

Riverside Energy Park

Applicant's response to Thames Water Deadline 4 Submission

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The Applicant's Response to the Thames Water Utilities Limited Deadline 4 Submission

On behalf of **Cory Environmental Holdings Ltd**



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1 The Applicant's Response to the Thames Water Utilities Limited Deadline 4 Submission

1.1 Purpose of Document

1.1.1 This document provides a response to the documentation submitted by Thames Water Utilities Limited (TWUL) at Deadline 4. Responses to comments on the **draft Development Consent Order (dDCO) (3.1, REP3-003)** from all interested parties including TWUL are contained in a single submission document, the **Applicant's response to comments on the draft Development Consent Order (8.02.54)**. This response therefore provides comments on the following remaining matters raised by TWUL, which include some related matters raised within the TWUL section in the Applicant's revised **dDCO (3.1, Rev 3)**, as follows:

- TWUL comments on the Applicant's revised draft Development Consent Order (dDCO):
 - Schedule 2, **Requirement 13** (specifically relating to the TWUL Road and footpaths FP2 and FP4);
 - Protective provisions at Part 2 of **Schedule 10** of the **dDCO**;
- TWUL comments on any additional information/submissions received by the previous deadline:
 - Environmental Impacts;
 - Visual impacts;
 - Visitors/health and well-being;
 - Other impacts;
 - Proximity to areas of ecological value;
 - Wildlife impacts;
 - Shading;
 - National Policy Statement EN-1; and
 - TWUL comments on Document 6.6 Environmental Statement Supplementary Report as requested by the Examining Authority.

1.2 Response to TWUL comments on the Applicant's revised draft Development Consent Order

'Crossness Access Road' (TWUL paragraphs 2.11.1-2.11.4)

- 1.2.1 The Applicant confirms that the TWUL Road (referred to by TWUL as the Crossness Access Road) is not included in the Application Boundary, save for a parcel of CRE group land held at the entrance and over which TWUL are granted certain rights of access. The Applicant confirms that it does not intend to utilise this route for access from the public highway to the compound areas and that a separate access or accesses would be created from Norman Road. The Applicant also confirms that the potential use as a crossing between the Data Centre sites is not included in the Application. This is further explained in **Paragraph 8.5** of the **Applicant's response to comments on the draft Development Consent Order (8.02.54)**.
- 1.2.2 The Applicant also confirms that there is no intention to close the access or refuse access and that any disruption from construction of the Electrical Connection would be minimised through the liaison measures set out in the **outline Construction Traffic Management Plan (CTMP) (6.3 Appendix L to B.1, Rev 4)** at Deadline 5.

Public Rights of Way FP2 and FP4

- 1.2.3 Whilst the volume of traffic using Norman Road will increase relative to existing baseline flows (during construction or operation), the flows will not become such that access to FP2 and FP4 or the ability to cross Norman Road is significantly affected (see explanation in **Paragraph 1.2.5** below). FP2 connects to the public highway near the junction between Norman Road and Picardy Manorway and exits onto a highway footway. Immediately to the south of this exit is a signal controlled crossing which allows pedestrians to access the other side of Norman Road or Picardy Manorway, including to walk northwards by highway footway towards the TWUL Road.
- 1.2.4 At FP4 the footpath exits at the east side of Norman Road and joins the existing highway footway which runs the entire length of Norman Road. During any works in the vicinity of FP4 the continuity of the footpath will be maintained via a short diversion if necessary. Therefore, there will be no significant effect on the ability for pedestrians to walk to a crossing location opposite the TWUL Road.
- 1.2.5 As set out above, the volume of traffic along Norman Road will not be sufficient to present any issues in relation to pedestrian delay, intimidation or safety in respect of crossing from one side of Norman Road to the other during construction or operation. In accordance with the Institute of Environmental Management & Assessment (IEMA) guidelines, **Chapter 6 Transport** of the **Environmental Statement (ES) (6.1, REP2-017)** presents an assessment of the effects on pedestrian delay, amenity, fear and intimidation. At **Paragraphs 6.9.17 to 6.9.27**, the assessment reports that the effect of construction traffic on Norman Road would be Negligible and Not Significant.

- 1.2.6 The Applicant does not accept that visitors to the Crossness Local Nature Reserve (LNR) will be materially adversely effected either arriving on foot or for parking. There are also other opportunities that exist to park and walk to access the reserve. Crossness LNR is primarily designated for its biodiversity interest and although community engagement with the biodiversity interest of the site is encouraged through community events and open days arranged by the Friends of Crossness group, there is currently no specific parking provision for visitors to Crossness. On this basis, currently satisfactory, retained access to Crossness LNR from FP2 and FP4 will remain such that the Applicant concludes that the provision of a visitor car park is unnecessary.
- 1.2.7 The Applicant is currently considering the bespoke protective provisions provided by TWUL and anticipates agreement of the protective provisions before the end of the Examination. The Applicant will keep the ExA updated on the progress of the protective provisions.

1.3 Response to TWUL comments on additional information/submission

Environmental Impacts

- 1.3.1 Much of the TWUL submission considers matters which have already been raised and are the subject of existing responses or discussion. The Applicant does not therefore seek to re-state all previous submissions but has sought to identify a summary or concluding position where this has been reached.
- 1.3.2 TWUL provides no evidence for stating that indirect effects from the development are significant. Whilst the Applicant acknowledges that there may be effects through disturbance to wildlife, measures are set out in **Section 1-4 of the Outline Biodiversity and Landscape Management Strategy (OBLMS) (7.6, REP3-014)** to avoid and mitigate these where possible, and residual effects are assessed as Not Significant. Loss of habitats outside Crossness LNR, such as those within the Data Centre sites will be offset through provision of habitats, overseen by the Environment Bank. The Applicant has provided an **Update on Environment Bank Site Selection Progress (8.02.53)** in relation to the above at Deadline 5.
- 1.3.3 The Applicant has previously requested from TWUL a copy of the Second Schedule to the referenced Section 106, however this has not yet been supplied to the Applicant or the Examining Authority, and TWUL have confirmed that they are unlikely to be able to provide a copy. The Applicant therefore remains in a position of being unable to comment on the objectives which TWUL raise. The Applicant is therefore also seeking a copy of the Second Schedule via the London Borough of Bexley (LBB).
- 1.3.4 As stated in **Paragraph 1.2.9 of the Applicant's response to Thames Water's Written Summary of Oral Submissions Made at Hearings (8.02.39, REP4-018)**, section 3 of the Water Industry Act 1991 applies to proposals being promoted by TWUL, not by third parties. In relation to such proposals relating to TWUL's undertaking, TWUL is under a duty to further the conservation and enhancement of natural beauty and the conservation of flora and fauna. Accordingly, the Applicant will not place TWUL in breach of section

3 or section 5 of the Water Industry Act 1991 (which relates to giving practical guidance to relevant undertakers with respect to any of the matters under section 3).

Visual impacts

- 1.3.5 Embedded mitigation to address potential effects upon visual receptors is identified through the **Design Principles (7.4, APP-105)** that were established through the design and assessment process. As set out in the **Design and Access Statement (7.3, APP-104)**, particularly at **Sections 5.0 and 6.0**, a number of design options were considered and three main building forms were formally consulted upon. In selecting the chosen stepped roof design, the Applicant took into account the fact that this design would be the shortest and smallest massing of the different forms (as is evident from the figures in **Section 6.1.1** of the **Design and Access Statement (7.3, APP-104)**) such that it is most successful at mitigating effects. This is considered to be part of the appropriate embedded mitigation which reduces potential visual effects including upon the Crossness LNR.
- 1.3.6 TWUL expresses a view that the curved roof design is more aesthetically pleasing, better suited to the local environment and would be less imposing than the stepped roof design on the basis that there are already curved roof buildings which form distinctive landmarks in the immediate vicinity of the Crossness LNR. TWUL also states that the curved roof would, in its opinion, visually soften the impact of the project being larger than those adjacent existing developments.
- 1.3.7 In respect of whether a design is 'aesthetically pleasing', the National Policy Statement for Renewable Energy Infrastructure EN-1 states at paragraph 2.5.51 that:
- "Mitigation is achieved primarily through aesthetic aspects of site layout and building design including size and external finish and colour of the generating station to minimise intrusive appearance in the landscape as far as engineering requirements permit. The precise architectural treatment will need to be site-specific."*
- 1.3.8 The Applicant's north-south alignment of the main REP building responds to the site layout and view to/from the River Thames, whilst the chosen form of the building (stepped form) also contributes to mitigation of effects. An appropriate and considered palette of materials, colours and architectural treatment are set out in the Applicant's **Design Principles** document (**APP-105**) to minimise intrusive appearance in the landscape, whilst accepting that the building has a functional purpose to perform.
- 1.3.9 The Applicant has stated previously that the stepped roof minimises the massing of the main building and is the lowest in height. On this basis the Applicant considers that the stepped design is the least imposing and is best suited to the local environment in respect of minimising shading effects and visual intrusion. The Applicant also notes that there are existing flat roof building forms in the vicinity, including on the eastern side of Norman Road

and as seen and set out in **Sections 3.2.1, 3.2.2 and 3.4.1** of the submitted **Design and Access Statement (7.3, APP-104)**. The built form in that local area therefore comprises a mix of flat and curved roofs, including the ribbon of different built forms along the river. In the context of EN-1 set out above, the Applicant does not consider that this context provides any reasonable justification for a site-specific curved roof treatment which would undermine the various benefits of a stepped design set out above, undermine renewable solar energy generation potential and inhibit more accessible maintenance. Use of a curved design would also increase the maximum height of the building with an increased effect on shading. See the comparison of illustrative profiles taken from the **Section 6.1.1** of the **Design and Access Statement (7.3, APP-104)**, where the stepped form is shown green and the curved form in blue.

RRRF is shown dotted in all images.

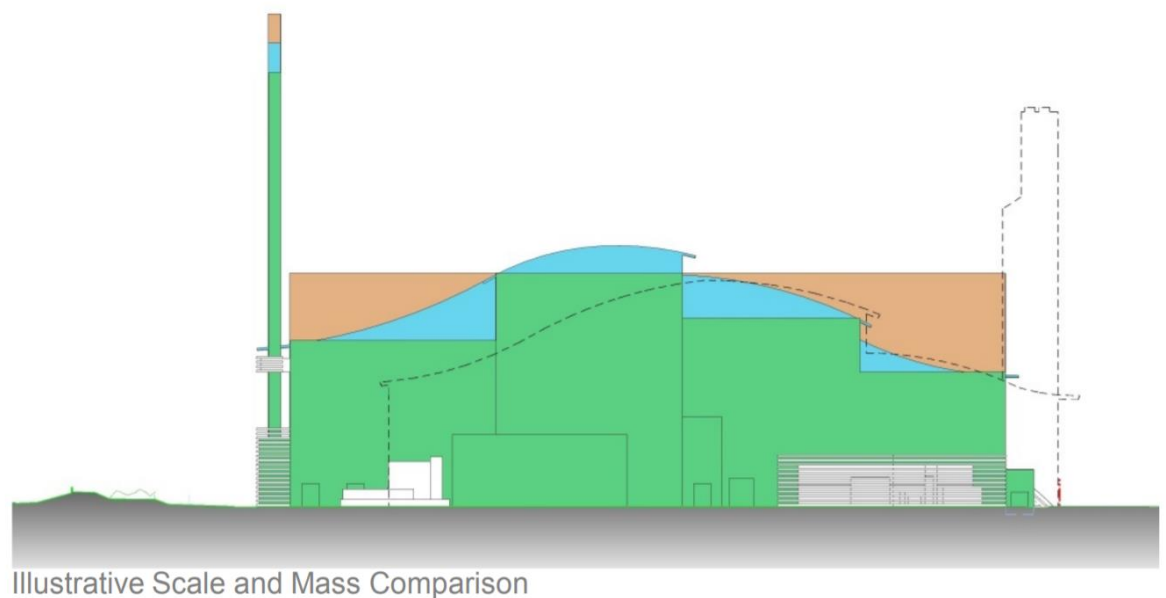


Figure 1.1: Extract of 6.1.1 from the Design and Access Statement

- 1.3.10 The Applicant is willing to explore the potential use of green roofs or bio-solar roofs at the detailed design phase. Consideration of this matter at that phase of the Proposed Development is appropriate to ensure that green roofs or bio-solar roofs can be delivered in harmony with the final design of the building, including successful integration of the structural and maintenance requirements of such systems within and under solar panels. As is common with large infrastructure projects, the detailed structural design will not progress until the **dDCO (3.1, Rev 3)** is granted. The Applicant has submitted a **Design Principles (7.4, APP-105)** document which sets out how the REP design process will progress. The detailed design phase is secured through **Requirement 2** of the **dDCO (3.1, Rev 3)** and subject to the approval of LBB.
- 1.3.11 TWUL does not provide its assessment methodology to explain the reasoning for its broad statement that *“the cumulative landscape and visual impacts of the Project with other developments in the vicinity of Crossness Nature Reserve would have an Adverse effect that is of a Moderate / Major level of*

significance, and therefore would be significant'. **Chapter 9 Townscape and Visual Impact Assessment (TVIA)** of the **ES (6.1, REP2-021)** included a cumulative townscape and visual effects assessment following the methodology set out in **Appendix E.1** of the **ES (6.3, APP-072)**. **Paragraph 9.10.6** of **Chapter 9 TVIA** of the **ES (6.1, REP2-021)** reports that there would be cumulative townscape effects to the townscape receptor 'Designated Open Space and Landscapes', noted as the open space and marshland around Crossness LNR, and acknowledges an increase in urban development with additional enclosure and less open views. Noting the existing urban context of the Proposed Development, it is considered that this cumulative effect would result in a Slight Adverse townscape effect which has a Minor level of significance and is Not Significant. The Applicant believes there is no basis for the cumulative townscape and visual effects methodology and assessment presented in the ES to be considered inappropriate or for TWUL's assertions to be preferred.

- 1.3.12 The Applicant acknowledges that TWUL has confirmed that its visualisation was indicative. By implication the visualisation was therefore not to an agreed viewpoint or focal length lens, and is not an Accurate Visual Representation (verified view) and has not been produced in line with best practice. In this light, the Applicant believes there is no basis for the visual analysis presented in the ES to be considered inappropriate.
- 1.3.13 In respect of TWUL's paragraph 3.12, matters relating to the dDCO are addressed in the submission **Applicant's response to comments on the draft Development Consent Order (8.02.54)** made at Deadline 5.
- 1.3.14 The Applicant notes that the EIA process identified only potentially significant (moderate) effects in respect of the TVIA and not in respect of noise, vehicle/plant movement or dust which are quoted by TWUL. The EIA includes details of appropriate mitigation where necessary for effects, which are reported in the relevant topic chapters of the ES and as in-combination effects in **Chapter 16 Summary of Findings and In-Combination Effects** of the **ES (6.1, APP-053)**.

Visitor health and well-being

- 1.3.15 The Applicant notes that TWUL has confirmed that the measures requested are not mitigation and are compensatory. The Applicant has identified in previous submissions that the proposals will not cause an unacceptable effect on open space and any adverse relationship with visitor experience. Given that the Applicant does not accept that there would be any significant effects on visitors, no compensation is considered appropriate in respect of the list provided by TWUL.
- 1.3.16 Whilst the Applicant invited suggestions from TWUL for potential socio-economic measures, these have been considered and, as they are not required to mitigate the adverse effects of the development, the Applicant has concluded not to progress them at this time. However, the Applicant confirms that it would be willing to discuss enhancement measures with TWUL when undertaking detailed design.

Other Impacts

- 1.3.17 TWUL provides no reasoned basis for claiming that effects arising from the revised extent of the Main Temporary Construction Compound will be 'considerable' and this is not related to the EIA findings (which the Applicant found to be Not Significant in all respects in the **Environmental Statement Supplementary Report (6.6, REP2-044)**). Furthermore, TWUL claims that the new extent of the compound will lie within the "*gated footprint of the reserve*". The Crossness LNR designated boundary lies to the west of existing ditches surrounding the Data Centre sites and is coincident with the fencing to those areas. The Application Boundary (**2.2, REP2-004**), as submitted at Deadline 2, marries with the same boundary and fencing on the western perimeter of the Data Centre sites. The Applicant is therefore unclear as to where TWUL consider that the compound lies within the gated footprint of the reserve. Notwithstanding this, the Applicant also notes that:
- 1.3.18 The actual usage of the Main Temporary Construction Compound would lie inside the perimeter defined by existing ditches, through compliance with the **OBLMS (7.6, REP3-014)**, which includes a commitment to achieve an offset of 5m from the top of ditch; and
- 1.3.19 The Data Centre area has been included from the outset in respect of other works.
- 1.3.20 TWUL proposes the avoidance of all construction works in the south and south west of the Proposed Development during the entire bird nesting season (1st March- 31st August). However, this is not necessary or proportionate since **Chapter 11 Terrestrial Biodiversity** of the **ES (6.1, REP2-023)**, and the further information provided in response to written representations has shown that potential construction disturbance will not affect the long-term distribution and abundance of the assemblage of breeding birds within the study area or its nature conservation importance. Measures to mitigate effects on breeding birds during construction of REP are set out in the **OBLMS (7.6, REP3-014)**, which is secured in **Requirement 5** of the **dDCO (3.1, Rev 3)**. These measures will provide mitigation for birds, such as skylark, which breed within the data centre site, as it is being used as part of the Main Temporary Construction Compound. Once the temporary use has finished, either the land will be restored or, should the Data Centre be built, Cory (as the applicant for the Data Centre) would need to comply with the conditions relating to the Data Centre Permission with regards to provision for biodiversity.
- 1.3.21 Further, the nature of construction works and their potential effects varies (including noise emissions relative to the reasonable worst case), as do the sensitivity and nesting period of different bird species, if present. For instance, lapwing which are known to breed within the West Paddock, typically nest in April and May with eggs taking less than 30 days to hatch, and the young moving away from the nest site soon after. The Applicant therefore maintains that the approach set out in **Paragraph 5.3.57** of the **Applicant's Responses to Written Representations (8.02.14, REP3-022)** is a proportionate and reasonable approach. This requires the Applicant, as secured through the

OBLMS (7.6, REP3-014), secured in **Requirement 5** of the **dDCO (3.1, Rev 3)**, to set out measures which will be used during construction to avoid or minimise potential direct or indirect effects, including timing of clearance works to avoid the core bird nesting season if they might be subject to effects.

Proximity to areas of ecological value

1.3.22 Location 3 is located approximately in the centre of Crossness LNR. **Figure 11.5** of the **ES (6.3, APP-060)** indicates that in 2018 lapwing nested within the centre and south of the West Paddock, not at the north of Crossness LNR adjacent to the REP site as suggested by TWUL. The Applicant set out at **Paragraph 5.3.57** of the **Applicant's response to Written Representations (8.02.14, REP3-022)** that Location 3 is a good fit for a representative location relative to the REP site, where birds were found to be breeding in the 2018 surveys. Therefore, the position of Location 3 is an appropriate representation of where breeding birds could be expected to be found. Whether this accords directly with any single nesting location does not undermine the measures set out in the **OBLMS (7.6, REP3-014)** and their ability to ensure that potential effects are limited in relation to the actual nature of construction works and their timing relative to potential nesting periods anywhere within the West Paddock.

Wildlife impacts

Barn owls

1.3.23 TWUL suggests that it would be prudent to erect a pole or building-mounted nest box in the event that disturbance causes abandonment. However, it is the Applicant's understanding that there are already a number of nesting boxes within the reserve. Notwithstanding this, the Applicant confirms that an existing nest box within the REP site will be offered for relocation to the Crossness LNR.

1.3.24 In respect of TWUL's comments relating to tussocky vegetation within the boundary, the exploration of such opportunities is secured through the Design Principles. In relation to suitable habitats the Applicant has provided an update on the site selection process currently being undertaken in the **Update on Biodiversity Environment Bank Site Selection Progress (8.02.53)** submitted at Deadline 5. The Applicant welcomes suggestions of opportunities that could be considered in a metric approach adopted by the Environment Bank and secured through **Requirements 4 and 5** of the **dDCO (3.1, Rev 3)**.

Birds

1.3.25 The cumulative assessment for terrestrial biodiversity as set out in **Section 11.10** of **Chapter 11 Terrestrial Biodiversity** of the **ES (6.1, REP2-023)**, concludes no cumulative effects are anticipated. The Applicant acknowledges that the stacks will provide potential additional avian predator perches, however no significant effect has been identified resulting from avian predation of specific species and the addition of perches is set in the context

of existing surrounding perches. In the absence of evidence of any significant effect, the Applicant considers any effect is Not Significant and is outweighed by the benefits of the proposal in meeting the urgent need for new energy infrastructure, among other matters set out in the **Project and its Benefits Report (7.2, APP-103)**.

Cumulative Impacts

- 1.3.26 For the reasons set out in the **Applicant's response to comments on the draft Development Consent Order (8.02.54)**, the Applicant considers that LBB (as the relevant local planning authority) holds the appropriate expertise to discharge Requirements such that it can adequately mitigate potential effects in line with the EIA. However, it is noted that discussions with LBB around biodiversity offsetting opportunities may include land owned by TWUL, and as such TWUL would be involved as a landowner in any such proposals.
- 1.3.27 In respect of loss of Open Mosaic Habitat, the Applicant has confirmed that this will be compensated through an offset delivered through the Environment Bank. The Applicant confirmed in its **Update on Environment Bank Site Selection Progress (8.02.53)** that such habitat will be sought as part of that process, furthermore the site selection process has commenced and will prioritise sites within close vicinity to REP. The Applicant held a meeting with LBB (Parks and Open Space Team/Land Team) on 17 July 2019 to discuss the EB site selection process in the local area. In respect of the specific species mentioned by TWUL, it should be noted that neither ringed nor little ringed plovers were recorded breeding during surveys in 2018.
- 1.3.28 The Applicant is progressing discussions with LBB and key landholders as part of the Environment Bank process. The Applicant expects to make significant progress in this respect during the remainder of the Examination and intends to submit a report outlining potential offset sites that have been identified at Deadline 7. This would include sites that LBB consider are locally deliverable or suitable and may include the examples suggested by TWUL.
- 1.3.29 The Applicant remains of the view that the measures proposed by TWUL do not comprise mitigation and TWUL has agreed that this is the case. They are therefore not necessary or required to make the Proposed Development acceptable in planning terms. Notwithstanding this, the Applicant confirms its intention to explore enhancement measures with TWUL when detailed design is undertaken.
- 1.3.30 As set out in **Paragraph 1.3.10** above, the Applicant reconfirms its commitment to consider green/bio-solar roofs as a means of securing onsite biodiversity enhancement within the main REP site. However, the proposed Data Centre is not the subject of this DCO Application and consideration of such features on those buildings is therefore not within the scope of these proposals.
- 1.3.31 As set out in **Paragraph 1.2.6**, the Applicant considers that the provision of a temporary visitor car park is not justified for the Crossness LNR.

Shading

1.3.32 The Applicant welcomes TWUL's statement that the analysis of timing of shading is positive. The **Report on Shading Effects to Crossness Local Nature Reserve (8.02.10, REP3-019)** confirmed that effects would be Not Significant in respect of shading and therefore the Applicant considers that the enhancement of watercourses is not required as mitigation. However, the Applicant confirms its intention to explore enhancement measures with TWUL when detailed design is undertaken.

National Policy Statement EN-1

1.3.33 The Applicant addressed the relationship between the National Policy Statement (NPS) EN-1 and other policy in its submission at Deadline 4 titled **Analysis of Metropolitan Open Land (MOL) in respect of the Proposed Development (8.02.41, REP4-020)**. The Applicant's position is that the London Plan does not substantially alter the application of NPS EN-1, which applies to Green Belt only and not MOL, such that the provisions in relation to Green Belt in the NPS do not apply. MOL clips the edge of the plots of the Main Temporary Construction Compound (plots 02/43, 02/44, 02/48, 02/49, 02/51 and 02/52). However, given the location of the MOL on these plots, there would be no buildings, or indeed any buildings. Accordingly, the works would involve simply hard standing which is used for parking, and assembly/fabrication areas, all of which would be classed as "engineering operations"¹, that would "*preserve the openness*" of the MOL and would "*not conflict with the purposes of including land within*" the MOL. The Applicant contends that even if the London Plan provision were applied in full, the works therefore comprise engineering operations or other forms that do not conflict with Green Belt policy as set out in the National Planning Policy Framework and London Plan.

1.3.34 Furthermore, the **Analysis of Metropolitan Open Land (MOL) in respect of the Proposed Development (8.02.41, REP4-020)** also addresses the potential indirect effects to the MOL arising from the development at Section 1.5, identifying that the relevant Secretary of State (in accordance with NPS EN-1) must consider whether the project has been designed carefully, taking account of environmental effects on the landscape and siting, operational and other relevant constraints, to minimise harm to the landscape. The note sets out the process, contained within the **Design and Access Statement (7.3, APP-104)**, to minimise environmental effects. Furthermore, the EIA found that effects on designated open spaces (**Table 9.8 of Chapter 9 Townscape and Visual Impact Assessment (6.1, REP2-021)**) would be minor and therefore Not Significant.

1.3.35 The Applicant confirms that it does not consider the measures proposed by TWUL (as per its Paragraphs 3.14 and 3.26) to be required to mitigate the effects of the Proposed Development and therefore are not necessary or

¹ Roman Catholic Diocese of Southwark and Regal point Homes (WW) Ltd v Bromley LBC [2016] P.A.D. 31

required to make the proposals acceptable in planning terms. However, the Applicant confirms its intention to explore enhancement measures with TWUL when detailed design is undertaken.

1.4 Response to comments on document 6.6 Environmental Statement Supplementary Report as requested by the ExA in its Rule 17 letter dated 1st July 2019 (“ES Supplementary Report”)

- 1.4.1 For clarity, the Applicant confirms that the alterations to the Main Temporary Construction Compound comprise additional work numbers in one area (being the “Data Centre” areas which were already within Application Boundary) and the removal of an area of land in respect of the freehold for Landsul, arising from discussions with that landowner. There is therefore no wholesale relocation of the compound from one site to another.
- 1.4.2 TWUL does not identify objective reasons as to why the proposed consecutive or concurrent construction of the Data Centre site and the Main Temporary Construction Compound would cause visitors to be unable to access the site in a safe manner. As set out in **Paragraphs 1.2.3 to 1.2.6**, the proposals will not affect the ability of visitors to the Crossness LNR to safely access the site via footpaths FP2 or FP4 and the Applicant has confirmed that the TWUL Road almost entirely lies outside the Application boundary. Furthermore, whilst the Applicant acknowledges that a greater extent of the Crossness LNR will be bounded by the Main Temporary Construction Compound, the works will not be closer than the existing location which also bounds the reserve.
- 1.4.3 The Data Centre site is the subject of an extant Town and Country Planning Act permission and was therefore considered cumulatively as part of the EIA. The assessment set out in the ES and the **Environmental Statement Supplementary Report (6.6, REP2-044)**, does not rely on the Data Centre and Main Temporary Construction Compound being undertaken consecutively to minimise effects. The **Environmental Statement Supplementary Report (6.6, REP2-044)**, considered two scenarios (Scenario 1, the use of the Data Centre site as a whole being used as part of the Main Temporary Construction Compound and Scenario 2, whereby the southern parcel of the Data Centre site will be used as part of the Main Temporary Construction Compound whilst construction of the Data Centre is commenced on the northern parcel) and found that the effects in both were Not Significant, including where the two sites are used/developed consecutively.
- 1.4.4 **Table 2.1** of the **Environmental Statement Supplementary Report (6.6, REP2-044)** refers to proposals to take vehicles across the TWUL Road between the parts of the Main Temporary Construction Compound on the “Data Centre” sites. The Applicant confirms that this no longer forms part of the Application.
- 1.4.5 In light of the confirmation of the above, the Applicant considers that LBB is the appropriate sole approving authority, in consultation with the highways authority, for discharging the Construction Traffic Management Plan and that

no specific consultation requirement with TWUL is necessary to be included in the **dDCO (3.1, Rev 3)**.

- 1.4.6 The Applicant has not identified any objective reasoning from TWUL, other than concerns in respect of the TWUL Road, which has been clarified above, as to why the **Environmental Statement Supplementary Report (6.6, REP2-044)** does not provide a suitable assessment of potential dust and noise impacts.
- 1.4.7 The Applicant confirms that the quoted statement from **Chapter 9 Townscape and Visual Impact Assessment (6.1, REP2-021)** remains valid and is not affected by changes to the Main Temporary Construction Compound. The assessment takes account of the existing urban context, activity and character of the area that lies within the vicinity of the proposed construction activities. The relationship with MOL and other policy is addressed in the Applicant's **Analysis of Metropolitan Open Land (MOL) in respect of the Proposed Development (8.02.41, REP4-020)**.
- 1.4.8 The ES takes full account of the ecological features within the Data Centre site, noting the presence of Open Mosaic Habitat, breeding birds and invertebrates. Potential effects to the Data Centre site arising from REP will be temporary, and measures to mitigate effects to ecological features during construction of REP are set out in the OBLMS and Code of Construction Practice (CoCP) as secured through **Requirement 5 and 11**, respectively, of the **dDCO (3.1, Rev 3)**. Despite potential temporary effects, the Applicant has committed to treating any habitat loss on the area of the Main Temporary Construction Compound as a permanent loss, and to provide off-site compensation accordingly.
- 1.4.9 In respect of proximity to Crossness LNR, the Application Boundary was not amended in respect of inclusion of the Data Centre sites, since these were already present within the original DCO Application. Whilst these areas are now included in respect of Works items associated with the Main Temporary Construction Compound, they were considered as part of the original DCO Application (Work No. 7). The Applicant maintains that, although the works differ in activity and duration, no likely significant adverse effects have been identified as a result of the change of use of the Data Centre site. The original submitted application did not rely on the Data Centre works being undertaken concurrently, such that potential overall construction period of works in the vicinity of Crossness LNR has not increased.
- 1.4.10 Notwithstanding the response set out above, the Applicant proposes further mitigation measures below, which are over and above those that are required to mitigate the effects of the Proposed Development. These additional measures would further reduce any potential disturbance and any potential impacts during the construction period to Crossness LNR. As such, the following measures have been included in the updated **Outline CoCP (7.5, Rev 3)** submitted at Deadline 5:
- 1.4.11 The use of printed hoarding depicting vegetation and/or trees to be erected around the perimeter of the Data Centre site. This will provide further visual

screening by giving the impression of continued vegetative landscape. The solid hoarding will bring the dual benefit to provide further noise reduction and dust control at the boundary to Crossness LNR; and

- 1.4.12 Specified noise attenuating barriers would be erected around the perimeter of the Data Centre site closest to Crossness LNR where any noisy works are to be undertaken as part of the Main Temporary Construction Compound, this will result in further noise reduction at the boundary to Crossness LNR.

1.5 TWUL's Conclusion

- 1.5.1 Whilst TWUL maintains that effects on Crossness LNR will be significant, the Applicant has identified effects only in respect of Townscape and Visual which are significant (moderate). The Applicant does not consider that TWUL has provided any substantive reasoning on an impact/magnitude basis as to why the EIA (6.1-6.3) and the **Environmental Statement Supplementary Report (6.6, REP2-044)** should be considered to be unsuitable assessments of the potential effects arising from development.
- 1.5.2 The Applicant confirms that it continues discussions in respect of Protective Provisions (attached as Annex A to the TWUL submission at Deadline 4) with TWUL in respect of its statutory apparatus. The Applicant anticipates agreement of the Protective Provisions before the end of the Examination.