

RIVERSIDE ENERGY PARK DCO

LB Bexley Deadline 5 Submissions

13 August 2019



LONDON BOROUGH OF
BEXLEY

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1 INTRODUCTION

- 1.1 In line with the request from the Examination Authority this note provides comments on behalf of the London Borough of Bexley (LBB) on additional information/submissions received at deadline 4. These comments supplement those previously provided by LBB, in particular the additional comments made by LBB at deadline 4, which the Applicant would not have seen at the time of producing these documents.
- 1.2 Further comments on the draft Development Consent Order (DCO) and associated Explanatory Memorandum to those presented in LBB's submission at deadline 4 have not been made at deadline 5 in recognition that the Applicant has stated that an updated draft DCO is to be provided at deadline 5. LBB therefore propose to provide further comments on this updated draft DCO at deadline 6.
- 1.3 The LBB continues to engage with the Applicant to develop and agree a Statement of Common Ground.

2 8.02.36 APPLICANT'S RESPONSE TO LONDON BOROUGH OF BEXLEY DEADLINE 3 SUBMISSION

Air quality matters

- 2.1 The main issue under dispute between LBB and the Applicant is the request from LBB for funding to support ongoing air quality monitoring. The basis for this is set out in Section 3 of LBB's submission at deadline 3.
- 2.2 The Applicant states in paragraph 1.3.5: "neither this [Defra "Air Quality damage cost update 2019," February 2019] nor other DEFRA Damage Cost Guidance suggests that the DEFRA guidance is an appropriate basis for imposing or discussing a financial contribution in respect of costs on a specific project." This is one of the arguments used by the Applicant to reject LBB's view that damage costs provide an appropriate basis. However, this argument fails for two reasons:
 1. Notwithstanding the statements in Defra's guidance regarding use of the damage cost approach for policy development, the Defra damage costs are widely used for the assessment of costs associated with individual projects. As Defra does not itself promote projects, it is not surprising that the focus of its guidance is on policy rather than project evaluation. For example, the application of a damage cost approach to evaluation of projects is supported in:
 - a. Medway Council "Air Quality Planning Guidance" (April 2016);
 - b. West Midlands Low Emissions Towns & Cities Programme, "Good Practice Air Quality Planning Guidance," May 2014; and
 - c. City of Bradford and others, "West Yorkshire Low Emissions Strategy 2016 to 2021," December 2016.These documents confirm that, in contrast to the Applicant's view, Defra's damage cost approach is widely applied to development projects.
 2. Defra's damage cost approach was cited by LBB firstly to confirm that, "even if air quality standards and guidelines are not exceeded, any additional emission of NO_x, PM₁₀, PM_{2.5} and other pollutants makes an additional contribution to the very significant overall health impacts of air pollutants." (LBB submission at deadline 3, paragraph 3.3). Secondly, LBB proposed this approach to provide a means of estimating the damage costs associated with the proposed development. The Applicant's view is that the damage cost approach does not

constitute “an appropriate basis for imposing or discussing a financial contribution in respect of costs on a specific project.” In view of this, if the Applicant remains unsatisfied with this particular approach, and is able to propose a reasonable alternative approach for “imposing or discussing a financial contribution” to reflect the impact on air quality of the proposed facility, LBB would be pleased to consider this further.

- 2.3 The Applicant goes on to set out the results of recent research into the health effects of waste to energy facilities in Section 1.3.6 of the Applicant's response to LBB's deadline 3 submission. This research is welcome in providing further evidence of the effects on health of waste to energy facilities specifically. The recent research findings quoted by the Applicant indicate that there is nothing unusual in emissions from waste to energy facilities which give rise to detectable patterns of adverse health impacts in communities living close to such facilities. However, this research does not in any way undermine the findings of research into the health effects of air pollution in general. As with any other source of pollutants such as oxides of nitrogen and particulate matter, emissions of these pollutants from the proposed facility would have adverse effects on health, even when all air quality standards and guidelines are complied with. The GLA has made a similar comment (GLA/4509/WR Further Representations Deadline 4 submission, paragraph 5.7), and it would be illogical for the Applicant to suggest otherwise.
- 2.4 The Applicant goes on to list what it views as the benefits of the proposed facility (section 1.3.6 of the Applicant's response to LBB's deadline 3 submission). This would appear to represent a shift in position by the Applicant. The Applicant has resisted funding additional air quality monitoring because of its view that emissions to air from the facility would not have any adverse environmental or health effects. As LBB has been able to demonstrate that emissions from the facility would in fact have adverse effects, the costs of which can be evaluated, it would appear that the Applicant has now moved on to suggest that the “effects of any project must be weighed against its benefits.” This does not address the key question of whether emissions to air from the proposed facility would have adverse effects, for which investment in ambient air quality monitoring in local communities would be justified.
- 2.5 In Section 1.3.7 of the Applicant's response to LBB's deadline 3 submission, the Applicant mentions the proposed investment in NO_x abatement technology. In Section 1.3.8 of the Applicant's response to LBB's deadline 3 submission, the Applicant refers to the “contribution to additional monitoring within the locality in respect of RRRF.” Both of these points were addressed in Section 3.7 of LBB's Deadline 3 submission, which stated: “LBB considers that it is not appropriate to refer to the investment in NO_x 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.” These points of principle have not been addressed by the Applicant in reaching its view that (paragraph 1.3.9 of the Applicant's response to LBB's deadline 3 submission) “it is not justified, reasonable, necessary or appropriate for REP to make a project specific financial contribution.” The need for investment in air quality monitoring was set out in Sections 3.8 to 3.13 of LBB's Deadline 3 submission. This has not been challenged by the Applicant. LBB therefore reiterates its view that investment in further monitoring in respect of emissions from the proposed facility is justified, reasonable, necessary and appropriate.
- 2.6 In Section 1.3.12 of the Applicant's response to LBB's deadline 3 submission, the Applicant highlights that the Environment Agency may require the adoption of an

ambient air monitoring programme in respect of the REP. LBB welcomes the proposed draft DCO commitment for consultation on this monitoring programme with LBB, but notes that as a consultee to this process, LBB would not have final control over the design of an air quality monitoring programme under the environmental permitting process. In order to protect its position in respect of air quality monitoring in Bexley, LBB maintains its position requiring a contribution from the Applicant to air quality monitoring in Bexley.

- 2.7 In Section 1.2.12, 1.2.20, 1.3.13 and Table 1 of the Applicant's response to LBB's deadline 3 submission, it is suggested that the Applicant will propose an air quality management Requirement to the draft DCO at Deadline 5. LBB welcomes this initiative and will give due consideration to any such proposed requirement, although maintains its position requiring a contribution from the Applicant to air quality monitoring in Bexley.

Waste matters

- 2.8 Section 1.2 of the Applicant's response to LBB's deadline 3 submission relates to matters around the requirement for an annual waste throughput cap. Issues relating to waste matters are also discussed in sections 1.7 and 1.8 of this report. LBB provides further comments under this sub-heading on these matters. In general, the Applicant's response has not moved forward the discussion to any great extent. The matters of concern set out within LBB's submission at deadline 3, and to some extent expanded upon at deadline 4, have not been satisfactorily addressed by the Applicant and remain outstanding.

Waste throughput cap

- 2.9 LBB firmly contends that the DCO, in Schedule 1 or as requirement(s) in Schedule 2, needs to include for a separately defined annual cap of waste throughput on both the proposed Energy Recovery Facility (ERF) as well as the proposed Anaerobic Digestion (AD) plant. The requirement for the DCO to specify separate annual waste throughput consented limits is necessary because the Applicant may not develop both the ERF and AD facilities and even if they are both built, they may not be constructed or operated at the same time. In such an event the waste throughput of each facility should be capable of being controlled in line with the capacity levels assessed within the Environmental Statement (ES) that accompanied the DCO application.
- 2.10 The capping of the waste throughput for waste management facilities is well-established and is the common approach adopted by decision makers, this is evidenced in both the town and country planning system and within the DCO regime. The existing Riverside Resource Recovery Facility (RRRF) plant has a cap on waste throughput. The cap is set out in condition 4 of planning permission (Ref: 16/02167/FUL) granted by LBB. Condition 4 limits the existing RRRF plant 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". The reason for this condition remains vital for development control purposes and is valid for both the proposed ERF and AD facilities.
- 2.11 The Applicant makes references to the example DCOs provided by LBB in its deadline 3 submissions as being not of the same nature as the proposed REP. These examples were cited as waste management DCOs and are therefore relevant to the proposed development. LBB notes that a further example of a waste combustion facility including a cap on waste throughput is the North London Heat and Power Generating Station Order 2017, which sets out in Schedule 1 section 1 (1) of the DCO that the generating station is to be "fuelled by up to 700,000 tonnes of waste per

- annum". Furthermore, in Schedule 1 section 1 (a) (iii) it states that "two process lines (each line having a capacity of up to 350,000 tonnes of waste per annum)".
- 2.12 In the explanatory memorandum to the North London Heat and Power Generating Station Order 2017, it explains in paragraph 5.118 that the capacity levels are fixed to reflect the assessments undertaken in the ES. The approach of the Secretary of State in limiting any development to the assessments provided for in the accompanying ES is restated in a subsequent letter from the Secretary of State dated 19 July 2018. This letter, attached at Appendix A, considered a non-material change to the North London Heat and Power Generating Station Order 2017 in increasing the electrical output from 70 megawatts to 78 megawatts. In paragraph 17 of this letter the Secretary of State is clear that acceptance of this amendment is based on the annual throughput of the waste to fuel the development not being increased and thus not exceeding the assessments contained in the ES. LBB agrees with this approach in maintaining its requirement for a capped throughput of waste being secured by the DCO and that this level should not exceed the basis of the assessments contained in the ES.
- 2.13 In paragraph 1.7.7 of their response to LBB's deadline 3 submission the Applicant confirms that the upper throughput of waste figure (805,920 tpa) has been consistently applied in the EIA. The level of the throughput cap is considered by LBB to be a matter for the Examination Authority to determine but LBB strongly contends that it 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 ERF plant.
- 2.14 Paragraph 17 of the letter from the Secretary of State dated 19 July 2018, attached at Appendix A, also indicates in contradiction to the statement made by the Applicant, in paragraph 1.7.8 of their response to LBB's deadline 3 submission, that the waste throughput, not thermal capacity, is important in assessing the operational impacts of the proposed development.
- 2.15 LBB does not understand why the Applicant considers a limit on the throughput of waste would be a burden as suggested in paragraph 1.2.13 of their response to LBB's deadline 3 submission. In light of the further documentation provided by the Applicant at deadline 4, LBB fails to understand how the Applicant considers the assessed maximum throughput of the proposed ERF plant of 805,920 tpa may be exceeded and therefore act as a burden on the developer. The Applicant confirms in paragraph 1.7.5 of their response to LBB's deadline 3 submission that this maximum throughput is based on the lowest calorific value (CV) of waste which the ERF has been designed to accept and assumes both waste lines accepting waste 24 hours a day 365 days a year. In consequence, any stoppage of either of the 2 lines (for example for maintenance) or receipt of any waste with a higher CV than 7 MJ/kg (with previous operational data from Cory showing the CV of waste being received at the plant being in the range of 9-10 MJ/kg) will result in less waste being able to be received than 805,920 tpa. On this basis LBB does not consider agreement to a waste throughput cap on the proposed ERF of 805,920 tpa to be any burden for the Applicant.
- 2.16 The requirement for an annual waste throughput cap is, however, necessary to ensure that the operational effects of the ERF and AD plants do not exceed the assessments contained in the ES. An annual waste throughput cap is also required for development control purposes.
- Other controls are not appropriate to manage waste throughput**
- 2.17 The proposed cap on vehicle movements set out in Schedule 2 requirement 14 of the draft DCO (rev 2) as prepared by the Applicant at deadline 3 will not control the overall level of waste that can be brought to the ERF plant. This is as a result of there

being no restriction on river movements as well as a suggested vehicle cap by the Applicant that is considered too high and based on an assessment of 7 tonne vehicles being used whereas the reality will be that much larger capacity vehicles will be utilised. As noted in paragraph 3.57 of LBB's submission at deadline 4 the RRRF plant currently accepts road waste containers with a typical weight between 12-14 tonnes. With larger capacity vehicles (14 tonnes) being used by the Applicant the volume of waste that could be delivered to the plant assuming 90 HCV's per day will be almost 460,000 tpa, some 57% of the maximum throughput capacity of the plant. It is noted that at paragraph 2.82 in the GLA's submission at deadline 4 they estimate that this figure using larger bulk carriers could be some 722,000 tpa (90% of the maximum throughput and over 100% of the nominal throughput). Such potential levels of waste by road are considered unacceptable by LBB and contrary to planning policies seeking to promote sustainable transport and river transportation including LBB Policies CS03 and CS15. LBB therefore maintains its position seeking a waste throughput level for deliveries of waste by road to the proposed ERF, the level of which LBB has indicated in earlier submissions should be some 65,500 tpa.

- 2.18 The LBB strongly disagrees with the Applicant with regard to their statement at paragraph 1.7.12 that the draft DCO as prepared by the Applicant controls all topic specific parameters and that the operational impacts of the REP will not exceed those set out in the ES regardless of the waste throughput.
- 2.19 The LBB do not agree with the Applicant with regard to their statement in paragraph 1.2.10 of their response to LBB's deadline 3 submission that control of the capacity of the ERF and AD plants by the environmental permitting process alone will be appropriate. As set out in LBB's responses at deadlines 3 and 4, the environmental permitting process does not consider all the potential environmental effects as assessed in the ES. A subsequent application to increase the capacity of either facility under the environmental permit would not reconsider all the assessment conclusions of this ES. Increases in waste would result in increases in air emissions which, for example, could impact terrestrial ecology. Such matters do not form part of an assessment of an environmental permit application. LBB does not understand the Applicant's statement in paragraph 1.2.20 of their response to LBB's deadline 3 submission that suggests the Environmental Permit will control terrestrial biodiversity effects.

National Policy Statement for Renewable Energy Infrastructure (EN-3)

- 2.20 The Applicant makes reference to paragraph 2.5.13 of NPS EN-3 in a number of places (paragraphs 1.2.3, 1.2.6, 1.2.8) within their response to LBB's deadline 3 submission. The full text of this paragraph is set out below:
- 2.21 "Throughput volumes are not, in themselves, a factor in IPC decision-making as there are no specific minimum or maximum fuel throughput limits for different technologies or levels of electricity generation. This is a matter for the applicant. However the increase in traffic volumes, any change in air quality, and any other adverse impacts as a result of the increase in throughput should be considered by the IPC in accordance with this NPS and balanced against the net benefits of the combustion of waste and biomass as described in paragraph 2.5.2 above and in Section 3.4 of EN-1."
- 2.22 The reference to throughput limits not being a factor in decision-making would appear to relate to technologically there being no set minimum or maximum limits for different waste combustion technologies such as mass burn combustion, gasification etc. This paragraph from NPS EN-3 does, however, go on to suggest that increases in waste throughput can result in increases in traffic, air quality impacts and other adverse impacts. Such impacts are a consideration for the decision maker. Contrary

to the suggestions from the Applicant, LBB consider that this accords with the requirement for maximum throughputs not to exceed the assessments presented in the ES.

- 2.23 As set out above, the ES has only assessed impacts up to the maximum waste throughput levels of 805,920 tpa for the ERF plant and 40,000 tpa for the AD plant. By not separately capping the waste throughput levels for both the ERF and AD plants in the DCO, the potential exists for greater adverse environmental effects to result than assessed and considered in the decision-making process. Not capping the waste throughput levels in the DCO would be considered by LBB to be contrary to national policy guidance.

Residual waste

- 2.24 The Applicant, within paragraph 1.7.1 of their response to LBB's deadline 3 submission, states that an updated draft DCO is to be presented at deadline 5 and that this will contain an additional requirement to ensure that the ERF plant only receives residual waste. LBB welcome this intention and will provide further comments at deadline 6 following a review of the updated draft DCO.

Conclusion

- 2.25 For all of the above reasons LBB maintains its position that separate annual caps on waste throughput for both the ERF plant and the AD plant are necessary and required to ensure that the likely adverse environmental effects of the REP do not exceed those assessed in the ES. This approach is considered consistent with national and local policy.
- 2.26 The level of the throughput cap is considered by LBB to be a matter for the Examination Authority to determine but LBB strongly contends that it 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 ERF plant.

Biodiversity matters

- 2.27 The following comments relate to paragraphs 1.7.18 to 1.7.21 of the Applicant's response to LBB's deadline 3 submission.
- 2.28 In relation to LBB's concern regarding a lack of detail about potential biodiversity offsetting sites, LBB acknowledge that the proposed offset will be agreed with the planning authority (LBB), detailing the design, delivery, monitoring and enforcement provisions necessary to enable a net gain for biodiversity to be achieved, together with a timetable for delivery.
- 2.29 LBB also acknowledge Requirement 5 of the draft DCO (3.1, REP3-003), which states that the final Biodiversity and Landscape Mitigation Strategy is subject to approval by LBB (as the local planning authority) and must set out the mechanism for securing the off-setting value. Requirement 5 is welcomed in terms of its requirement of the Applicant to implement the approved strategy.
- 2.30 It is also acknowledged that the Applicant met with LBB on 17 July 2019. These were initial discussions and further meetings are considered necessary. LBB request that consideration is to be given by the Applicant to the sites identified by the Friends of Crossness Nature Reserve in their deadline 4 response (Crossness Reserve, Thamesmead Golf Centre and the Crayford Marshes).
- 2.31 However, LBB still consider that it has yet to be proven and confirmed that the full offset value can and will be achieved within the LBB administrative area to avoid net loss of biodiversity within the Borough. LBB consider that replacement of biodiversity

land within LBB's administrative area should be secured by a requirement in the DCO to ensure that there is no net loss of biodiversity within LBB.

- 2.32 LBB is also concerned to ensure that biodiversity compensation is provided in advance of losses occurring, to ensure no short- to medium-term loss of biodiversity. LBB remain concerned that the off-setting value, to which the biodiversity off-setting scheme will be developed, is not proposed to be finalised until after detailed design.
- 2.33 Harm to habitat, either on-site or off-site and including pre-commencement works, should not be permitted to take place until the full off-setting value has been determined, full mitigation measures have been identified and compensation habitats / biodiversity enhancements that equate to at least the value of any harm to be caused have been implemented.

Transport matters

- 2.34 With regard to bottom ash the Applicant states in paragraph 1.4.5 of the Applicant's response to LBB's deadline 3 submission that the bottom ash generated is capable of being stored in the bunker. The bunker having a week's storage capacity. The Applicant states that this is considered sufficient should there be a jetty outage. LBB's position, as set out in its earlier submissions including at deadline 4, is that all bottom ash material from the proposed ERF plant should be transported by river. This approach accords with the assumptions made by the Applicant in their transport assessment.
- 2.35 LBB consider that if the Applicant is confident to propose the removal of the existing ash storage facility, then the Applicant should be required to commit that all bottom ash is removed from the REP site via the river.
- 2.36 In paragraph 1.4.9 of the Applicant's response to LBB's deadline 3 submission, the Applicant does not agree with a cap of waste throughput and in paragraph 1.4.9 the Applicant suggests that a waste throughput cap on road movements is not required. However, capping both vehicle movements and waste throughput by road is considered necessary by LBB in order to control impacts associated with vehicle movements as well as to ensure that the development fully utilises the river transport network and maximises sustainable transport patterns as required by planning policy. Unless a cap on waste throughput permitted by road is controlled, as is the case with the RRRF consent, larger loads and respective vehicles can be expected to be used by the Applicant. Larger vehicles can cause various issues in a network, such as safety to all road users and network operation can reduce with a fleet of larger vehicles.
- 2.37 The Applicant considers that a restriction of 10% of the nominal waste throughput scenario would be unnecessary and have rejected the suggestion. Their reasoning is that they do not want any restriction that they deem unfair in relation to their potential for commercial opportunities at the REP site. However, the restriction is reasonable to safeguard the operation of the road network and encourage the use of river transport and sustainable transport modes. The estimates of waste that could be brought to the ERF by road using larger vehicles under the Applicant's proposed vehicle cap, of 90 in and 90 out per day, is considered unacceptable by LBB and contrary to planning policies seeking to promote sustainable transport and river transportation. LBB therefore maintains its position seeking a waste throughput level for deliveries of waste by road to the proposed ERF, the level of which LBB has indicated in its submission at deadline 2 should be 65,500 tpa.
- 2.38 In paragraph 1.4.12 of the Applicant's response to LBB's deadline 3 submission, the Applicant references that the wording of the requirement 14 of Schedule 2 of the DCO has been amended such that the proposed vehicle limit of 90 in and 90 out per day includes waste deliveries to both the proposed ERF and AD plants. The inclusion

- of the AD plant is welcomed. However, the approach proposed by the Applicant to link these two separate waste plants is not considered acceptable by LBB since there is no guarantee that both facilities will be built out or built at the same time. In the event that only one facility was built, or if one facility was not operated to its maximum capacity, the vehicle movements permitted by road would be artificially high. For these reasons LBB consider that a waste cap, a cap of vehicle numbers and a cap on the waste delivery throughput permitted by road should all be separately specified for both the ERF plant and the AD plant.
- 2.39 The Applicant states in paragraph 1.4.18 of the Applicant's response to LBB's deadline 3 submission that supplementary evidence was submitted at deadline 3 to justify that a worst-case assessment had been performed in the event of a jetty outage. This is not accepted by LBB. Concerns relating to this point were made by LBB in its submission at deadline 4.
- 2.40 The Applicant states in paragraphs 1.4.20 and 1.4.21 of the Applicant's response to LBB's deadline 3 submission that there is no justification for a Delivery Service Plan (DSP) to be implemented for the operational phase of REP, particularly in addition to the existing proposed controls through Requirement 14 of the draft DCO (3.1, REP3-003) proposed by the Applicant. There is a requirement by the City of London for any major development over 1,000sqm to have a DSP and LBB do not consider that the Applicant has provided valid reasoning as to why they do not need to provide a DSP.
- 2.41 The Applicant identifies in paragraph 1.8.16 of the Applicant's response to LBB's deadline 3 submission that they have proposed a 48 period to define a jetty outage. As set out in LBB's submission at deadline 4, LBB considers that the proposed definition of a "jetty outage" as being for a period of just 48 hours is too short, with no justification being provided for this time period from the Applicant. The LBB consider that the definition should be as per the tracked change version of the draft DCO presented by the LBB at deadline 2 (4 consecutive days). A definition that has been agreed and established under the extant RRRF consent. A time period that is considered reasonable with the Applicant stating that the ash bunkers have a capacity of a week's ash storage and with the Applicant seeking removal of the existing ash storage area.
- 2.42 The Applicant identifies in paragraph 1.8.17 of the Applicant's response to LBB's deadline 3 submission that they have proposed a process for LBB to inspect vehicle movements. As set out in LBB's submission at deadline 4, LBB is not satisfied with the proposed amendments. As submitted at the DCO issue specific hearing on 6 June 2019, LBB requires records to be made available as required (a cap of four requests per year is not considered acceptable) and records should include details on waste volumes. The content and scope of records to be made available for review by the Council should be subject to agreement with LBB.

Noise matters

- 2.43 The Applicant within paragraph 1.7.1 of their response to LBB's deadline 3 submission states that an updated draft DCO is to be presented at deadline 5 and that this will contain an additional requirement related to operational noise levels. LBB welcome this intention and note that they have previously provided wording related to operational noise, in Schedule 2 requirement 15A of the marked-up version of the draft DCO submitted by the LBB at deadline 2. LBB will provide further comments at deadline 6 following a review of the updated draft DCO.
- 2.44 Concern was expressed by LBB about the very limited duration of baseline noise surveys undertaken for the ES by the Applicant both in its submissions at deadline 4 and originally in LBB's written representations. While it is still considered that longer

- term measurements should have been carried out, the Applicant's response at paragraph 1.5.1 of their response to LBB's deadline 3 submission states that the survey locations and timings were agreed with the LBB EHO and are therefore adequate for the assessment. This does not present a technical argument for the methodology proposed and clarification is sought from the Applicant to the agreement for the duration of the surveys.
- 2.45 LBB raised concerns about the night time construction noise impact validation report issued by the Applicant at deadline 3, specifically regarding such works on the electrical connection route. The report concluded that the impact would not be significant. LBB maintain its position that this would not be the case and that effects would be significant, albeit for a relatively short duration.
- 2.46 The Applicant's response at paragraph 1.5.3 of their response to LBB's deadline 3 submission maintains that a 30dB reduction through typical windows should be applied. The Applicant does not, however, acknowledge that this would only be achieved with the windows closed. Many people sleep with windows slightly open, giving a sound reduction of 10-15dB rather than 30dB. As the connection route is on main roads, residents who choose slightly open windows would be used to traffic noise, however, the construction noise at night would be significantly more disruptive to sleep than the traffic noise.
- 2.47 The response from the Applicant states that night time construction noise levels would be lower than daytime as the percentage of working time would be less. While the average noise level might well be mathematically lower, the same construction plant and equipment producing the same level of noise, would be in use day and night as far as residents are concerned.
- 2.48 The response from the Applicant at paragraph 1.5.7 of their response to LBB's deadline 3 submission confirms that it is the intention that the works will be daytime wherever possible, and that night works would only be considered in exceptional circumstances. While LBB welcome this statement, it is considered by LBB that night works would have a significant impact, over a relatively short period, due to the nature and characteristics of construction plant operating at night. In consequence, LBB consider that requirement 12 of the DCO should be amended so that all works within LBB (works 1-9) must be undertaken during the daytime unless prior written approval has been granted by LBB.

3 8.02.35 APPLICANT'S RESPONSE TO THE GREATER LONDON AUTHORITY DEADLINE 3 SUBMISSION

Air quality matters

- 3.1 In Section 6.3.4 of the Applicant's response to the GLA deadline 3 submission, the Applicant reiterates its conclusion that there would be no significant effects on air quality due to the proposed facility. While it is correct to say that the proposed facility would not result in any air quality standards or guidelines being exceeded, as discussed in relation to the Applicant's response to the LBB Deadline 3 submission, emissions at lower levels nevertheless have adverse effects on health, which can be evaluated.
- 3.2 LBB is in discussions with the Applicant through the SOCG process regarding the impact of the proposed facility due to emissions of nickel. In Section 6.5.4 of the Applicant's response to the GLA Deadline 3 submission, the Applicant has started to

describe the impact of nickel emissions from the proposed facility. This assessment is not considered sufficient. LBB maintains its request for the Applicant to assess the number of properties at which the impact of nickel emissions would be minor, as this will enable the Applicant to provide a complete evaluation of the impact of the proposed facility on nickel levels, in accordance with the assessment framework set out by the Institute for Air Quality Management (IAQM) and adopted by the Applicant.

- 3.3 Furthermore, the assessment of nickel levels at high rise development locations in Section 6.5.23 of the Applicant's response to the GLA deadline 3 submission identifies further locations at which nickel levels would be above a Negligible level. This adds further weight to the need for a comprehensive assessment of nickel levels in accordance with the IAQM guidance, to enable these impacts to be given proper weight when evaluating the impact of the proposed development. A similar point is raised in Examining Authority Written Question Reference Q2.0.10, and subsequent exchanges with GLA (Applicant's response to GLA Deadline 3 submission page 113). LBB agrees with the GLA that the question raised by the Examining Authority has not yet been fully answered.
- 3.4 Appendix E "Applicant's Response to GLA Sheet 3: GLA Commentary on other parties' Local Impact Reports/Written Representations" Section 3.6 of the Applicant's response to the GLA deadline 3 submission makes reference to LBB's comments in relation to control of construction impacts under the draft DCO. For the avoidance of doubt, LBB continues to request acceptance of its proposed amendments in relation to the air quality impacts of construction.

Waste matters

- 3.5 LBB's previous submissions at deadline 4 have made the point that the need case presented for the ERF plant sought in the application does not consider the upper level of the proposed ERF plant of 805,920 tpa in the Waste Strategy Assessment (Annex A of the Project Benefits Report). In the Applicant's response to the GLA's deadline 3 submission it is noted that there is now reference being made for example in Figure 1 to the ERF having a maximum capacity of 800,000 tpa. LBB do not, however, consider that the maximum throughput of waste at the ERF has still been fully assessed by the Applicant. Furthermore, LBB note that unless a maximum throughput of waste for the ERF is set and capped in the DCO then any assessment of need will remain flawed.
- 3.6 With regard to Figure 2 contained in the Applicant's response to the GLA's deadline 3 submission LBB would state that the compost material (digestate) produced from the AD plant should be exported off-site for use as a fertilizer as opposed to being burnt in the REP's ERF in order for this process to be considered as contributing to recycling and satisfy waste hierarchy policy objectives.
- 3.7 Section 6.4 of the Applicant's response to the GLA's deadline 3 submission relates to waste throughput. The Applicant states that the maximum mechanical throughput for the facility has been assessed. It is understood that the environmental permit application seeks a capacity for the ERF plant of 805,920 tpa. This would suggest to LBB to be confirmation that the Applicant has not assessed air quality impacts that may result from a waste throughput at the ERF plant above 805,920 tpa. As acknowledged in NPS EN-3 air quality impacts can vary with waste throughput. This provides further confirmation to LBB's position that the DCO should contain a maximum capped annual throughput of waste for the proposed ERF and AD plants to ensure that their operations do not exceed the assessment of impacts contained in the ES.

- 3.8 Paragraphs 8.1.1 and 8.1.2 of the Applicant's response to the GLA's deadline 3 submission relates to the GLA's proposal for a requirement to ensure delivery of the AD plant, battery storage and solar panels within a specified time limit. The LBB are in agreement with the GLA for such a requirement, which is stated in paragraph 8.1.2 to be under consideration by the Applicant.

Transport matters

- 3.9 Paragraph 7.1.7 of the Applicant's response to the GLA's deadline 3 submission suggests that the Applicant has undertaken a full assessment of both the REP and RRRF operating a full capacity during a jetty outage. LBB, as set out in their submission at deadline 4, do not agree with this statement and consider that a full assessment of transport impacts with both the REP and RRRF plants delivering waste in 300 HCV's each (1200 waste only movements) has not been fully assessed by the Applicant.
- 3.10 Paragraph 7.1.8 of the Applicant's response to the GLA's deadline 3 submission suggests that there is no justification for a waste tonnage cap on the amount of waste that can be brought in by road. LBB disagree with this statement. LBB consider that the suggested vehicle cap by the Applicant of 90 in and 90 out per day of normal operation is too high. LBB also consider that the road transport assessment which is based on 7 tonne vehicles being used is incorrect as it is considered that in reality much larger capacity vehicles will be utilised. As indicated previously in this submission by LBB, with larger capacity waste vehicles being employed, which is what LBB expect, the amount of waste that could be brought to the ERF plant by road could be greater than the proposed nominal waste throughput. Such potential levels of waste by road are considered unacceptable by LBB and contrary to planning policies seeking to promote sustainable transport and river transportation.
- 3.11 The Applicant rejects GLA's comment to cap the waste transport by road and state in paragraph 7.1.11 that: "There is no policy justification for the GLA requiring a cap on the tonnage of material transported by road to REP and the cap on the number of HCVs per day proposed by the Applicant is appropriate, in line with policy and addresses the impact that is sought to be controlled". The concern from LBB is that by not capping the waste tonnage received by road is that various sized vehicles may be used to reduce the levels of waste brought to the facility by river which is considered contrary to LBB Policies CS03 and CS15. NPS-EN-1 paragraph 5.13.9 states that decision makers should "aim to secure more sustainable patterns of transport development when considering mitigation measures". LBB consider that a waste throughput cap on road deliveries to the ERF, in a similar manner to the RRRF conditions, is required in order to promote a sustainable pattern of transport for the proposed REP in accordance with NPS EN-1.
- 3.12 In paragraph 7.3.1 of the Applicant's response to the GLA's deadline 3 submission, the Applicant quotes TfL stating: "Micro-simulation modelling of the whole network shall not be required, as TfL Network Performance have indicated that due to the rolling nature of the works along the network, this would not be suitable" in response to the GLA's requirement that a method of understanding the effects on the operation of local bus services is agreed with the Applicant. However, the Applicant has not included the full response by TfL which stipulated that if the assessment cannot demonstrate the impact to buses, further junction assessments are required.
- 3.13 In paragraph 8.1.10 of the Applicant's response to the GLA's deadline 3 submission, the Applicant rejects the proposal from the GLA that the restriction on the number of HCVs per day attending REP should include those vehicles associated with the ancillary operations, such as: lime; fuel oil; and ammonia deliveries. LBB have proposed a DSP requirement to manage these vehicle movements. LBB consider that some controls over these vehicle movements should be contained within the DCO.

- 3.14 In paragraph 8.1.13 of the Applicant's response to the GLA's deadline 3 submission, the Applicant states that the assessments contained in Chapter 6 Transport of the ES (6.1, REP2-017) show that there are no residual operational effects on the transportation network that would require mitigation. However, some concerns have been raised by LBB in their submission at deadline 4 regarding the assessments and their respective peak periods as to if they were accurate.

4 8.02.39 APPLICANT'S RESPONSE TO THAMES WATER'S ORAL SUBMISSIONS MADE AT HEARINGS

- 4.1 LBB welcomes that the Applicant has selected selective catalytic reduction, in combination with ammonia reagent, as the preferred technology choice for abatement of NOx from the CHP engine. LBB welcomes that the Applicant has suggested in paragraph 1.2.25 that a new Requirement will be inserted in the draft DCO related to the potential impacts of the AD plant. LBB will provide further comments at deadline 6 following a review of the updated draft DCO.

5 5.3 ELECTRICAL GRID CONNECTION (REV 1) (WITH TRACKED CHANGES)

- 5.1 LBB note that this document provides an updated map of the agreed electrical connection route which is welcomed by LBB.
- 5.2 As set out in paragraph 2.2.7 of this report LBB welcomes that the chosen electrical connection route avoids Crossness LNR.
- 5.3 LBB also welcome the confirmation provided in paragraph 2.2.8 of this report that the Electrical Connection route would cross the River Darent using the existing highway or using trenchless installation techniques, which will reduce risk of downstream effects on biodiversity within LBB's section of the river (LBB's boundary with Dartford/Kent).

6 6.3 ENVIRONMENTAL STATEMENT APPENDIX L TO B.1 OUTLINE CONSTRUCTION MANAGEMENT PLAN (REV 3) (WITH TRACK CHANGES)

- 6.1 The objectives at paragraph 1.2 of this document include minimising the impacts of construction and demolition on the local community and lowering emissions from construction processes. The updated version of the Outline Construction Management Plan (Rev 3) provided by the Applicant at deadline 4 contains additional information in paragraph 2.6.2 in relation to potential disruption to accesses during the electrical connection routes. The additional text states that: "Where access is identified through liaison with those potentially affected as being particularly sensitive to temporary disruption, the installer will take into account any details of the sensitive nature of the access and review whether the traffic management or works (where practicable, economic and efficient to do so), can be adjusted to further mitigate and minimise the period of disruption".

- 6.2 LBB consider that the text stating, 'where practicable, economic and efficient to do so' should be removed as is considered subjective in the favour of the Applicant's contractor. It is the responsibility of the contractor to derive a solution to minimise disruption which is satisfactory to residents, stakeholders and local highway authority, rather than practical, economical or efficient. In extreme circumstances agreement with all parties to a solution has to be met irrespective of costs.
- 6.3 Under Section 6 of this document, which relates to 'Impact on Other Highway Users', the Applicant does not specify that impact assessments will be undertaken at specific junctions to be agreed with the local highway authority and TfL. LBB consider that this should be included to safeguard the operation of the network during construction.
- 6.4 In paragraph 5.5.1 of this document, the Applicant states that pedestrian and cycle access for those working at and visiting the Main Temporary Construction Compounds would be from Norman Road. Workers would then transfer to the construction area from the compound facilities. Access by vehicle to the construction area at the REP site would be limited to construction traffic only. However, no reference to existing cycle or pedestrian routes have been made, which may provide connectivity. Norman Road has also not been substantiated as a viable cycle route (width) bearing in mind two-way HGV movements will be sharing the available road space. LBB expect that further information on these aspects will be provided by the Applicant.
- 6.5 In paragraph 6.2.2 of this document, the Applicant states that: "The Electrical Connection construction site would be a rolling lane closure or temporary side road closures to accommodate: open trenching and duct installation; backfilling; and surface reinstatement. The cable laying work site would be enclosed by temporary traffic management comprising of worksite barriers, cones and warning signs". There does not appear to be any commitment to provide any analysis on the effect of rolling lane closures. LBB consider this should be a requirement made of the Applicant.

7 8.02.42 ANAEROBIC DIGESTION FACILITY EMISSIONS MITIGATION NOTE

Air quality matters

- 7.1 LBB welcomes the commitment to install additional abatement to further reduce emissions of oxides of nitrogen from biogas combustion. The assessment provided by the Applicant demonstrates that following the new approach including for the installation of additional abatement would be preferable to the previous approach which resulted in higher emissions of NO_x from biogas combustion. The improved mitigation of NO_x emissions would result in an increase in ammonia emissions, but overall the proposal represents an improvement on the previous approach.
- 7.2 LBB notes that the Applicant is currently in disagreement with GLA (Applicant's Response to the GLA Deadline 3 Submissions, 5. ExA Written Question Reference – Q1.0.12) regarding the most appropriate method of dealing with biogas. The options are: injection into grid; use as vehicle fuel; utilisation for generation of electricity. The Applicant notes that all three options would result in conversion losses, but does not provide an evaluation of the relative scale of these effects. If the Applicant intends to rely on the argument that all three options would incur conversion losses, this should be supported by evidence as to the significance of these losses, to enable a robust decision to be taken as to the optimum use of biogas generated at the AD facility.
- 7.3 The legend for Figure 7.10 should be amended to be consistent with the contour labelling and main text.

Transport matters

- 7.4 In Section 3.1 of the Anaerobic Digestion facility emissions mitigation note the Applicant makes reference to the use of materials in the abatement process. LBB wish to understand from the Applicant if the proposed change in the abatement technology would alter the vehicle movements assumed for the AD plant. It is understood that the vehicle movements associated with consumables and by-products from the AD plant are set out paragraphs 5.3.15 of Appendix B.1 Transport Assessment, although the how these overall movements have been derived is unclear.

8 000742 - GREATER LONDON AUTHORITY FURTHER REPRESENTATIONS FINAL AT DEADLINE 4

Air quality matters

- 8.1 LBB welcomes GLA's support for its request for funding to enable air quality monitoring to be carried out (Sections 6.6 to 6.8). LBB notes GLA's comment that this request is consistent with GLA's "formal guidance to the London Boroughs on Local Air Quality Management. This guidance supports the use of s106 funding to support local monitoring programs." LBB would be ready to work with the Applicant to secure funding for air quality monitoring via this route.

Biodiversity matters

- 8.2 LBB agree with and support the GLA's points made in paragraph 2.111 of the GLA's further representations at deadline 4 regarding the lack of detail contained in the Biodiversity Accounting Report on where compensation can be provided, if it can be provided locally and the appropriateness of any donor site. LBB agree with the conclusions of the GLA that without more detailed information it is not possible to ascertain whether the residual impacts on biodiversity would be adequately mitigated or compensated.

Requirement 20: CHP

- 8.3 In paragraph 4.19 of the GLA's further representations at deadline 4 the GLA requests that requirement 20 is amended to require the Applicant to form a working group that combines the RRRL working group. LBB would agree with this proposed approach. Furthermore, as set out in LBB's submission at deadline 4 the LBB would also like to see a CHP review on a two year basis rather than every four years.

Transport matters

- 8.4 In paragraph 2.79 of the GLA's further representations at deadline 4 the GLA state that they disagree that a restriction on the number of road deliveries is an appropriate mechanism to ensure river transport. The GLA go on to illustrate in paragraph 2.82 that with larger bulk waste vehicles, which LBB consider will be likely to be adopted by the Applicant since wastes from LBB are already managed by the RRRF plant, some 722,000 tpa of waste could be delivered to the ERF plant by road. LBB agree with the GLA that reliance on just a vehicle cap in the DCO is not sufficient to ensure sustainable transport and river transportation is maximised in accordance with national, regional and local policy. LBB therefore propose a waste throughput cap for

- deliveries by road is also included for in the DCO, as set out in LBB's submission at deadline 2.
- 8.5 The GLA in paragraph 3.4 of this document, want to ensure that the Applicant does not simply use larger size HGV vehicles to transport a higher proportion of the waste to the REP, and as such would like to see a provision in the DCO requirements to limit the volume of waste brought by road. The GLA state that this should be set at a maximum of 65,500 tpa, which is approximately 10% of the ERF plants nominal waste throughput (655,000 tpa). This is in line with the Deadline 3 submission made by LBB. This approach is also considered appropriate as the size of a vehicle can have impacts on safety to all road users and network functionality, notably at intersections and junctions.
- 8.6 TfL under paragraph 4.9 of this document state that if the Applicant is unable to provide a realistic method to accurately assess likely bus delays, additional junction modelling of these points on the network should be undertaken. LBB consider that this approach is warranted as the impact during construction is largely unknown.
- 8.7 With regard to requirement 14 of Schedule 2 of the DCO, the GLA under paragraph 4.10 of this document propose the definition of a jetty outage should be 4 days and that the reference to "from the street known as Norman Road" is removed. LBB agree with both these positions. Under this requirement the GLA also propose in paragraph 4.13a that the imposition of a maximum of 4 requests a year is removed. LBB also agree with the GLA in this respect, as set out in LBB's submission at deadline 4.
- 8.8 The GLA in paragraph 5.15 of this document, recognise that the full effect of a jetty outage on the local highway network has not been assessed and that to do so the Applicant would need to add the additional traffic that would be generated by the RRRF at 300 vehicles per day. The LBB agree with the GLA that the full effect of a jetty outage with the vehicle caps set out in the RRRF extant consent and the proposed cap in the Applicant's draft DCO for the proposed REP developments have not been assessed in the ES. As set out in LBB's submission at deadline 4, LBB consider that this issue must be addressed.

9 00737 – EVERSLEDs SUTHERLAND ON BEHALF OF THAMES WATER – COMMENTS ON DRAFT DCO AT DEADLINE 4

- 9.1 LBB welcomes and encourages the ongoing discussions between the Applicant and Thames Water to ensure mitigation and compensation measures are informed by Thames Water's local knowledge of the Crossness Reserve and its immediate surrounds. In particular, LBB supports Thames Water's desire as stated in paragraphs 3.24 and 3.25 of this submission to see compensation measures fully explored and implemented where feasible within the vicinity of the Crossness Reserve and to ensure that such measures compensate for the habitat types being lost to the development, particularly open mosaic habitat. LBB consider that such compensation should include a full exploration of the feasibility of incorporating a green/brown roof into the development that can help to compensate locally for the notable breeding birds (e.g. skylark) and regionally-important invertebrate species assemblage affected by loss of open mosaic habitat on the proposed REP site and the proposed site of the main contractor's compound (Cory/Borax fields).

10 000752 - CHRIS ROSE - RESPONSE TO FURTHER INFORMATION REQUESTED BY THE EXAMINATION AUTHORITY

- 10.1 LBB agree with and support Mr. Rose's points regarding the current biodiversity offset/compensation proposals. Firstly, that there is currently a lack of specific detail on what, where, when and how this will be delivered. Instead, the offsetting process has been described in detail by the Applicant, but this is not the same thing, and is an information-poor basis on which to make a decision. Secondly, there is no firm guarantee that the full offset value (still to be confirmed) can and will be delivered within the LBB administrative area. If it isn't, this would lead to a loss of biodiversity from the Borough, which is unacceptable to LBB. LBB consider that replacement of biodiversity land within LBB's administrative area should be secured by a requirement in the DCO to ensure that there is no net loss of biodiversity within LBB.

11 8.02.37 APPLICANT'S RESPONSE TO WESTERN RIVERSIDE WASTE AUTHORITY (WRWA) DEADLINE 3 SUBMISSION

- 11.1 On page 22 of the Applicant's response to WRWA deadline 3 submission in relation to matter OPS-5 the Applicant states that the existing RRRF plant operates such that the bottom ash generated is capable of being stored in the bunker. The bunker being capable of accommodating a week's worth of ash during normal operations. The Applicant therefore states that the RRRF site does not require the existing ash storage area as the RRRF plant is "capable of storing ash in the unlikely event of a jetty outage for all but major events".
- 11.2 It is noted that the extant consent from LBB for the RRRF plant (Ref: 16/02167/FUL) states that a jetty outage is defined as being: "circumstances caused by factors beyond the Company's control in which waste has not been or could not be received at the jetty or ash containers have not been or could not be dispatched from the jetty for a period in excess of 4 consecutive days".
- 11.3 Having regard to the above it is clear that the Applicant is confident to be able to manage jetty outages of 4 consecutive days. LBB maintains its position that the definition of a jetty outage in the proposed DCO should remain as per the extant RRRF consent in being a period of 4 consecutive days.

APPENDIX A

Letter from the Secretary of State dated 19 July 2018

Separate PDF file