figure 2.2 of the Cory Riverside ES September 2014

Schedule 2 Requirement 14

4.12 The Applicant's proposed tracked changes to the DCO provided at deadline 2 includes in Schedule 2 requirement 14 which relates to "heavy commercial vehicle movements delivering waste". The LBB have a number of points to make on the proposed wording for requirement 14 as set out by the Applicant in the draft DCO:

4.13 Schedule 2 requirement 14 (1) seeks to cap the number of two way HGV movements (one vehicle in and one vehicle out) serving the proposed EfW plant during the operational period of the plant to 90 per day (90 vehicles in and 90 vehicles out).

4.14 Confirmation is sought from the Applicant if the maximum number of HGV movements in a day being sought is 90 or 180 per day, which would be the sum of 90 vehicles in and 90 vehicles out. It is understood that two-way trips are the total number of vehicle movements in both directions, as illustrated in Table 6.7 of the Applicant's ES.

4.15 LBB also consider that as with the existing condition imposed on the RRRF plant that the number of HGV vehicles serving the proposed waste facilities should be specified in terms of vehicles carrying waste to the facility and linked to a waste tonnage capacity. This approach will encourage the more efficient use of higher capacity waste vehicles, which would reduce traffic movements, and would give more clarity and certainty to the LBB in terms of monitoring, and if expedient to do so, taking enforcement action.

4.16 Under the extant LBB planning permission reference: 16/02167/FUL condition 26 states that:

"Except in the case of a jetty outage:

- Not more than 195,000 tonnes of waste shall be delivered by road in any calendar year;
- No more than 85,000 tonnes of waste transported to the development by road in any calendar year shall be transported from outside Greater London"

4.17 In terms of HGV numbers LBB's position is that any cap should be less than the 25% limitation that is in place for the existing RRRF plant, which serves the local area. Furthermore, the proposed cap by the Applicant of 90 HGV's does not appear to relate to the figures presented in the Applicants ES. As stated above the Applicant has indicated in Table 6.8 of the Applicant's ES that the total two-way HGV movements per day under the nominal scenario would be 213 HGV's. This figure would include 36 HGV's (18 in and 18 out) bringing waste to the AD plant as well as HGV movements associated with the transport of solid and liquid digestate from the AD plant. On this basis a figure of 180 two-way HGV's movements for the EfW plant (90 in and 90 out) would appear more than what has been assessed as the 25% nominal scenario presented in the Applicant's ES (36+180 = 216 plus solid and liquid digestate from the AD plant].

4.18 The assumptions around traffic movements for the EfW plant also assume all waste deliveries to be by 7 tonne RCV's, which on the basis that this proposed EfW plant is to serve locations distant from the site vastly overinflates the waste traffic movements needed to serve the proposed EfW plant.

4.19 The wording of requirement 14 (1) by the Applicant does not make any reference to a cap on vehicle movements associated with the proposed AD plant. Such a limitation is sought to be provided for in Schedule 2 of the DCO. Based on the traffic assumptions from the Applicant in Plate 6.3 this cap for HGV movements delivering waste to the facility should be limited to 18 HGV's per day (which allows for rounding of the HGV traffic numbers).

4.20 The wording of requirement 14 (1) by the Applicant makes reference to the 'operational' period of the proposed EfW plant. This term is defined in requirement 14 (7) (c) to be the period after 'commissioning' of the plant is completed. According to paragraph 3.5.1 of the Applicants ES the period of commissioning could cover a period of between 12-15 months. The LBB require that vehicle and waste throughput levels during the commissioning period are also capped so as to not exceed the levels assessed within the Applicant's ES.

4.21 The wording of requirement 14 (2) and 14 (4) by the Applicant seeks to make use of surplus traffic movements under the RRRF. As set out in the environmental and DCO hearings LBB strongly oppose these suggestions and welcome the confirmation provided by the Applicant at the hearings for these proposals to be removed. The RRRF is subject to an extant planning permission which should not be considered as part of the proposed application for the REP. The REP should be considered on its own merits.

4.22 The wording of requirement 14 (3) by the Applicant seeks to provide for additional vehicle movements in the event of a jetty outage. The LBB contest the proposed description of jetty outage proposed by the Applicant in requirement 14 (7) (b). The LBB has proposed wording for a jetty outage that reflects the agreed wording used in the LBB extant planning permission reference: 16/02167/FUL in our tracked changed version of the DCO submitted at deadline 2 and propose this wording is adopted by the Applicant.

4.23 The wording of requirement 14 (3) by the Applicant seeks to permit 300 HGV's per day in the event of a jetty outage. The wording of this requirement also suggests a cap of 300 vehicles in and 300 vehicles out and as such clarification is sought from the Applicant as to whether the maximum vehicles of 300 is two way or one way (600 vehicle movements per day). Equally in terms of the limitations proposed by the Applicant in terms of peak hours (requirement 14 (3) (a) and (b) clarification is sought from the Applicant as to whether the maximum vehicles of 30 is two way or one way (60 vehicle movements per day).

4.24 As mentioned, the existing RRRF facility has a cap on vehicle numbers during a jetty outage. The cap is set out in condition 27 of planning permission (Ref: 16/02167/FUL) granted by the LBB. Condition 27 limits the existing RRRF facility, in the case of a jetty outage, to "a maximum of 300 heavy commercial vehicles two-ways between 0000 hours and 2400 hours on any day". This condition also seeks to limit heavy commercial vehicles to "30 two-ways" during peak hours.

4.25 The Applicant indicates in Table 6.9 of the ES that in the worst case scenario a maximum of 686 two way HGV movements has been assessed in the ES [this is understood to include for some 316 HGV's both in and out for the EfW plant, 18 HGV's both in and out for the AD plant plus other HGV movements]. In light of Condition 27 of the extant LBB planning permission (Reference: 16/02167/FUL), which already provides for up to 300 HGV two-ways on any one day in the event of a jetty outage it is unclear if the Applicant has assessed in their ES for the level of HGV movements proposed to be allowed in the event of a jetty outage taking account of those permitted for the RRRF as well as those proposed for the REP.

4.26 The wording of requirement 14 (6) by the Applicant seeks to set out details of what records the Applicant will provide the LBB with to help ensure compliance with the matters set out in this requirement. The LBB do not agree with the proposed wording. For example, the LBB seek for records to be made available as required and to include for details on daily traffic and waste volumes to each facility that forms part of the development site. As is allowed for under condition 29 of planning permission (Ref: 16/02167/FUL) granted by the LBB it is proposed that the content and the scope of the records to be made available for review by the Council is subject to agreement with the LBB.

Delivery and Servicing Plan

4.27 LBB still seek for the Applicant to provide for a Service and Delivery Plan and have proposed wording for this plan in Schedule 2 requirement 17B of the tracked changed version of the DCO prepared by the LBB for deadline 2.

5 JUSTIFICATION FOR NOISE REQUIREMENTS

5.1 The London Borough of Bexley (LBB) consider it important that the noise emissions from the proposed REP development are controlled and managed, in the interests of public safety and to protect the environment, and this is secured through Schedule 2 to the DCO.

5.2 The need for noise emissions to be limited and proposed wording to control these levels were set out in requirement 15A of Schedule 2 to the version of the draft DCO marked up by LBB and submitted at deadline 2. The matters relating to noise for the DCO were set out in paragraphs 11.5 and 11.6 of the Council's Written Representation.

5.3 Further to the indication from the Applicant during the DCO hearing that they were not intending for the LBB to have any noise controls for the development under the DCO LBB wish to make the following additional points for the Applicant and the Examining Authority (ExA) to take into account.

5.4 It is considered that the limitations on noise proposed in the LBB Written Representations and Draft DCO are essential for ensuring that there would be compliance with the operational noise criteria required by LBB Environmental Health and have been used by the Applicant in the ES Chapter 8 noise assessment. This requires the Rating Level of the noise emitted from operation of the development, not to exceed a level of 5dB below the background noise level at any residential property, the measurement and assessment being in accordance with BS4142:2014.

5.5 There is clearly a degree of uncertainty in the predicted noise levels supplied by the Applicant as these figures depend on the noise emission levels of many items of plant and at this stage it is not possible to know precisely how the noise levels will combine in practice. The operational noise levels may well be less than the predicted levels but equally, the levels may be higher.

5.6 There is also uncertainty in the background noise levels supplied in the ES. The night time baseline noise levels were measured over three fifteen-minute periods on one night at each of the three receptor locations and were found to be relatively high. Longer term measurements would normally be undertaken for such a significant development. Furthermore, as the facility is not due to become operational until 2025 there could be changes to the baseline noise levels over the next six years.

5.7 The proposed requirements set out in the DCO marked up by LBB at deadline 2 for the assessment of operational noise are therefore considered necessary to safeguard the amenity of local residents. Background noise levels should be measured at agreed receptor locations and operational levels should be measured at locations close to the plant where maximum noise limits should be set which ensure that the required criteria are met at the closest residential property.

5.8 The conditions allow for emergency situations and for steam purging as and when required. They also allow for re-assessment of operational noise due to possible future design changes to plant and equipment and for potential changes to measurement standards.

5.9 This limiting of noise emissions via imposition of restrictions is a well- established approach adopted by decision makers at a local and national level. It is noted that the existing RRRF facility also has a number of conditions (Conditions 11-18 of planning permission (Ref: 16/02167/FUL) granted by the LBB) set around noise emissions. The justification for these conditions is stated as being:

- To protect the environment of those persons on and in the vicinity of the site;

- To protect the environment of those living in…properties;
- In the interests of public safety;
- In the interests of public safety and to reduce the incidence of such episodes;
- In the interests of public safety and to alert local residents and businesses to any such noise events; and
- To restrict these potential noise events so as to minimise impact on local residents.

5.10 All of the above justifications provided by LBB in relation to noise conditions on the existing RRRF facility are considered relevant and valid in connection with the proposed REP development. LBB do not consider that leaving noise matters solely to the Environmental Agency and controls via the environmental permit to be appropriate. As with the existing RRRF facility matters relating to noise should be subject to control and enforcement by the LBB.

Night-Time Construction Noise Impact Validation Assessment

5.11 This document submitted by the Applicant at Deadline 2 gives supplementary information on night time construction noise which may occur during slip form working and on the Electrical Connection route. The slipform working assessment is based on typical construction plant and is not likely to cause significant impact at the closest receptors.

5.12 The Electrical Connection route assessment gives construction noise levels in Table 5 that appear to be 3dB lower than those in Table 8.17 of the Applicant's ES Chapter 8.

5.13 The assessment assumes that all residents would have good quality double glazed windows as the sound insulation has been taken as 30dB. It also assumes that during such night works, their bedroom windows would be closed. The LBB do not consider that this is likely to happen in practice, the quality of the sound insulation of windows varies considerably and many people sleep with windows slightly open, particularly during summer months.

5.14 It seems unreasonable to base the assessment on a best-case scenario where all residents have high quality windows and sleep with windows closed. If it is assumed that windows are just slightly open, the sound attenuation would be 15dB, which together with the proposed construction mitigation measures, would give internal noise levels of 46dB at 20m and 43dB at 30m. According to paragraph 8.9.41 of the Applicant's ES Chapter 8, most properties are located within 30m of the route.

5.15 Such internal noise levels are far in excess of the 30dB requirement of BS8233:2014 and does not agree with the statement on page 5 of the document that 'the internal noise levels are likely to be in line with guidance in BS8233:2014 with regards to suitable conditions for sleeping/resting'

5.16 It is considered that night time working on the Electrical Connection route should be avoided as it is likely to result in significant noise impacts at most properties along the route, albeit for just a few days.

5.17 This report on night time noise impact raises a new issue of concern for the LBB. The LBB do not agreed with the report conclusion that 'the impact from night time construction works associated with the Electrical Connection are considered to be Minor and therefore not significant'.

6 STATEMENT OF COMMON GROUND

6.1 LBB are working proactively with the scheme's promoter to reach an agreement on matters disputed. However, the draft form of the Statement of Common Ground has not yet been agreed between the parties. LBB intend to agree and finalise the terms of the Statement of Common Ground as soon as reasonably practicable but until such stage LBB's objections remain.

APPENDIX A:

Written Summary of Oral Submissions on Environmental Matters

RIVERSIDE ENERGY PARK DEVELOPMENT CONSENT ORDER APPLICATION
LONDON BOROUGH OF BEXLEY'S WRITTEN SUMMARY OF ORAL SUBMISSIONS PUT AT ENVIRONMENTAL MATTERS HEARING
WEDNESDAY 5 JUNE 2019
Slade Green Community Centre, Chrome Road, Erith, DA8 2EL

1 Introduction

1.1 This document summarises the oral submissions made by London Borough of Bexley (LBB), at the Issue Specific Hearing on environmental matters. The hearing opened at 10.00 am on 5 June 2019 at Slade Green Community Centre, Chrome Road, Erith, DA8 2EL. The agenda for the hearing was set out in the Examining Authority's (ExA) letter published on the National Infrastructure Planning website on 28 May 2019.

1.2 In what follows, LBB's submissions on the points raised broadly follow the items as set out in the ExA's agenda.

2 Agenda Item 3 - Waste Management

2.1 LBB expressed concern as to how the maximum throughput capacities of the plant had been assessed for the purposes of the environmental statement (ES). Uncertainty surrounding the figure of 805,920 tonnes which is the upper level on throughput set out in the ES was raised. That figure seems to be based on 100% availability of the plant and a calorific value of waste of 7 megajoules per kilogram. However the ES from the Applicant's previous application five years ago contained assumptions of a 94% availability and a calorific value of 9 – 10 megajoules per kilogram. LBB raised enquires as to why there was a change in the availability assumption and the calorific value assumption.

2.2 LBB confirmed its position, set out in paragraph 3.3 of its written representations for deadline 2, that it discourages the burning of compost material produced from the anaerobic digestion plant. Whilst LBB recognises that burning of the compost material is not the preferred option of the applicant, LBB reiterates its opposition to such burning.

3 Agenda Item 4 - Air Quality

3.1 LBB was invited by the ExA during the discussion to comment on the issue of air quality monitoring and the appropriateness of the monitoring points being used. As LBB was without an air quality expert at the hearing, it was confirmed that a written response would be submitted to the ExA for deadline 3.

4 Agenda Item 5 - Biodiversity

4.1 In paragraph 6.2 of LBB's written representations, LBB had called for the survey for Great Crested Newts to be reported so that the ecological baseline could be established. The applicant has subsequently submitted its 'Great Crested Newt HIS and eDNA Survey 2019' (document ref. 8.02.11) for deadline 2 and LBB expressed satisfaction with the further survey work which has been provided by the applicant.

4.2 In relation to the biodiversity offsetting strategy through the Environment Bank, LBB welcomed the transparency about the process as set out by the applicant in the Biodiversity Accounting Report (ref. 8.02.09). However, LBB remain very concerned that no details have been put forward about potential offsetting sites and their location and suitability. The development will result in a biodiversity loss within the Borough and LBB would expect any offsetting sites to be located within the Borough. LBB awaits further details from the applicant on this.

5 Agenda Item 6 – Transport

5.1 The applicant had submitted additional information at deadline 2 in response to LBB's relevant representations and written representations on traffic. LBB agreed that it would provide a written note setting out its updated position having had regard to the responses by the applicant.

5.2 LBB sought clarity on the proposed limit of 90 vehicles per day delivering loads to the EfW plant. On the applicant's assumptions of 7 tonnes of load per vehicle and a minimum of 75% waste being delivered by river, vehicle movements should not exceed approximately 80 vehicles per day. LBB questioned and sought an explanation of how the figure of 90 vehicles per day was arrived at.

5.3 The applicant's adjacent RRRF facility has its own vehicle movement caps which are derived from the RRRF consent. The applicant is proposing that any unused capacity from the RRRF's vehicle movement allowance could be transferred to the REP facility to be used in addition to its own limit of 90 vehicle movements per day. LBB opposed this transferrable vehicle movement allowance on the basis that the REP should be treated separately from the RRRF, since the planning justification and consent is a separate one. The proposed development does not necessarily serve the needs of Bexley, but instead is capable of serving the wider needs of London as a whole, particularly in view of its location on the River Thames. LBB stressed that optimisation of the use of the river should be the aim of the applicant, given that the traffic impact from road deliveries would fall within LBB's area. LBB sought mechanisms whereby river use is optimised and road use is minimised. The proposal for a road vehicle movement allowance that the applicant can use and transfer between the two facilities does not demonstrate a mentality on the part of the applicant which would suggest that it shares this intention to use the river primarily. At the Draft DCO Hearing on 6 June 2019, the Applicant retracted its proposed amendment to the DCO regarding the transfer of unused capacity from the RRRF's vehicle movement allowance to the REP facility. LBB is grateful for this concession.

5.4 On the proposal to stop up the northernmost section of Norman Road, LBB confirmed that agreement has been reached in principle with the applicant to the provision of a turning head in the event of stopping up of the road. LBB are concerned to ensure that this agreement in principle is reflected in the drafting of the DCO itself, and LBB provided a form of words in Article 11 in its draft amendments to the DCO submitted before deadline 2.

APPENDIX B:

Written Summary of Oral Submissions on Draft DCO

RIVERSIDE ENERGY PARK DEVELOPMENT CONSENT ORDER APPLICATION
LONDON BOROUGH OF BEXLEY'S WRITTEN SUMMARY OF ORAL SUBMISSIONS PUT AT DRAFT DCO HEARING
THURSDAY 6 JUNE 2019
Slade Green Community Centre, Chrome Road, Erith, DA8 2EL

1 Introduction

1.1 This document summarises the oral submissions made by London Borough of Bexley (LBB), at the Issue Specific Hearing on the draft Development Consent Order. The hearing opened at 10.00 am on 6 June 2019 at Slade Green Community Centre, Chrome Road, Erith, DA8 2EL. The agenda for the hearing was set out in the Examining Authority's (ExA) letter published on the National Infrastructure Planning website on 28 May 2019.

1.2 In what follows, LBB's submissions on the points raised broadly follow the items as set out in the ExA's agenda.

2 Agenda Item 3 – Schedule 1 (definition of Authorised Development)

2.1 On the issue of capacity limits, LBB remain very concerned and consider that there should be a cap on the waste throughput for the plant – both for the energy from waste (EfW) facility and the Anaerobic Digestion (AD) facility. There is also currently no restriction in the DCO on traffic movements for the AD plant. A cap on waste throughput would be in line with the existing RRRF waste facility (condition 4 of the extant consent ref. 16-02167-FUL). The reason for this condition on the RRRF consent is "to ensure that the development is operated in accordance with the environmental impact assessed in the supporting documents". Not to limit or cap the throughput of the waste could lead to the operational impacts of the development being greater than those assessed in the environmental statement, which LBB considers unacceptable.

Paragraph 1.2.10 of the applicant's responses to the examiner's first written questions suggests that air quality and transport are issues of concern to the planning regime. LBB would like to put on record that there are more than just issues of air quality and transport that are important to the planning regime, as identified in the scope of the EIA undertaken. For example, if there were no restriction on waste inputs and the plant was to accommodate more waste than a maximum envisaged level, there would be additional waste burned which would lead to increases in NO_x emissions which could then have ecological impacts that would not be picked up by the environmental permit. LBB also consider that any future change to the capacity of the plant should not be able to be achieved through a change to the environmental permit only. If there are further changes proposed by the applicant in the future they should be subject to further environmental assessment and consideration through the planning process. It is the norm for waste facilities to have waste capacity limits in place through both the planning and the permitting regimes, and it is not even uncommon for these levels to be different.

2.2 It was noted that there would be no limit on movements of river traffic bringing waste to the plant. So in theory 805,000 tonnes of waste could come in by river and in addition 90 road vehicle movements per day could bring in more waste over and above the 805,000 tonnes assessed in the environmental statement. LBB consider this to be unacceptable. If an environmental assessment was undertaken in support of an environmental permit it would consider only those issues related to the environmental permit. The planning regime considers more issues than those that would be considered by the Environment Agency.

2.3 LBB are not seeking to prevent improved efficiency (through e.g. use of battery storage technology) or to limit the generating output of the plant, but maintain their position that the limit on throughput should be as set out in the environmental statement.

2.4 Under the definition of Work No. 1A LBB want to ensure that there is a bottom ash storage area at the plant. The current RRRF facility has a dedicated bottom ash storage area to ensure that all the ash stored can be taken away by river. LBB understand that this area will be removed by the proposed REP development. LBB want to ensure that all bottom ash is taken away by river and to facilitate this there should continue to be a dedicated storage area.

The applicant maintained that the RRRF bottom ash storage area had never been used and that the ash goes straight onto barges to be transported away by river. The applicant has included in paragraph 14(5) of Schedule 2 a requirement to transport bottom ash away by river *save where there is a jetty outage*. The applicant confirmed that in the event of a jetty outage its intention would be to remove bottom ash by road. LBB's purpose in seeking that the applicant continues to maintain bottom ash storage is to prevent the use of the road network to remove ash in the event of a jetty outage.

The applicant confirmed that, even without a storage area, there would be enough storage capacity in the plant's ash bunkers to accommodate a few days' worth of ash. If that is the case, LBB maintain that the saving provision allowing for removal of ash by road in the event of a jetty outage should not take effect immediately, but only after a period of a specified number of days, as suggested in LBB's amended Article 2 definition of 'jetty outage'. It was agreed that the applicant would revisit this drafting point to ensure that ash is removed only by river if at all possible, and LBB would work with the applicant to reach a common position.

3 Agenda Item 4 – Articles (changes proposed by the Applicant and by Interested Parties)

3.1 <u>Article 6(3)</u>

LBB is extremely concerned by the breadth of this provision as presently drafted. Under the provision, where 'the authorised development or compliance with any provision of this Order' prevents the applicant from complying with conditions on existing consents for the RRRF facility, the applicant will not be in breach of those conditions. This provision relates not just to the physical development being inconsistent with compliance with the RRRF consent conditions, but also where circumstances may arise where the applicant maintains that compliance with the DCO, e.g. in relation to the requirements on vehicle movements, provides an impediment to complying with conditions on the RRRF permission. There would be a problem there for LBB in terms of enforcing the RRRF permission, which is unacceptable to LBB.

It was further pointed out that the provision did not simply relate to the existing RRRF planning permission (ref 16/02167), it also included 'any varied or new consents or permissions for the Riverside Energy from Waste Facility'. LBB objected to this again on the basis of the unjustified breadth of the proposed power.

3.2 Article 13 – Temporary prohibition or restriction of use of streets and public rights of way

LBB had suggested additional wording at Art 12(3) to ensure statutory undertakers would maintain access to their apparatus. The applicant felt that this concern was addressed by Art 34 (Apparatus and rights of statutory undertakers in stopped up streets). ExA requested that LBB consider this response from the applicant.

3.3 Article 21 – Felling or lopping of trees

In relation to Art 21(1) LBB confirmed that its previous concerns had been addressed by the applicant.

In relation to Art 21(2), LBB have suggested in its written representations that additional wording be added requiring the applicant to 'have regard to [a tree or shrub's] function and quality' and to 'consult with the owner of the land before carrying out such activity', and LBB would expect to see such wording incorporated into the applicant's draft DCO. The ExA enquired as to whether there was any precedent for the wording proposed by LBB, and if this was something that LBB would consider.

3.4 Article 27 – Power to override easements and other rights

In response to LBB's concerns the applicant has made a substantial redraft to this Article in the latest version of the draft DCO. LBB confirmed that it would consider the proposed new wording and respond in due course.

4 Agenda Item 5 Schedule 2 Requirements (changes proposed by the Applicant and by Interested Parties)

4.1 LBB asked the applicant to explain the relationship between Table 1 of Schedule 2 and Article 3(3) of the DCO and the interaction between the two. The applicant clarified that Art 3(3) only permitted a downward deviation of a maximum of two metres of the authorised development, and that the height limits in Table 1 of Schedule 2 were not affected by any change in the drafting of requirement 3 of Schedule 2.

4.2 Requirements 4 & 5

LBB are content with the current wording of requirements 4 and 5 subject to definitional refinements mentioned by ExA in relation to terms such as 'biodiversity units'. LBB maintained concerns expressed at the issue specific hearing on environmental matters that details of alternative offsetting sites have not yet been put forward by the applicant, and that any biodiversity value should be retained within Bexley for the benefit of the Borough's residents.

4.3 Requirement 8(3)

This requirement was added by the applicant in order to address the issue of a turning head at the end of Norman Road. LBB would welcome additional wording here which is specific to the issue, but is content for it to be addressed in requirement 8 rather than in Art 14.

4.4 Requirement 10(3)

The amendment proposed by the applicant was agreed by LBB.

4.5 Requirement 11

LBB seek contributions from the applicant for ongoing operational monitoring of air quality to be incorporated in the DCO. The applicant maintains that there is no justification for this based on the environment statement. LBB confirmed that it would respond to the applicant in writing as their air quality expert was not at the hearing.

LBB continue to have concerns about the wording of requirement 11. There are elements of this requirement, including those relating to complaints procedures and temporary storage of soils, which LBB feel should be applicable to pre-commencement activities.

4.6 Requirement 14

LBB consider that there might be a need for two definitions in relation to the occurrence of a jetty outage. The first would be for a 'routine' jetty outage, for which LBB has proposed a length of 4 days (and during which bottom ash would be stored ready to be taken away by river on the resumption of service from the jetty). And secondly a definition for a more serious, 'extraordinary' jetty outage of a longer period. The applicant agreed to consider this further and propose some drafting.

LBB reiterate their position that whilst the existing RRRF plant was designed to serve the immediate area and that one would therefore expect a consequent local traffic impact, the proposed REP facility is for the purpose of serving the wider London area and given its riverside location the traffic impact on the local area should thus be kept to a minimum. Broadly speaking, non-Bexley waste should be brought in by river. The applicant maintained that there is enough local commercial and industrial waste to justify a significant road traffic quota for the REP facility, but LBB confirmed that they had not seen the numbers to justify this assertion.

On requirement 14(3) in the event of the jetty outage, the requirement refers to 300 vehicle movements in and 300 vehicle movements out, which appears to be a doubling of the requirement under the existing consent. LBB sought clarification on this figure.

On 14(6), LBB sought agreement on the keeping and inspection of records of daily vehicle movements. LBB want the ability to check the figures as and when required, and not have to wait for a full year in order to check the records. The applicant agreed that the records should be made available upon the reasonable request of the LBB.

A final point on traffic movements is that the LBB want there to be protection not only during the construction and operational phases of the proposed development, but also during the commissioning period of the plant between construction and operations. The applicant agreed to look at this issue and respond accordingly.

4.7 Requirement 17

LBB queried why in para 17(3) the required period for carrying out remedial measures is 5 years – LBB would prefer this to be a much shorter period of time. LBB recognizes that

the primary relevant authority here may be the Environment Agency, but some element of the river wall works may require planning permission from the LBB.

4.8 Requirement 18

LBB confirmed that this has been agreed with the applicant and that they were content with the wording.

4.9 Requirement 20

In order for the applicant to build on the good work that it has been doing, LBB require stronger provisions on the CHP requirement (requirement 20). LBB suggested that the amendment to paragraph 20(6) is removed because the provision removes the obligation on the applicant to carry out any further CHP reviews in the event that any CHP is exported from the plant – which could lead to a situation in which the export of heat permanently ceased and yet the requirement to carry out a further review would fall away. LBB confirmed that it would like to see stronger wording in 20(2)(a) & (b) which removes the word 'reasonably' and substituting the word 'unreasonable' for the word 'material' in relation to the additional costs to the undertaker. LBB also raised that it would like to see a CHP review on a 2 year basis rather than every 5 years. It was acknowledged that the applicant's response to this was awaited at deadline 3.