

Riverside Energy Park

Applicant's response to the ExA's Second Written Questions

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0 Introduction

- 0.1.1 On 16 November 2018, Cory Environmental Holdings Limited (the Applicant) submitted an application (the Application) to the Secretary of State for a development consent order in respect of Riverside Energy Park (REP). The Application was accepted for examination on 14 December 2018 and the examination commenced on 10 April 2019 (the Examination).
- 0.1.2 For defined terms, please refer to the Project Glossary (1.6, APP-006).
- 0.1.3 On 01 August 2019, the Examining Authority (ExA) issued Additional Written Questions to the Applicant, the Greater London Authority ("GLA") and London Borough of Havering via a Rule 17 Letter ("**2WQs**").
- 0.1.4 This document, submitted on 16 August 2019, contains the Applicant's responses to the ExA's 2WQs.
- 0.1.5 The Applicant's response to the 2WQs are divided into individual chapters in the order of the topics provided by the ExA:
- Comments on earlier submissions (Chapter 1);
 - Waste Handling (Chapter 2); and
 - Biodiversity, Ecology and Natural Environment (Chapter 3).

1 Comments on Earlier Submission

1.1 ExA Written Questions Reference Q2.1.1

1.1.1 Written Question Q2.1.1 states:

“Please will the Applicant, to the extent that this is not already in hand for Deadline 5, provide comments on submissions from Interested Parties (IPs) received at Deadline 4.”

Response:

1.1.2 The Applicant has prepared responses to each of the submissions that were made by Interested Parties (IPs) at Deadline 4 on 19 July 2019. A breakdown of the Applicant's responses to each of the IPs Deadline 4 submissions can be found in the table below. In addition, the Applicant will respond at Deadline 7 to the submission by Margaret White, which was accepted at the discretion of the ExA on 09 August 2019.

Table 1.1: Applicant's response to IP Deadline 4 Submissions

Document Reference	Document name
8.02.46	Applicant's response to Greater London Authority Deadline 4 Submission
8.02.47	Applicant's response to Chris Rose Deadline 4 Submission
8.02.48	Applicant's response to Friends of Crossness Nature Reserve Deadline 4 Submission
8.02.49	Applicant's response to Ralph Todd Deadline 4 Submission
8.02.50	Applicant's response to Thames Water Utilities Limited Deadline 4 Submission
8.02.51	Applicant's response to London Borough of Bexley Deadline 4 Submission
8.02.52	Applicant's response to Environment Agency Deadline 4 Submission
8.02.57	Applicant's response to Southern Gas Networks PLC
To be submitted at Deadline 7	Applicant's response to Mrs Margaret J White Deadline 4 Submission

1.2 ExA Written Questions Reference Q2.1.2 – 2.1.4.

1.2.1 These are questions not directed for the Applicant to respond. The Applicant reserves its position to respond to the answers provided by the GLA and the London Borough of Havering.

2 Waste Handling

2.1 ExA Written Questions Reference Q2.2.1

2.1.1 Written Question Q2.2.1 states:

“Please will the Applicant set out the spare capacity at the waste transfer stations on the River Thames which can supply waste to the REP and how this relates to the amount of waste that it expects to be delivered to the REP by river.”

Response:

- 2.1.2 The Applicant operates a network of four existing riparian waste transfer stations situated along the River Thames in London. The names and locations of these Waste Transfer Stations (WTSs) are set out in Table 2.1 below.
- 2.1.3 In total, the Applicant has some 1.390 million (m) tonnes of consented riparian waste throughput capacity available at the existing WTSs in London. Of that, approximately 0.668 m tpa of waste is transported by river each year to serve the Riverside Resource Recovery Facility (RRRF).
- 2.1.4 Therefore, after RRRF, there is 0.722 m tpa of existing surplus spare consented throughput capacity available to REP in London. To put this in context, REP's nominal throughput is 0.655 m tpa and is the anticipated level of operational throughput that will be achieved. REP's maximum throughput is 0.805 m tpa. This is the upper level tested as a 'reasonable worst case' for the REP DCO ES.
- 2.1.5 The Applicant also has an additional 0.075 m tpa of permitted throughput at the Port of Tilbury which is not yet operational. Accordingly, with the Port of Tilbury, total river throughput capacity available for REP is 0.797m tpa.
- 2.1.6 In addition to transportation by river, REP has a proposed road allowance of 0.24 m tpa which will be secured through DCO requirement 14 of the **dDCO (3.1 Rev 3)**.
- 2.1.7 Overall, with surplus consented river throughput and the road allowance, there is 1.037m tpa of logistical capacity available to REP.
- 2.1.8 Therefore, it is evident that the Applicant has more than enough consented throughput capacity at its riparian WTSs to meet the needs of REP based on existing and projected throughput by river transport.
- 2.1.9 Furthermore, in addition to the Applicant's river network, the road allowance provides operational flexibility for REP to serve local markets where transport by road, rather than river, is the optimum mode of transportation taking into account social, environmental and economic considerations.

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Table 2.1: Applicant's Network of Riparian Waste Transfer Stations

Riparian Waste Transfer Stations	Tonnes per Annum (tpa) (m) <small>Note: Lowest permitted throughput under planning or permitting</small>	RRRF Annual Throughput <small>Note: Based 3 Year Average (Tpa 2016 - 2018) (m)</small>	REP Surplus (m)
Smugglers Way- Wandsworth	0.732	0.207	+0.525
Cringle Dock – Battersea	0.308	0.282	+0.026
Walbrook Wharf- City of London	0.175	0.055	+0.120
Northumberland Wharf – Tower Hamlets	0.175	0.124	+0.051
Existing WTSS Sub Total	1.390	0.668	+0.722
Port of Tilbury (site permitted but not operational)	0.075	n/a	+0.075
Existing + Permitted WTSS Total	1.465	0.668	+0.797

2.2 ExA Written Questions Reference Q2.2.2

2.2.1 Written Question Q2.2.2 states:

“Please will the Applicant set out how waste originating from sources other than the WRWA would be delivered to the REP. To what extent could waste from sources other than WRWA be delivered to the REP by river? If an increased amount of waste from sources other than the WRWA is delivered by road would this involve the use – as suggested in the GLA’s submission at Deadline 4 – of larger vehicles of 20 tonnes weight or more?”

Response:

- 2.2.2 The Applicant anticipates that waste delivered to REP would be transferred by river from the network of existing waste transfer stations (WTSs) operated by the Applicant. The existing WTSs have the surplus capacity available to process additional waste (as clearly set out in the Applicant's response to Q2.2.1) and therefore have the capacity to receive waste from sources other than WRWA.
- 2.2.3 REP would be a privately funded merchant facility and therefore until future waste contracts are negotiated and signed (which cannot be secured until post consent), it is not known at this stage of the DCO process where other sources of waste would definitively originate from. The focus for REP is anticipated to be future residual waste arising in London and the south east. The intention is also for waste to be delivered to REP from the Applicant's existing and permitted WTSs by river except in those situations where the transportation of waste by road (rather than river) is the optimum mode of transportation taking into account social, environmental and economic considerations.
- 2.2.4 In response to the GLA's concern that larger quantities of waste may be delivered by road, the Applicant proposes a restriction on the maximum tonnage that may be brought by road to REP of 240,000 tonnes per annum (tpa) in addition to the existing proposed restriction on movements of 90 vehicles in and 90 vehicles out. This applies to both the ERF and the Anaerobic Digestion plants. These restrictions ensure that the effects assessed in the EIA are not exceeded (regardless of the size of vehicle used) and provides certainty that the majority of waste will be delivered by river. This additional constraint is contained in Requirement 14 of the latest version of the **dDCO (3.1, Rev 3)** submitted at Deadline 5. The intention of the new requirement included in the dDCO is to demonstrate the Applicant's clear commitment to delivering waste to REP by means of the River Thames.

3 Biodiversity, Ecology and Natural Environment

3.1 ExA Written Questions Reference Q2.3.1

3.1.1 Written Question Q2.3.1 states:

“Please will the Applicant provide an update on the identification of possible locations in the London Borough of Bexley (LBB) and elsewhere for biodiversity offsetting measures.”

Response:

- 3.1.2 The site selection process is outlined in **Section 3** of the **Biodiversity Offset Delivery Framework (8.02.25, REP3-031)** and initially involves a site search within a selected target area, exploring existing registered sites that may potentially be available for offsetting.
- 3.1.3 Using the findings of a desk-based search, the Environment Bank (EB) are identifying and contacting key landowners and organisations within LBB that have land holdings with potential for biodiversity offsetting. In addition, organisations with potential nature conservation links to relevant projects and landowners in the area have also been contacted.
- 3.1.4 The Applicant intends to provide an overview of the initial site options identified within the Environment Bank Site Selection for Biodiversity Offsetting Report which is being prepared by the EB and will be submitted at Deadline 7. The sites identified within the Environment Bank Site Selection for Biodiversity Offsetting Report, will consider the sites suggested in submissions to the ExA at D4 and will take into account preferred site locations that can either individually or cumulatively, deliver the offset requirement. Priority will be given to sites in LBB and that contribute towards achieving local nature conservation targets and objectives. The proposed offset design will be used to agree a final site(s) package for biodiversity compensation delivery in the detailed design phase of the Proposed Development.
- 3.1.5 An **Update on Environment Bank Site Selection Progress (8.02.53)** was submitted at **Deadline 5** which notes that a number of potential parcels of land in LBB have been identified and are being considered for inclusion in the Environment Bank Site Selection for Biodiversity Offsetting Report at Deadline 7.

3.2 ExA Written Questions Reference Q2.3.2

3.2.1 Written Question Q2.3.2 states:

“Can the Applicant provide an assurance that some offsetting sites will be located in the LBB?”

Response:

3.2.2 The Applicant has selected the London Borough of Bexley (LBB) as the initial target area to ensure the offsetting requirement is delivered within the closest vicinity to the Proposed Development whilst also meeting the offsetting commitments set out in the OBLMS (including, where possible, "like for like" replacement) (this is further set out in the Applicant's response to Written Question Q2.3.3 below). If there are limited sites identified within LBB, the target area will be extended to also include neighbouring boroughs, although preference will still be applied to sites within LBB and land that contributes to local green infrastructure and biodiversity connectivity.

3.2.3 An **Update on Environment Bank Site Selection Progress (8.02.53)** was submitted at Deadline 5. As detailed in this document, an Environment Bank Site Selection for Biodiversity Offsetting Report will be issued by the Applicant during the Examination at Deadline 7.

3.2.4 The Applicant has also added following text to **Paragraph 5.1.8** of the **OBLMS** which includes a commitment to prioritising sites in LBB provided the sites are in accordance with the principles and priorities as set out in the **OBLMS**:

“In addition to the Principles described by BBOP outlined above, the Environment Bank on behalf of the Applicant is committed to prioritising sites for off-set delivery which, where possible, are both within the London Borough of Bexley and which can provide a ‘like for like’ replacement of habitat, with specific regard to opportunities for Habitats of Principle Importance, such as Open Mosaic Habitat (OMH). However, where the Environment Bank cannot find ‘like for like’ replacement within the London Borough of Bexley, however can find ‘like for like’ replacement outside of the London Borough of Bexley, the Environment Bank will prioritise the site that would provide the most appropriate offsetting from an ecological perspective.”

3.3 ExA Written Questions Reference Q2.3.3

3.3.1 Written Question Q2.3.3 states:

“The biodiversity offsetting principles listed in section 5 of the Outline Biodiversity and Landscape Management Strategy (OBLMS) [REP3-014] do not include a commitment to replace lost habitats, where possible, on a like for like basis. Would the Applicant be prepared to include this principle in its strategy?”

Response:

3.3.2 The offsetting principles set out in **Section 5** of the **Outline Biodiversity and Landscape Management Strategy (OBLMS (7.6, REP3-014))** provides a summary of the principles for a Standard of Biodiversity Offsets set out by Business and Biodiversity Offsets Programme (2012)¹. **Paragraph 5.1.8** of the **OBLMS** goes on to say that *“...whilst universal, many of these principles are more, or less, applicable depending on the national circumstances. In the UK, principles 1, 2, 3, 6, 7 and 8 are key, and all are applied at REP”*.

3.3.3 In practice, the actual offset determination is delivered in the UK through consideration of habitat values and ‘tradability’ of habitats within a biodiversity metric. Original guidance on the biodiversity offsetting metric produced by Defra in 2012² states: *“At no time should an offset result in “trading down”, for instance in the replacement of habitat of high distinctiveness with creation or restoration of a habitat of medium distinctiveness. Habitats that are of high distinctiveness would generally be expected to be offset with “like for like” i.e. the compensation should involve the same habitat as was lost.”* High distinctiveness habitats are typically Habitats of Principal Importance. In practice, this means that the Habitats of Principal Importance impacted by the development should be replaced like-for-like, but that in consultation with the determining body, in this instance the London Borough of Bexley, other high distinctiveness habitats may be permitted should they contribute to local habitat and green infrastructure targets.

3.3.4 This has been addressed within the biodiversity accounting assessment undertaken for the Proposed Development. **Section 6.2.1** of the **Biodiversity Accounting Report (8.02.09)** states *“The Environment Bank Assessment also confirms that both scenarios result in residual losses of Habitats of Principal Importance. The proposed offset should therefore include, as a minimum, the creation, restoration or enhancement of Habitats of Principal Importance, equivalent to the residual losses of each habitat for the two development scenarios.”* **Table 7.2** of **Appendix A** of the **Biodiversity Accounting Report (8.02.09)** sets out the unit conservation targets for the proposed development.

¹ Business and Biodiversity Offsets Programme (BBOP). 2012. Standard on Biodiversity Offsets. BBOP, Washington, D.C.

² HM Government Department of Environment Food and Rural Affairs (2012) Technical Paper: the metric for the biodiversity offsetting pilot in England

- 3.3.5 Furthermore, to ensure the Proposed Development meets requirements within current planning policy in relation to delivery of biodiversity net gain, the **OBLMS (Paragraph 1.3.3)** confirms that the Applicant has committed to delivering a minimum of 10% biodiversity net gain, as measured through the biodiversity metric.
- 3.3.6 In **Paragraph 5.2.3** of the **OBLMS** the Applicant states that “*..the Applicant has confirmed that a Biodiversity and Landscape Mitigation Strategy, delivered through Requirement 5 of Schedule 2 to the dDCO (3.1, Rev 2), will be prepared prior to commencement and will include the final results of a Biodiversity Accounting Assessment which will confirm the value of the required offset and net gain requirements (in accordance with local and national policy), with a preference to deliver the biodiversity creation or enhancements in the local area, targeting the enhancement and restoration of Habitats of Principal Importance*”.
- 3.3.7 The Environment Bank (on behalf of the Applicant) is currently undertaking a site selection process as outlined in **Section 3** of the **Biodiversity Offset Delivery Framework (8.02.25, REP3-031)**. Through this process, the Applicant is seeking to prioritise sites within the London Borough of Bexley (LBB) that can provide a ‘like for like’ replacement of habitat, with specific regard to opportunities for Open Mosaic Habitat (OMH). An **Update on Environment Bank Site Selection Progress (8.02.53)** was submitted at Deadline 5 and the Applicant intends to provide an overview of the initial sites identified in the Environment Bank Site Selection for Biodiversity Offsetting Report at Deadline 7.
- 3.3.8 In addition to prioritising sites that provide ‘like for like’ habitat replacement in the site selection process, the Applicant is content to add the following text to **Paragraph 5.1.8** of the **OBLMS**: “*In addition to the Principles described by BBOP outlined above, the Environment Bank on behalf of the Applicant is committed to prioritising sites for off-set delivery which, where possible, are both within the London Borough of Bexley and which can provide a ‘like for like’ replacement of habitat, with specific regard to opportunities for Habitats of Principle Importance, such as Open Mosaic Habitat (OMH). However, where the Environment Bank cannot find ‘like for like’ replacement within the London Borough of Bexley, however can find ‘like for like’ replacement outside of the London Borough of Bexley, the Environment Bank will prioritise the site that would provide the most appropriate offsetting from an ecological perspective.*”

3.4 ExA Written Questions Reference Q2.3.4

3.4.1 Written Question Q2.3.4 states:

“The Applicant’s Biodiversity Accounting Report includes a commitment to funding the management of the off-setting mitigation work for 25 years. This commitment is not included in the OBLMS [REP3-014] or in the dDCO requirements 4 and 5 [REP3-003]. Would the Applicant be prepared to include this commitment in the DCO?”

Response:

3.4.2 The Applicant will include this commitment within the next version of the draft Development Consent Order that will be submitted at Deadline 8.

3.5 ExA Written Questions Reference Q2.3.5

3.5.1 Written Question Q2.3.5 states:

“The OBLMS [REP3-014] does not include details of how off-setting mitigation measures will be monitored and what steps would be taken should measures not achieve the desired outcome. Would the Applicant be prepared to expand the OBLMS to include these details?”

Response:

- 3.5.2 It should first be noted that the Defra biodiversity accounting metric includes provisions that seek to minimise the risk of not achieving desired outcomes, as outlined in **Sections 2.2.4-2.2.7** of Appendix 5 of the **Biodiversity Accounting Report (8.02.09)**. Risk factors are taken into account within the metric to account for temporal delays in compensation habitat attaining target condition and for the difficulty in creating or restoring each habitat type. For example, habitats which are more difficult to create or restore, and therefore have a higher chance of failure to attain target condition, the metric includes additional land to deliver the required number of biodiversity units, thereby increasing the probability of a sufficient, successful compensation area. This process will be explained in further detail in the Environment Bank Site Selection for Biodiversity Offsetting Report to be submitted at Deadline 7.
- 3.5.3 Risk factors for different habitats types are recommended by DEFRA within the original 2012 metric guidance³ and are currently being reviewed within the beta version of the Defra metric 2.0. These take into account typical habitat requirements and management practices, and whilst it does not eliminate the need for careful site selection and offset design, nor the need throughout delivery for monitoring and responsive adaptation of management plans, it does address unforeseen and unavoidable failures.
- 3.5.4 Therefore, at the very beginning of the process, the risk of not achieving desired outcomes is considered in the Defra biodiversity metric itself and mitigated through the application of risk factors.
- 3.5.5 Accordingly, in planning the offset, measures are in place that are designed to ensure the desired outcomes are achieved. Of course, such measures cannot be 100% guaranteed, and therefore the monitoring of such measures is important.
- 3.5.6 The **Biodiversity Offset Delivery Framework (8.02.25, REP3-031)** provides information on the proposed monitoring of the offset provision. It includes a list of principles to be employed in seeking delivery of the offset (**Section 2.4**) which includes Principle 6: Long-term Outcomes: *“the design and implementation of the biodiversity offset should be based on an adaptive*

³ HM Government Department of Environment Food and Rural Affairs (2012) Technical Paper: the metric for the biodiversity offsetting pilot in England

management approach, incorporating monitoring and evaluation, with the objective of securing outcomes that last as long as the project's impacts".

- 3.5.7 The **Biodiversity Offset Delivery Framework (8.02.25, REP3-031) (Section 3.2 item 7)** describes the management and monitoring commitment. It states: *"a 25-year, adaptive, conservation management and monitoring plan is produced and costed, and all delivery legal agreements prepared. The final costs will be confirmed and the scheme will be submitted to LBB for approval. The 25-year habitat management plan will be written by Environment Bank working in conjunction with the offset provider(s). The plan will include details on the activities required to establish the habitats on site and then prescriptions for ongoing management with an outline of timings of when specific works are to be undertaken".*
- 3.5.8 The off-set scheme preparation will include costs required to deliver the management, monitoring and delivery of the offset. These costs will be included in the Outline Biodiversity Landscape and Mitigation Scheme to be submitted to LBB for approval and alongside the costs will be an explanation that they include the cost of delivering the offset and its management and monitoring.
- 3.5.9 **Section 4.3** of the **Biodiversity Offset Delivery Framework (8.02.25, REP3-031)** also describes the monitoring and reporting that will be undertaken for the offset: *"periodic monitoring of the scheme by Environment Bank will be undertaken to confirm appropriate management of the offset, facilitate reporting of potential issues, and assess biodiversity progress at the site; this information will be used to review the potential need for amendment to the management plan for the site. Receipt of successful monitoring outcomes will be required to proceed with annual payment. Monitoring will be carried out via site assessments and remotely. Results of monitoring will be reported back to the LPA".*
- 3.5.10 **Paragraphs 4.3.3 – 4.3.8** of the **Biodiversity Offset Delivery Framework (8.02.25, REP3-031)** describe the frequency of the site assessments (monitoring visits) undertaken by the Environment Bank, and other remote monitoring that will be undertaken in between direct site assessments, to monitor progress against desired outcomes. These monitoring events also provide an opportunity to raise concerns or issues with site management should measures not achieve the desired outcome. The results of these monitoring events will be used to inform and revise the management plan as necessary, to achieve the desired outcome, which would be discussed and agreed with the LPA.
- 3.5.11 The management approach outlined in the **Biodiversity Offset Delivery Framework (8.02.25, REP3-031)** is included in the **OBLMS** submitted at Deadline 6, which is the document secured by the **dDCO (3.1, Rev 3)** Additional information has been added to **Section 5** of the **OBLMS**, submitted at Deadline 6, to summarise the monitoring requirements that will be included in the Biodiversity Landscape and Mitigation Strategy as follows:

3.5.12 **“Requirement 5 of Schedule 2 to the dDCO (3.1 Rev 3)** also confirms that *the Biodiversity and Landscape Mitigation Strategy will include details of any long- term management and monitoring commitments in respect of the off-setting. A 25-year, adaptive, conservation management and monitoring plan will be produced and costed for the offset. The final costs will be confirmed and the scheme will be submitted to the London Borough Bexley (LBB) for approval. The 25-year habitat management plan will be written by Environment Bank working in conjunction with the offset provider(s). The plan will include details on the activities required to establish the habitats on site and then prescriptions for ongoing management with requirements of timings of when specific works are to be undertaken. If habitats specified in the plan do not meet the standards required then the management plan can be amended, in agreement with LBB, to seek to deliver the required outcomes. The off-set scheme preparation will include costs required to deliver the management, monitoring and delivery of the offset, including a contingency fund to support future adaptive management. Receipt of successful monitoring outcomes will be required to proceed with annual payment to the landowner from the Environment Bank. The offset therefore requires agreement with LBB and reporting of the monitoring results, and any amendments to the management approach to secure outcomes.”*

3.5.13 These matters are now included in the Outline **Biodiversity and Landscape Mitigation Strategy**. Requirement 5 of the **dDCO (3.1, Rev 3)** submitted at Deadline 5 ensures that the final Biodiversity and Landscape Mitigation Strategy will include these commitments to monitoring and management measures.