
Thames Water Utilities Limited

Riverside Energy Park Examination – EN010093

Submission of Comments on behalf of Interested Party Thames Water Utilities Limited

**Submitted at Deadline 4
19 July 2019**

1. **BACKGROUND**

1.1 This submission comprises comments of Thames Water Utilities Limited (TWUL) pursuant to Deadline 4 in accordance with the timetable at Annex A of the Examining Authority's Rule 8 letter dated 17 April 2019.

1.2 Comments are submitted in respect of the following:

1.2.1 Comments on the Applicant's revised draft DCO ("dDCO") submitted at Deadline 3;

1.2.2 Comments on any additional information / submissions received by previous deadline;

1.2.3 Comments on Document 6.6 Environmental Statement Supplementary Report as requested by the ExA in its Rule 17 letter dated 1 July 2019.

2. **COMMENTS ON THE APPLICANT'S REVISED DRAFT DCO**

2.1 In the absence of an agreement with the Applicant, it is imperative that suitable amendments are made to the Requirements of the dDCO and that suitable protective provisions are introduced to enable TWUL to continue its operational interest in and use of the Crossness Nature Reserve and to protect its statutory apparatus without serious detriment to its undertaking.

2.2 TWUL's concerns are two-fold:

2.2.1 The Requirements in Schedule 2 to the dDCO do not secure sufficient measures necessary to mitigate impacts on the Crossness Nature Reserve;

2.2.2 The protective provisions in favour of Statutory Undertakers (including TWUL) at Part 2 of Schedule 10 of the dDCO do not adequately protect TWUL's interest.

Schedule 2, Requirements

Requirement 4 (Pre-commencement biodiversity and landscape mitigation strategy)

2.3 Requirement 4 requires a pre-commencement biodiversity and landscape mitigation strategy to be approved by the relevant planning authority before any pre-commencement works can be carried out.

2.4 To ensure sufficient measures are in place to mitigate the impacts of the Project on the Crossness Nature Reserve, TWUL requires insertion of the following wording into Requirement 4:

"Prior to submission of the pre-commencement biodiversity and landscape mitigation strategy pursuant to sub-paragraph (1), the undertaker must consult with Thames Water Utilities Limited on details of mitigation measures required to reduce the impacts of the authorised development on the Crossness Nature Reserve"

Requirement 5 (Biodiversity and landscape mitigation strategy)

2.5 Requirement 5 requires a biodiversity and landscape mitigation strategy to be approved by the relevant planning authority before the Applicant can commence any part of the authorised development.

2.6 As with Requirement 4, TWUL requires the following wording to be inserted into Requirement 5 to ensure that appropriate mitigation is secured in relation to the Crossness Nature Reserve:

"Prior to submission of the biodiversity and landscape mitigation strategy pursuant to sub-paragraph (1), the undertaker must consult with Thames Water Utilities Limited on details of mitigation measures required to reduce the impacts of the authorised development on the Crossness Nature Reserve"

- 2.7 TWUL also seeks the amendment of Requirement 5(1)(e) to include reference to Works No. 8 (temporary construction compound), as it expects hard and soft landscaping to be incorporated as part of the construction and operation of the Main Temporary Construction Compound. Requirement 5(1)(e) should read as follows:

"any hard and soft landscaping to be incorporated within Work Nos. 1, 2, 3, 4, 5, 6 and 8 including location, number, species, size of any planting and the management and maintenance regime for such landscaping."

Requirement 12 (Construction Hours)

- 2.8 TWUL require the amendment to Requirement 12 to refer to Work Nos. 6 (works to construct and install supporting infrastructure), 7 (works to construct and install from work No. 6 pipes and cables), 8 (temporary construction compound) and 9 (an electrical connection) as follows:

"Construction works relating to Work Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9 must not take place on Sundays, bank holidays nor otherwise outside the hours of –

- (a) 0700 to 1900 hours on Monday to Friday; and
- (b) 0700 to 1300 hours on a Saturday."

Requirement 13 (Construction traffic management plan(s))

- 2.9 The effect of Requirement 13 is to ensure that the Applicant cannot carry out pre-commencement works or commence the authorised development until a construction traffic management plan has been submitted to and approved by the relevant local planning authority.

- 2.10 To ensure sufficient measures are included in the construction traffic management plan to mitigate against its concerns in relation to the Crossness Nature Reserve, TWUL requires the Applicant to consult with TWUL on the contents of the construction traffic management plan and the inclusion of the following wording in Requirement 13:

"Prior to the submission of the construction traffic management plan(s) pursuant to sub-paragraph (1), the undertaker must consult with Thames Water Utilities Limited on its contents to ensure that adequate measures are included to reduce impacts on the Crossness Nature Reserve."

- 2.11 TWUL requires consultation with the Applicant on the construction traffic management plan(s) to address its concerns as follows:

Crossness Access Road

- 2.11.1 With the change in the location of the Main Temporary Construction Compound, the Applicant proposes to use TWUL's access road off Norman Road ("the Crossness Access Road") as a shared access to the Data Centre site. The Crossness Access Road is the road which intersects the Data Centre site. It is the access road for the Crossness Nature Reserve and is an emergency access and egress route for TWUL's operational Crossness Sewage Treatment Works, together with access for the Environment Agency to the Great Breach Pumping Station.

- 2.11.2 If the Crossness Access Road is to be a shared access route, there would be significant increase in the amount of vehicle traffic during the construction period of the Main Temporary Construction Compound and the Data Centres

which would impact visitor access and safety whilst at the Crossness Nature Reserve.

- 2.11.3 Therefore, TWUL seek the measures in the construction traffic management plan(s) which give effect to:
- 2.11.3.1 the creation of the Applicant's own access route off Norman Road directly onto the Data Centre site;
 - 2.11.3.2 a commitment that the Crossness Access Road will remain open at all times and that no heavy goods vehicles are left freestanding in the road;
 - 2.11.3.3 that the Applicant will not refuse access to the Crossness Access Road from Norman Road to any person(s).
- 2.11.4 TWUL comments on the impacts of the shared access proposals in more detail in Section 4 of this submission.

FP2 and FP4

- 2.11.5 The Project and the Data Centres will affect the use of FP2 and FP4, as shown on the Applicant's Access and Public Rights of Way Plans: the volume of traffic generated on Norman Road and around the Data Centre site during the construction and operation period will render it more difficult and unsafe for visitors to access the Crossness Nature Reserve through these footpaths. Visitors who drive to the Reserve, either park their car on Norman Road or on the Crossness Access Road and use these footpaths to access the Reserve. Similarly, site access for planned visits to the Crossness Nature Reserve (community events, volunteer workdays, school and youth visits) which tend to be by train or via bus, use the gated Norman Road access onto the Crossness Access Road, with some visitors walking up Norman Road to access the Reserve. The gated Norman Road access and the Crossness Access Road is also used by regular volunteers, graziers and the Environment Agency.
- 2.11.6 There is also a proposed temporary closure of FP2 and FP4 as explained in Schedule 5 to the dDCO and shown on Sheets 2 and 3 of the Access and Public Rights of Way Plans to install and facilitate the construction of Work Nos. 7 and 9, which further restricts the use of these footpaths and access to the Crossness Nature Reserve. Schedule 5 to the dDCO refers to the temporary closure of FP4 as shown on Sheet 3 of the Access and Public Rights of Way Plans – this needs to be amended to Sheet 2.
- 2.11.7 To address this, TWUL seek the provision of a car park for use by visitors to the Crossness Nature Reserve, together with an access road and a pedestrian gate leading to the Crossness Nature Reserve.
- 2.11.8 The wording proposed at paragraph 2.10 above, will allow TWUL to ensure that the measures referred to in Requirement 13(1)(e), "*to ensure the protection of users of any footpath within the Order limits which may be affected by the construction of the authorised development*", will appropriately address its concerns.

Requirement 15 (Operational lighting strategy)

- 2.12 Requirement 15 requires a written scheme for the management and mitigation of operational external artificial light emissions to be submitted to and approved by the relevant planning authority prior to commencement of Work Nos. 1, 2, 3, 4, 5 and 6.
- 2.13 TWUL seeks the amendment to Requirement 15(1) to include reference to Work Nos. 7 (Works to construct and install from Work No. 6 pipes and cables) and 8 (Temporary Construction Compound) as follows:

"No part of Work Nos. 1, 2, 3, 4, 5, 6, 7 and 8 may commence until a written scheme for the management and mitigation of operational external artificial light emissions for that part has been submitted to and approved by the relevant planning authority. The written scheme must be substantially in accordance with the outline lighting strategy."

- 2.14 TWUL also requires the insertion of the following wording into Requirement 15 to ensure that the impacts of the Project on the Crossness Nature Reserve are sufficiently mitigated against.

"Prior to the submission of the written scheme for the management and mitigation of operational external artificial light emissions pursuant to sub-paragraph (1), the undertaker must consult with Thames Water Utilities Limited on its contents to ensure that adequate measures are included to reduce impacts on the Crossness Nature Reserve."

Schedule 10 Part 2, Protective Provisions

- 2.15 Discussions between TWUL and the Applicant with regard to the protective provisions in favour of TWUL are ongoing.
- 2.16 On 18 June 2019, TWUL submitted to the Applicant a copy of its preferred protective provisions. The ExA is referred to Annex A of this submission which contains a copy of these provisions.
- 2.17 TWUL awaits comments from the Applicant on its preferred protective provisions and will continue to update the ExA on progress in this regard.

3. COMMENTS ON ANY ADDITIONAL INFORMATION / SUBMISSIONS RECEIVED BY PREVIOUS DEADLINE

Applicant's Response to TWUL's Written Representations (Document 8.02.14) ("the Applicant's Response Document")

- 3.1 For the purposes of this submission, TWUL has set out its comments in the same format as appears in the Applicant's Response Document.

Introduction

- 3.2 In paragraphs 5.3.5 to 5.3.7, the Applicant comments that the Crossness Nature Reserve impinges on a short length of the verge west of Norman Road, specifically plots 02/33, 02/34 and 02/25. TWUL agrees with the Applicant's statement that it does not have a freehold or leasehold interest in respect of plots 02/33, 02/34, 02/35 but does have rights as appear in respect of apparatus in plot 02/33. TWUL is seeking to protect its rights in respect of statutory apparatus through the bespoke protective provisions mentioned above.

Environmental Impacts

- 3.3 In response to paragraph 5.3.11, TWUL maintains that the biodiversity value of Crossness Nature Reserve will be adversely affected by the Project, and that the indirect effects are Significant. Despite embedded mitigation measures to minimise impacts of the Project, there will be disturbance to wildlife on the immediately adjacent Crossness Nature Reserve. The loss of habitat and resulting flora and invertebrate fauna on the Data Centre site will directly impact foraging wildlife from the Crossness Nature Reserve.
- 3.4 As mentioned in its Written Representation submitted at Deadline 2, TWUL is obliged to maintain and enhance the Crossness Nature Reserve pursuant to a section 106 agreement ("S106") dated 21 July 1994 in connection with and as a required of its statutory operational activities at the Crossness Sewage Treatment Works.
- 3.5 Further, TWUL has a statutory duty under section 3 of the Water Industry Act 1991 ("the 1991 Act") in carrying out its functions, to further the flora and fauna, and to have regard

to the desirability of the public to have freedom of access to places of natural beauty. Related to this duty, the Secretary of State has issued guidance under section 5 of the 1991 Act in the form of a Code of Practice on Conservation and Recreation (February 2000). TWUL owns and operates the Crossness Nature Reserve consistent with and for the purposes of complying with these statutory duties.

- 3.6 TWUL disagrees with the Applicant's comment at paragraph 5.3.11 and reinforces its position that there are indirect effects of the Project on the Crossness Nature Reserve, as explained above and below, which could prevent TWUL from complying with the S106 and its statutory duties.

Visual Impacts

- 3.7 In paragraph 5.3.17, the Applicant describes the embedded mitigation of the appearance of the buildings which seeks to take into account adjacent land uses and existing townscape character – i.e., the outcome of the stepped roof design, together with the placing of the Project's main building as far from the western boundary of the Crossness Nature Reserve. TWUL maintain that this embedded mitigation does not reduce the effects of the visual impacts on the Crossness Nature Reserve and restates its position that the curved roof option is the preferred design option.
- 3.8 In response to the Applicant's comment at 5.3.21, the curved roof design is more aesthetically pleasing, but it is also better suited to the local environment and would feel less imposing than the stepped roof design: there are already curved roof buildings which form distinctive landmarks located in the immediate vicinity of the Crossness Nature Reserve and, with the maximum parameters of the Project being larger than the adjacent existing developments, TWUL feel that the curved roof would visually soften this impact
- 3.9 In response to the Applicant's proposals to proceed with the flat-roof option as part of the stepped-roof design – to maximise photovoltaic capacity and provide safe, easy, access to the roof space – TWUL would seek the implementation of a biosolar green roof and require it to be included as a condition on any planning consent. This would serve to compensate for the loss of open mosaic habitat within the application boundary because it would support invertebrates and the breeding of birds (including Skylark and Ringed Plover) which are currently supported by the Data Centre site.
- 3.10 TWUL does not agree with the Applicant's assessment in paragraph 5.3.24. It may be that Sites 008, 0014 and 0012 plus 'other developments' are smaller than the Project, but the size of the Project in combination with these other developments, when viewed against the openness of the Metropolitan Open Land, provide more enclosure and restriction of views. The cumulative landscape and visual impacts of the Project with other developments in the vicinity of the Crossness Nature Reserve would have an Adverse effect that is of a Moderate/Major level of significance and therefore would be Significant.
- 3.11 In response to paragraph 5.3.27 and TWUL's Figure 3 appended to its Written Representation, the view shown is indicative, designed to show the location of encroaching development around the Crossness Nature Reserve. The Data Centres are not shown accurately as the Applicant has not produced a detailed design plan.
- 3.12 TWUL's response to the Applicant's paragraph 5.3.30 is not a visual point and is addressed by Section 2 of this submission as an amendment to the Requirements.
- 3.13 In paragraph 5.3.37, the Applicant comments that the Project site is a good location for the development, and lists the top benefits of the site. Within these benefits is the '*very limited number of potentially significant adverse effects on sensitive residential and environmental receptors*'. These significant adverse effects – generated as a result of the construction and operation of the Project and Data Centres, including the noise impacts, vehicle/plant movement, dust, etc. – have an impact on the Crossness Nature Reserve and need to be mitigated against.

Visitors/health and well-being

- 3.14 In paragraph 5.3.40, the Applicant notes that there are measures proposed by TWUL in relation to the loss of open space on the visitor experience that could be considered, but does not consider them appropriate for further consideration on the basis that these are not mitigating measures. The measures proposed by TWUL are repeated below in paragraphs 3.14.1 to 3.14.3. TWUL accepts that whilst the measures proposed are not “mitigating” measures – i.e., they do not reduce the impact of the development – they are measures necessary to compensate against the loss of open space impacts of the Project on the visitor experience and should be considered by the Applicant further:
- 3.14.1 the provision of a block-built bird hide for the West Paddock and provision of CCTV to deter the abuse of infrastructure would seek to reduce the impacts of the views of wildlife on the West Paddock;
 - 3.14.2 the provision of power and nest cams on Barn Owl/Kestrel boxes will provide a further platform for visitors to see wildlife within the Crossness Nature Reserve;
 - 3.14.3 the creation of a wildflower meadow would serve to add to the visual appearance of the Crossness Nature Reserve and benefit the rare Shrill Carder Bee and scarce Brown-banded Carder Bee present at Crossness as well as other pollinators.
- 3.15 Further, the measures proposed by TWUL are in response to a meeting held on 25 April 2019 with TWUL, the Applicant and the Friends of the Crossness Nature Reserve (another Interested Party), whereby the Applicant asked what socio-economic measures could be potentially offered at Crossness and noted that a bird hide could potentially be used for socio-economic compensation.

Other Impacts

- 3.16 With respect to paragraph 5.3.47, now that the Main Temporary Construction Compound is set to be on the Cory Fields – within the gated footprint of the Crossness Nature Reserve and either side of the Crossness Nature Reserve Access Road – the potential effects arising from traffic movements, such as noise disturbance and dust will be considerable, both on the wildlife that resides on those fields and on the Crossness Nature Reserve, and on site users and visitors.
- 3.17 Further, paragraph 5.3.48 states that *‘elevated noise levels may generally cause some displacement of breeding birds, the birds nesting within habitats around the margins of the REP site are resilient; and that potential effects to breeding birds from disturbance during construction will be of low magnitude, temporary and localised to the REP site and its immediate surroundings’*. The Applicant is failing to address TWUL’s long-term conservation management on the adjacent Crossness Nature Reserve whereby the aim is to increase biodiversity, species abundance and population size. To address this, TWUL requires the Applicant to commit to ensuring that construction works to the South and West of the Project – i.e., nearest the West Paddock and Sea Wall Field – do not take place during bird nesting season (1st March – 31st August), and seeks amendments to the Requirements, as provided above, accordingly.
- 3.18 Proposed development of the Project on the fringes of the Crossness Nature Reserve undermines this objective. To name just two of the red-list species that now breed on the immediate margins of the proposed Project, Lapwing and Cetti’s Warbler have only bred in recent years after much targeted management. The disturbance caused during the increased construction period of the Project and the Data Centre site (3 – 5 years) will likely result in permanent loss of certain breeding species. This is certainly true of the Skylark pairs that breed on the Cory/Borax Fields and will be permanently lost to the Main Temporary Construction Compound.

Proximity to areas of ecological value

- 3.19 In paragraphs 5.3.55 – 5.3.57, the Applicant identifies that noise levels were monitored with respect to existing and predicted levels during construction of the Project at Location 3 (shown on Figure 11.10 of the Environmental Statement) which is within Crossness

Nature Reserve where breeding birds could be expected to be found. The Applicant provides that Location 3 is a good representative location relative to the Project, where birds are known to breed.

- 3.20 TWUL maintain that Location 3 is not the south-west corner of West Paddock: Location 3 on Figure 11.10 is shown located outside the gates of the Protected Area and further west than the south-west corner of the West Paddock. In any event, Lapwing breed in the centre and back of the Paddock and not the south-west corner. For this reason, it is TWUL's position that Location 3 is not an appropriate monitoring location or representative of where breeding birds could be expected to be found in the Crossness Nature Reserve. Therefore, the noise assessment at this location is inadequate in providing an indication of the noise levels anticipated by the construction of the Project.

Wildlife Impacts

Barn Owls

- 3.21 In response to the Applicant's conclusion at paragraph 5.3.65, even if the Applicant's assessment is correct in assuming that there will be no significant effect on Barn Owls, it is TWUL's position that it would be prudent to erect a pole or building-mounted nest boxes to provide other nesting/roosting opportunities in the event that the disturbance causes abandonment of the current nest box on Norman Road Field. TWUL would also welcome the creation of tussocky vegetation within the application boundary or in the immediate vicinity through the Environment Bank, with a view to securing suitable habitats and additional foraging areas for Barn Owls.

Birds – Noise Impacts

- 3.22 Whilst it is true that avian predator perches already exist in the area as stated in paragraph 5.3.83, those perches are not immediately adjacent the area in question as with Project and the West Paddock. The existing perches are on the Riverside Resource Recovery Facility and the on the Crossness Sewage Treatment Works Sludge Powered Generator. The Project stacks, particularly, will provide the height favoured by Peregrine Falcons.

Cumulative Impacts

- 3.23 In response to paragraph 5.3.86, TWUL acknowledge that the Applicant has commissioned the Environment Bank to assist with the delivery of off-site habitat compensation and enhancement, which will be secured through Requirement 5 of Schedule 2 to the dDCO submitted at Deadline 3. As set out in Section 2 of this submission, TWUL require consultation on the biodiversity strategy prior to its submission and approval to ensure that sufficient measures to mitigate against the impacts of the loss of the open mosaic habitat on the Data Centre site are secured.
- 3.24 It is noted in the Applicant's Response to the Environment Agency's Written Representation, that compensatory Open Mosaic Habitat will no longer be pursued on the flood embankment within the Application Boundary. Given the 2.4ha loss of Open Mosaic on the Data Centre site, plus 0.25ha on the Project site, it is TWUL's position that off-site open mosaic habitat must be recreated as close to the application site as possible to offset the loss of breeding Skylarks and Ringed and Little Ringed Plovers on the Data Centre site, and the loss of the regionally important invertebrate habitat.
- 3.25 In paragraph 5.3.87, the Applicant welcomes suggestions for sites and locations from TWUL and the London Borough of Bexley to inform the site search process in assisting with the delivery of off-site habitat compensation and enhancement. TWUL has previously suggested potential sites and locations for habitat compensation and offers the following:

- 3.25.1 the Crossness Nature Reserve;

- 3.25.2 Thamesview Golf Centre (currently owned by Peabody Estates), which is close to the Crossness Nature Reserve and can provide stepping-stone habitats in the form of wetlands, ditches, open mosaic habitat, wildflower meadows and tussocky grassland;
 - 3.25.3 Peabody Land (i.e. Norman Road Field and Veridian Park) (currently owned by Peabody Estates) which is adjacent to the Crossness Nature Reserve and Crossness Southern Marsh respectively, and can provide connectivity for wildlife.
- 3.26 As previously mentioned in its Written Representation, TWUL consider the following could offset some impacts to biodiversity and the visitor experience on the Crossness Nature Reserve and Southern Marsh:
- 3.26.1 provisions of an elevated bird hide to increase wildlife-viewing opportunities on the West Paddock;
 - 3.26.2 wetland creation on Parsley Field on the Crossness Nature Reserve and on Pond Meadow on the Southern Marsh where connectivity to existing water bodies could be created;
 - 3.26.3 wildflower meadow creation in the Protected Area of Crossness Nature Reserve and on Crossness Southern Marsh;
 - 3.26.4 enhancement of existing water courses to include potential re-profiling, desilting and vegetation management of ditches; and
 - 3.26.5 the provision of living roofs to include biosolar green roofs. With the proposed flat roofs of the stepped-form being accessible for photovoltaic maintenance, it is TWUL's position that a biosolar green roof should be incorporated alongside the infrastructure to offset some of the biodiversity impacts. In order to compensate for the loss of breeding Skylark and Ringed Plovers on the Data Centre footprint, the inclusion of green and/or brown roofs on the Data Centres could provide continued breeding opportunities for these rare bird species. It has already been mentioned in this submission that green roofs could be incorporated into the Project's infrastructure to mitigate against biodiversity impacts.

In response to the Applicant's ES Supplementary Report, as defined below, TWUL also seek the provision of a small car park dedicated to visitors of the Crossness Nature Reserve.

- 3.27 The Applicant considers the green roof and walls design in paragraph 5.3.88. It is TWUL's position that a biosolar green roof appears feasible and case studies for its success can be seen in *'Living Roofs and Walls – from policy to practice – 10 years of urban greening in London and beyond'*. In this report, the London Borough of Bexley is in the bottom 6 of London's 24 Boroughs for delivering green roof/green walls. The green roof and walls design could offset some of the biodiversity impacts of the Project, offset some of the impacts associated with the loss of Open Mosaic Habitat on the Data Centre site, and it could boost the London Borough of Bexley's green credentials.

Shading

- 3.28 The analysis of timing of shading is positive as stated in paragraph 5.3.93. However, there will be shading impacts on the adjacent Crossness Nature Reserve if the Project is granted consent. This will impact vegetation structure and the Water Vole-populated ditches that are immediately adjacent the application boundary. Enhancement of these water courses, as suggested in paragraph 3.26.4 of this submission, could seek to reduce bankside and in-channel vegetation cover and thereby reduce some of the shading impacts.

National Policy Statement EN-1

- 3.29 Paragraph 5.3.101 states that the National Policy Statement ("NPS") paragraph 5.10.17 applies to Green belt "*and MOL is not green belt*". However, the Applicant does not refer to paragraph 2.8.59 of TWUL's Written Representation which sets out that the adopted London Plan clearly states that Metropolitan Open Land should be given: "*the same protection as in the Green Belt*". Therefore, TWUL consider the NPS is relevant.
- 3.30 The Applicant makes no reference to the London Plan Metropolitan Open Land policy as set out in TWUL's Written Representation including: "*A - The Mayor strongly supports the current extent of Metropolitan Open Land (MOL), its extension in appropriate circumstances **and its protection from development having an adverse impact on the openness of MOL.***"
- 3.31 In paragraph 5.3.103, the Applicant concludes that the measures proposed by TWUL are not mitigating measures and therefore does not consider them appropriate to consider further. TWUL refers the ExA to paragraph 3.14 and 3.26 of this submission.

4. **COMMENTS ON DOCUMENT 6.6 ENVIRONMENTAL STATEMENT SUPPLEMENTARY REPORT AS REQUESTED BY THE EXA IN ITS RULE 17 LETTER DATED 1 JULY 2019 ("ES Supplementary Report");**

- 4.1 The Applicant's ES Supplementary Report, proposes to change the location of the Main Temporary Construction Compound. The ES Supplementary Report comments on two scenarios:
- 4.1.1 Scenario 1 includes replacing plots 02/53 and 02/55 with plots 02/43, 02/44, 02/48 and 02/49 (known as the "Data Centres sites") for use as part of the Main Temporary Construction Compound. This would involve the Data Centres being constructed after the Project's construction and subsequently resulting in 60 months of construction disturbance (36 months construction from the Project and 18-24 months from the Data Centres) on the Data Centre site.
- 4.1.2 Scenario 2 replaces plots 02/53 and 02/55 with plots 02/43, 02/44, 02/48 and 02/49 (known as the "Data Centre site") for use as part of the Main Temporary Construction Compound. However, the Applicant only uses part of the Data Centre site, plots 02/49 and 02/48, and constructs a Data Centre pursuant to the permission for the Data Centres on Plots 02/44 and 02/43. As a result, there is likely to be simultaneous construction phases. In addition to the construction periods mentioned in paragraph 4.1.1 above, there is also likely to be approximately 12 months when the Data Centres have been constructed and the Main Temporary Construction Compound is still in use.
- 4.2 Either scenario would result in a three to five year construction period, on land that is even closer to Crossness Nature Reserve than the previous Main Temporary Construction Compound proposal and would likely deter visitors safely accessing the Crossness Nature Reserve.
- 4.3 TWUL's concerns relate to the Applicant's proposed use of the Crossness Access Road as a shared access to the Data Centre site, as described in Section 2 of this submission.
- 4.4 Table 2.1, Chapter 6 Transport, Section 2, states that:
- 'With regards to the potential for accidents and road safety, the access road that intersects the Data Centre site (access for Crossness Sewage Treatment Works) will be retained. There are likely to be construction-related movements (vehicle and construction workers) between the two retained parcels of land... Therefore, a suitable crossing point along the access road with appropriate traffic controls will be installed during the construction phase.'*

And that:

'In addition, an additional access may be required off Norman Road for the use of the Data Centre site.'

- 4.5 TWUL will not permit access to the Data Centre site from the Crossness Access Road as it would compromise visitor safety during planned community events, educational visits and volunteer events who access through the Crossness Access Road. TWUL request that the Applicant seek to create their own access off Norman Road, directly into the Main Temporary Construction Compound/Data Centre site, and require an amendment to Requirement 13 of the dDCO to ensure that TWUL is consulted on the construction traffic management plan(s), as mentioned in Section 2 of this submission.
- 4.6 The "*additional access*" should not be in addition to the access from TWUL's access road, but rather a route being provided "*instead of*" using the Crossness Access Road.
- 4.7 Section 3 of Chapter 6 of Table 2.1 estimates that for the Project, there would be 22 Heavy Goods Vehicles ("HGVs") per day, excluding 275 construction staff vehicle movements. Section 4 of Chapter 6 of Table 3.1 estimates the potential for approximately 36 HGVs per working day during the construction period of the Data Centres, which is likely to result in approximately 4 HGVs per hour. TWUL cannot permit this rate of vehicle movement on the Crossness Access Road.
- 4.8 In relation to other impacts:
- 4.8.1 TWUL disagrees with the conclusions of Chapter 7 (Air Quality) and Chapter 8 (Noise and Vibration). The immediate proximity of the Main Temporary Construction Compound to the Crossness Nature Reserve will generate a greater increase in dust and noise impacts which has the potential to disturb wildlife and site visitors, as previously set out in this submission.
- 4.8.2 Section 2 of Chapter 9 Townscape and Visual claims that the '*construction activities are not discordant with the character or activities of the existing urban area which can be defined as diverse industrial and urban area, adjacent to existing large-scale industrial buildings.*' This is not the case now that the Main Temporary Construction Compound will be at the Crossness Nature Reserve's east boundary and therefore adjacent existing Metropolitan Open Land.
- 4.8.3 Section 2 of Chapter 11 Terrestrial Biodiversity ignores the fact that the Cory Fields are incredibly bio diverse in stating that: '*No likely significant adverse effects were identified for the Main Construction Compound in the submitted ES.*' TWUL disagrees with this conclusion on the basis that the Data Centre Site is on open-mosaic habitat that supports a number of rare and scarce breeding birds, as well as regionally important invertebrate fauna as detailed in paragraphs 2.41 – 2.50 of TWUL's Written Representation.
- 4.8.4 Section 3 of Chapter 9 Table 3.1 Terrestrial Biodiversity states that '*there is unlikely to be any change to potential temporary construction impacts to terrestrial biodiversity, namely Crossness LNR, from that assessed in the submitted ES.*' However, TWUL maintain that the closer proximity, and the increased construction period of the Project and the Data Centres, will have an increased risk to terrestrial biodiversity as previously explained in this submission.

5. **CONCLUSION**

- 5.1 For the reasons set out above, it is TWUL's position that the impacts of the Project on the Crossness Nature Reserve are significant. TWUL is seeking amendments to the Requirements in the dDCO to ensure that sufficient measures are adopted by the Applicant to mitigate against the impacts on the Crossness Nature Reserve.
- 5.2 TWUL is also in discussions with the Applicant outside of the Examination Process towards concluding an agreement to satisfactorily address its concerns in relation to its interest in statutory apparatus.

- 5.3 TWUL will update the Examining Authority with the progress of agreement of these matters throughout the Examination.

Annex A