

RIVERSIDE ENERGY PARK DCO

LB Bexley Deadline 7 Submissions

3rd September 2019



LONDON BOROUGH OF
BEXLEY

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APPENDIX A

Tracked-changed version of the draft DCO (Rev 3)

APPENDIX B

Tracked-changed version of the draft DCO Explanatory Memorandum (Rev 2)

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 deadlines 5 and 6. These comments supplement those previously provided by LBB, including the additional comments made by LBB at deadline 5, which the Applicant would not have seen at the time of producing this response.
- 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 are included as tracked changes to both the updated draft DCO (Rev 3) and updated draft DCO Explanatory Memorandum (Rev 2) as submitted by the Applicant at deadline 5.
- 1.3 The LBB continues to engage with the Applicant to develop and agree a Statement of Common Ground (SoCG).

2 8.02.51 APPLICANT'S RESPONSE TO LBB'S DEADLINE 4 SUBMISSION

Air quality matters

Assessment of dioxins and furans

- 2.1 In paragraph 1.2.6 of the Applicant's response to LBB's deadline 4 submission the Applicant provides an explanation of why background exposures were not taken into account for the assessment of non-cancer risks. While we do not fully accept all the assertions in this paragraph, LBB is not primarily concerned with the assessment of non-cancer risks, so does not propose to take this further.
- 2.2 In paragraph 1.2.7 of the Applicant's response to LBB's deadline 4 submission the Applicant highlights that "*Paragraph 7.11 of the IAQM guidance states that 'Any judgement on the significance of effects on health is part of the Health Impact Assessment and not the air quality assessment being described here'*". LBB agrees that the IAQM guidance is not designed to apply to the assessment of health impacts. LBB's Deadline 4 submission is clear that the reference to the IAQM guidance is one suggested approach, and alternative approaches to the assessment of health impacts could be considered.
- 2.3 It is incumbent on the Applicant to provide a robust assessment of potential health impacts, using an appropriate methodology. The Applicant seeks to address this by relying on the over-estimation of impacts built in to the assessment, and using the results of a less conservative assessment instead of the more conservative results which highlight a potentially significant impact. LBB has taken a constructive approach throughout this process, by identifying potential means by which the health impact assessment could be completed in a robust way. Unfortunately, the Applicant has not provided any substantive additional information in this document, simply re-stating its previous view: "*From the assessment presented in the HHRA, and considering the background levels for both the non-carcinogen and carcinogen risks, it is not considered that there is risk to human health from REP.*" LBB therefore reiterates its request for a robust assessment of health impacts, as set out in paragraph 3.18 of the LBB Deadline 4 submission.

Assessment of nickel

- 2.4 In paragraph 1.2.8 of the Applicant's response to LBB's deadline 4 submission LBB welcomes the Applicant's confirmation that "*the overall assessment of the significance of effects takes into account a number of factors, not just the number of properties affected.*" The Applicant goes on to explain that the number of properties affected was taken into account, along with other factors which are adequately explained, in reaching its view on the significance of impacts due to emissions of nickel. LBB requests that the Applicant provides the information on property numbers. This will enable all parties to understand the basis for reaching this conclusion, and if appropriate, propose an alternative perspective on the significance of impacts due to emissions of nickel from the proposed development.

Assessment of short-term impacts

- 2.5 In paragraph 1.2.9 of the Applicant's response to LBB's deadline 4 submission the clarification provided by the Applicant enables an updated assessment, as previously requested by LBB, to be carried out. On this basis, LBB agrees that short-term impacts due to nitrogen dioxide levels can be classified as "insignificant," in accordance with IAQM Guidance Section 6.36.

- 2.6 The Applicant cites Section 6.40 of the IAQM guidance to justify the lack of focus on short-term impacts. The excerpt referred to by the Applicant states: *"In most cases, the assessment of impact severity for a proposed development will be governed by the long-term exposure experienced by receptors and it will not be a necessity to define the significance of effects by reference to short-term impacts"*. However, this refers to impacts on new residential development, which is likely to be largely associated with road traffic emissions. In relation to point source emissions, the guidance is clear that short-term impacts can be significant, stating (emphasis added):
- *"For most road transport related emissions, and diffuse emissions associated with development, long term average concentrations are the most useful for evaluating the severity of impacts. For any point source, some consideration must also be given to the impacts resulting from short term, peak concentrations of those pollutants that can affect health through inhalation.*
 - *"The severity of the impact will be substantial when there is a risk that the relevant AQAL for short-term concentrations is approached through the presence of the new source, taking into account the contribution of other prominent local sources."*
- 2.7 As a result, although LBB does not intend to pursue this matter further, it is important to acknowledge that short-term impacts due to emissions from the proposed facility are relevant for consideration at this stage of the process, and in relation to monitoring and evaluation during the operational phase.

Air quality neutral

- 2.8 In paragraph 1.3.2 of the Applicant's response to LBB's deadline 4 submission LBB welcomes the acknowledgment from the Applicant that the proposed development would not comply with the GLA "air quality neutral" policy. Provided the Applicant can demonstrate negligible impacts by comparison with air quality standards and guidelines, and provided the costs of the increase in emissions can be properly reflected (e.g. in support for an air quality monitoring programme), LBB would not seek to pursue the issue in relation to compliance with the GLA's air quality neutral policy.

Control of dust during construction

- 2.9 LBB welcomes the amendment set out in paragraph 1.4.4 of the Applicant's response to LBB's deadline 4 submission that confirms that mitigation measures would include, but not be limited to, the list of measures in the Outline Code of Construction Practice (CoCP). However, this does not provide the full assurance that LBB requested. The principle is that, having adopted the IAQM guidance document for the assessment of impacts, the Applicant must adopt all relevant mitigation measures from this guidance, in order to ensure that impacts can be controlled to the level described in the ES Section 7.12: *"Effects will not be significant following mitigation"*. LBB continues to request that the CoCP should reflect this principle, and proposes the following amendment:
- Replace: *"Additionally, standard mitigation measures for low risk sites, taken from the Institute of Air Quality Management (IAQM) document 'Dust and Air Emissions Mitigation Measures' tables would also be applied. These include but are not limited to:"*
 - With: *"Additionally, all relevant ~~standard~~ mitigation measures for low risk sites, taken from the Institute of Air Quality Management (IAQM) document 'Dust and Air*

Emissions Mitigation Measures' tables would also be applied. These include but are not limited to:"

Support for air quality monitoring

- 2.10 In paragraph 1.5.2 of the Applicant's response to LBB's deadline 4 submission the Applicant states: "These responses are clear that the Damage Cost Guidance is not planning policy, is not supported by the NPSs and, for the reasons set out, is not applicable to individual projects including REP. LBB has provided no further information as to why a specific project contribution is justified, reasonable, necessary or appropriate on a damage costs basis." LBB considers that this is not a fair representation of the information provided by LBB in its deadline 3 and deadline 4 submissions, which have not received a substantive response from the Applicant.
- 2.11 However, LBB welcomes the proposal to discuss support for air quality monitoring with LBB and the Environment Agency. A commentary on the new Requirement 17 in the draft DCO is provided below. Provided satisfactory agreement can be reached in relation to this new Requirement, LBB would not need to pursue issues relating to the use of Damage Cost or alternative approaches further.

Waste matters

- 2.12 Paragraphs 1.2.1 to 1.2.5 of the Applicant's response to LBB's deadline 4 submission relates to waste matters around waste need and capacity and the proximity principle. LBB provides further comments 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 submissions at deadline 3, 4 and 5 on these waste matters have not been satisfactorily addressed by the Applicant and remain outstanding.

Waste need and capacity

- 2.13 LBB disagrees with the Applicant as to the need for a waste throughput cap and consider that this cap should apply separately on both the proposed Energy Recovery Facility (ERF) as well as the proposed Anaerobic Digestion (AD) plant. As set out in paragraphs 2.9 to 2.16 of LBB's deadline 5 submission 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 both are fully built out, they may not be operated at full capacity 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.
- 2.14 With regard to paragraph 1.2.1 of the Applicant's response to LBB's deadline 4 submission LBB do not agree with the Applicant that the annual tonnage throughput is an arbitrary number which in itself does not give rise to any environment effects. The maximum throughput is according to the Applicant based on the plant operating 24 hours a day, 365 days a year and assuming that all the waste received at the plant meets the lowest calorific value (CV) of waste for which the ERF has been designed to accept. This annual tonnage level is therefore the maximum capacity that can be accommodated in the ERF plant without it being operated outside its design parameters. These figures are not therefore considered arbitrary. Furthermore, it is incorrect for the Applicant to suggest that an increase in the waste throughput would not increase the environmental effects of the ERF plant, effects that beyond an ERF capacity of 805.920 tpa and AD plant capacity of 40,000 tpa have not been assessed within the ES.

- 2.15 LBB considers that a requirement for an annual waste throughput cap is 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 considered necessary for development control purposes.
- 2.16 LBB would also disagree with the Applicant's suggestion in paragraph 1.2.2 of the Applicant's response to LBB's deadline 4 submission that the maximum waste throughput for the ERF plant is a 'notional' maximum waste output. As set out above this maximum throughput capacity on the ERF plant is based on this facility operating 24 hours a day, 365 days a year and assuming that all the waste received at the plant meets the lowest CV of waste for which the ERF has been designed to accept. This annual tonnage level is therefore the maximum capacity that can be accommodated in the ERF plant without it being operated outside its design parameters. These figures are not therefore considered simply hypothetical.
- 2.17 In the Applicant's response to the GLA's deadline 3 submission (paragraph 3.1.25) the Applicant states that it is through the Applicant's London Waste Strategy Assessment (Annex A of The Project and its Benefits Report (7.2, APP-103) that they have demonstrated that the REP is of an appropriate scale. With regard to paragraph 1.2.2 of the Applicant's response to LBB's deadline 4 submission LBB remains unconvinced as to the reasons why the Applicant has considered a level of need for the proposed ERF plant (655,000 tpa) which is less than the stated maximum throughput of the proposed ERF plant. Indeed, with the Applicant seeking no throughput waste capacity limit in the DCO the weight to be given to the waste need assessment presented by the Applicant in its London Waste Strategy Assessment (Annex A of The Project and its Benefits Report (7.2, APP-103) is considered to be further weakened.
- 2.18 In paragraph 1.2.3 of the Applicant's response to LBB's deadline 4 submission the Applicant seeks to suggest that the throughput of waste of 805,920 tpa whilst being the maximum throughput of waste given favourable operating conditions and low calorific values of waste may not be the maximum capacity of the plant on the basis of potential technological advances or efficiency improvements. LBB maintains its strong objection to the DCO not containing a fixed cap of waste for both the proposed ERF and AD plants. As stated in paragraph 2.15 of LBB's deadline 5 submission efficiency improvements are not feasible since the assumptions around 805,920 tpa capacity already assume that both lines of the ERF plant operate 24 hours a day 365 days a year. The capacity of 805,920 tpa also assumes the lowest CV of waste that the plant has been designed to accept (any increase in the CV of the waste will reduce the throughput capacity of the plant) and proposes a CV of waste that is well below that currently received at the RRRF plant. Furthermore, any allowance for the capacity of the ERF to exceed 805,920 tpa or the AD plant to exceed 40,000 tpa would fall outside of the boundaries of the assessments undertaken in the ES and have not been assessed
- Proximity Principle**
- 2.19 In response to paragraph 1.2.4 of the Applicant's response to LBB's deadline 4 submission, LBB maintains its requirement for a 10% cap on road movements associated with the proposed ERF plant. This stance is also adopted by the GLA in their various submissions and the Transport for London (TfL) in their SoCG with the Applicant submitted at deadline 5. This approach reflects the reality that local waste is accepted at the existing RRRF plant and that in principle support for the ERF from LBB is on the basis that the facility maximises river transport and is to serve waste need via the river. As set out in LBB's Local Impact Report, including Appendix 3 of this document, the LBB already meets its waste apportionment targets set out in the London Plan and there is significant existing local waste management capacity in the

LBB administrative area which is significantly greater than that required manage commercial and industrial wastes in the local area.

Transport matters

- 2.20 LBB disagree with the Applicant's suggestion in paragraph 1.2.2 of the Applicant's response to LBB's deadline 4 submission that all assessments in the ES have been undertaken appropriately on a reasonable worst-case basis. The Applicant is specifically seeking through the wording of requirement 14 of Schedule 2 of the draft DCO an allowance for 300 two way vehicle movements from the REP in the event of a jetty outage. As such this level of traffic movements combined with the 300 two way movements that is permitted under the extant Riverside Resource Recovery Facility (RRRF) planning permission (ref: 16/02167/FUL) is required to be assessed in the ES. As set out in paragraphs 3.51 to 3.53 of LBB's submission at deadline 4 the Applicant has not undertaken this assessment. The reasonable 'worst case' scenario, which should have regard to the permitted traffic levels from the RRRF plant and the proposed traffic allowance sought by the Applicant from the REP in the event of a jetty outage, has not been assessed and remains an outstanding issue which requires further impact assessments.
- 2.21 In paragraph 1.2.5 of the Applicant's response to LBB's deadline 4 submission LBB note the proposed inclusion of a maximum tonnage cap that can be brought to the REP by road of 240,000 tpa. LBB consider that a waste cap on road deliveries should be included in the DCO. However, LBB disagrees with the Applicant over this proposed wording. Any waste cap on road deliveries should be separately specific to the ERF facility as well as the proposed AD plant as there is no guarantee (even with the proposed Applicant's wording in requirement 25 of Schedule 2 of the draft DCO submitted at deadline 5) that both facilities will be fully built out and operational at the same time.
- 2.22 The waste cap on road deliveries should be significantly less than the proposed nominal throughput of the ERF facility in support of planning policy that seeks to promote river transport. Furthermore, there is no established requirement for new waste management capacity to manage local derived waste. LBB already meets its waste apportionment targets set out in the London Plan and the data presented in Appendix 3 of LBB's Local Impact Report submission demonstrates there being significant existing local waste management capacity in the LBB administrative area to manage commercial and industrial wastes from the local area. The wording in the draft DCO as currently written by the Applicant of a 240,000 tpa waste cap on road deliveries could in the event that the AD plant is not fully built out or operated at full capacity all relate to deliveries to the proposed ERF facility. This 240,000 tpa waste cap would represent some 37% of the waste throughput of the Applicant's expected throughput of the ERF plant. Such a level of waste input by road far exceeds the 25% of the waste throughput permitted by road to the current consented RRRF facility, which in itself is recognised and contracted to accommodate all of LBB's municipal waste. As set out in earlier submissions by LBB, including at paragraph 2.37 of LBB's deadline 5 submission, LBB consider that the waste throughput cap on deliveries by road to the ERF plant should be limited to 65,500 tpa. The level of 90 two way vehicles is also considered unacceptable and contrary to planning policies seeking to promote sustainable transport and river transportation by LBB for reasons set out in earlier submissions including at paragraphs 2.17 and 3.10 of LBB's submission at deadline 5.
- 2.23 The Applicant states in paragraph 1.4.3 of the Applicant's response to LBB's deadline 4 submission that they do not understand the basis on which modelling is requested by LBB. As set out in paragraph 3.42 of LBB's submission at deadline 4, LBB consider

that with Construction Traffic Management Plans (CTMP's), any lane closure has the potential of creating a 'bottleneck' and causing adverse network impacts. As such LBB consider that all proposed road diversions should be subject to modelling assessments to ascertain the impact on the road network following lane closures. Notably at junctions and along the dual carriageway. LBB consider that, because the transport assessments do not take into account the cumulative construction impacts of the electrical connection and the impacts of construction traffic are not known in detail in the absence of CTMP's, and will only be determined once the CTMP's have been submitted, it is considered reasonable to seek assurances that the impacts will be assessed using appropriate modelling approaches. This view accords with that set out by the GLA in their deadline 5 submission.

- 2.24 A delivery and servicing plan (DSP) has been requested by LBB, which is different to operating a vehicle booking management system, as now proposed and outlined by the Applicant in paragraph 1.6.5 of the Applicant's response to LBB's deadline 4 submission. A DSP should be provided to ensure that all deliveries to site are managed and planned and do not increase large vehicle movements to the site together with operational waste transport vehicles and potential jetty outages.
- 2.25 The Applicant has stated that a jetty outage is unlikely on the basis that during the 8 year operation of the existing RRRF there has never been a jetty outage. However, forward planning for the potential jetty outage is paramount to safeguard the network's operation. It is reasonable to assume that if there is a jetty outage that it will have an effect on both the existing RRRF and the proposed REP facilities. The RRRF extant permission allows 300 two way traffic movements in the event of a jetty outage. The Applicant is specifically seeking to permit 300 further two way HCV movements from the REP site. If the Applicant is seeking such a level of further HCV traffic movements it must undertake an assessment of such impacts and this should be included in the ES. In the absence of this assessment there is no justification for such an allowance and LBB object to the Applicant's suggestion of permitting a further 300 two way HCV movements from the REP site in the event of a jetty outage.
- 2.26 The Applicant's response in paragraph 1.7.4 attempts to justify that the construction impact assessments undertaken can also be used to justify the cumulative impacts of a jetty outage for REP and RRRF. This is not considered acceptable and a further impact assessment should be submitted by the Applicant that fully accounts for the road transport levels sought by the Applicant in the event of a jetty outage. As set out in paragraphs 3.51 to 3.53 of LBB's submission at deadline 4, LBB consider that the maximum permitted level of traffic movements allowed from the proposed development should not exceed the worst-case scenario assessed within the ES submitted in support of the application. The suggestion by the Applicant in paragraph 1.7.7 of the Applicant's response to LBB's deadline 4 submission that because a 300 two way road traffic level has been permitted for the RRRF plant it should be allowed for the proposed REP facility with no proper cumulative assessment is considered inappropriate.
- 2.27 Furthermore, as set out in paragraph 1.7.5 of the Applicant's response to LBB's deadline 4 submission the Applicant continues to assume a flat rate of delivery of waste across each 24 hour period. As set out in the comments made by LBB in paragraph 3.55 of LBB's submission at deadline 4 such an assumption is considered unrealistic and the level of peak hour HCV movements sought by the Applicant in the event of a jetty outage is considered too high by LBB.

Noise matters

- 2.28 Paragraphs 1.2.11 to 1.2.13 of the Applicant's response to LBB's deadline 4 submission relates to the baseline noise survey. The Applicant has reiterated previous submissions,

- regarding the baseline survey as suitable and appropriate by carrying out three 15-minute measurements between 01:00 and 03:00 during one weekday night and one weekend night. While it is acknowledged that this time period was probably the quietest period of the night, the baseline assessment does not take account of day to day variations due to meteorological effects and distant traffic variations at night. Scoping opinion noted that "in keeping with other development in the Borough, target criteria for operational fixed plant/equipment is a rating level of 5dB (LAeq) below the typical background (LA90) at the nearest noise sensitive location." Background noise measurements over one night cannot be regarded as a 'typical' representation. LBB remains concerned that the limited baseline noise survey undertaken by the Applicant does not provide a robust basis for the assessment.
- 2.29 It is noted in paragraph 1.2.16 of the Applicant's response to LBB's deadline 4 submission that an additional section has been added at paragraph 2.8.2 of the Outline CoCP to cover the potential impact of night-time working on the Electrical Connection route. In addition, LBB comments relating to reversing alarms, turning equipment off when not in use and the applicability of 'The Noise Emission in the Environment by Equipment for use Outdoors Regulations 2001', have now been incorporated into the CoCP. These additions to the Outline CoCP are welcomed.
- 2.30 LBB disagrees with the Applicant's conclusion in paragraph 1.3.4 of the Applicant's response to LBB's deadline 4 submission that there is no need for pre-operational noise surveys. The concerns raised by LBB over the baseline noise survey are as shown above and it is therefore considered that pre-operational background surveys are necessary and appropriate.
- 2.31 It is noted in paragraph 1.3.5 of the Applicant's response to LBB's deadline 4 submission that LBB's comments regarding night time working on the Electrical Connection route have been addressed by the addition of Section 2.8.2 to the CoCP. This addition to the Outline CoCP is welcomed.
- 2.32 Paragraphs 1.4.1 to 1.4.2 of the Applicant's response to LBB's deadline 4 submission relates to the Outline CoCP. LBB acknowledge that daytime construction noise monitoring should not be necessary due to distance separation and as noted in the Applicant's response at paragraph 1.3.5, a night time site contact will be appointed to deal with any construction noise issues during working on the Electrical Connection route.

3 8.02.46 APPLICANT'S RESPONSE TO GLA'S DEADLINE 4 SUBMISSION

Air Quality matters

Long term health impacts of air pollution

- 3.1 In paragraph 12.4.3 of the Applicant's response to GLA's deadline 4 submission, the Applicant discusses the life-long risks of exposure to nitrogen dioxide and other pollutants. Rather than considering the evidence which supports GLA's contention regarding these life-long risks, the Applicant highlights some references which support its own case regarding the impact of the proposed facility. The Applicant should itself consider the evidence which indicates that there are life-long risks due to exposure to airborne pollution. These include the evidence on damage costs cited in the LBB deadline 3 submission (Sections 3.1 to 3.7).

Justification for air quality monitoring

- 3.2 Paragraph 13.2.5 of the Applicant's response to GLA's deadline 4 submission states that *"it is not reasonable or justifiable to expect the Applicant to prepare two strategies to two different bodies."* Similarly, paragraph 13.2.7 states: *"the Applicant cannot be put in a position of having two different sets of conditions on monitoring - they need to align."* In LBB's view, it is reasonable to expect the Applicant to prepare an air quality monitoring strategy which meets the requirements of two separate bodies – namely, the Environment Agency and LBB. These requirements are likely to be closely aligned, but may differ in some respects. Whether this requires two strategies/sets of conditions or one strategy/set of conditions is a matter of detail. However, it is essential that both bodies have the opportunity to approve the monitoring strategy/ies and condition/s, rather than one body being limited to the role of a consultee.

Waste matters

- 3.3 Section 6 of the Applicant's response to the GLA's deadline 4 submission identifies the current use by the Applicant of existing riparian transfer facilities at Smuggler's Wharf, Cringle Dock, Walbrook Wharf and Northumberland Wharf. It is understood that use of these facilities by the Applicant are subject to current contractual arrangements, with these sites effectively leased from the Local Councils for the term of the contracts. In the event that future contracts with these Councils are not gained by the Applicant can the Applicant clarify whether the Applicant would still have access to these sites and, if not, how they would ensure that river transport of waste will be maintained.
- 3.4 In paragraph 10.2.3 of the Applicant's response to the GLA's deadline 4 submission it is suggested that the proposed cap of waste to be delivered to the REP by road, that is proposed by the Applicant in the revised draft DCO submitted at deadline 5, is based from the GLA's submission at deadline 3, where an initial suggestion of 200,000 tpa by road for the ERF and 40,000 tpa by road for the AD plant was indicated. This approach totally fails to account for GLA's submission at deadline 4 where in paragraph 3.4 the GLA clearly state that a much greater level of waste should be brought to the plant by river and thus the level of waste delivered to the ERF by road should be much below the 200,000 tpa level. Indeed, the GLA go on to state in paragraph 3.4 of their deadline 4 submission that the level of waste to be delivered by road to the ERF should be limited to 65,500 tpa. A 10% level of waste deliveries by road is also proposed by TfL in their SoCG with the Applicant.

- 3.5 LBB strongly disagree with the statement made by the Applicant in paragraph 13.2.1 of the Applicant's response to LBB's deadline 4 submission that the provision of a total waste cap on the proposed development is superfluous. Limiting the maximum throughput capacity of waste facilities is normal practice and is considered essential by LBB in order to ensure that the development is operated in accordance with the environmental impacts assessed in the supporting documents. There is no justifiable reason for the waste throughput of both the proposed ERF and proposed AD plants not to be clearly limited to the levels assessed within the ES.

Transport matters

- 3.6 The Applicant has stated in paragraph 8.5.1 of their response to GLA's deadline 4 submission that they acknowledge that TfL has confirmed that area-wide microsimulation modelling would not be sought. However, it is noted in the draft SoCG between the Applicant and TfL that TfL 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 CTMP's should be prepared with associated impact assessments to ensure the most efficient layouts of traffic management plans are implemented to maintain a reasonable level of service on the highway during construction. LBB also consider that the effects of network capacity and delay to buses cannot be assessed accordingly without some form of impact assessments.

4 8.02.47 APPLICANT'S RESPONSE TO CHRIS ROSE DEADLINE 4 SUBMISSION

- 4.1 LBB welcomes the commitment by the Applicant in paragraph 1.2.8 to consider green roofs and bio-solar roofs at the detailed design phase. LBB seek assurances that such consideration will be set out within the Biodiversity and Landscape Mitigation Strategy (BLMS) that the Applicant will prepare and which will be subject to LBB's approval prior to the commencement of the development.
- 4.2 LBB also welcomes the additional mitigation for the proposed Data Centre land compound stated in paragraph 1.2.9 and included in the outline BLMS, consisting of:
- solid hoarding to screen the compound site from nearby habitats and provide noise reduction and dust control; and
 - noise attenuation barriers on the Crossness Nature Reserve side of the proposed Data Centre land compound.

5 8.02.47 APPLICANT'S RESPONSE TO FRIENDS OF CROSSNESS NATURE RESERVE (FOCNR) DEADLINE 4 SUBMISSION

- 5.1 LBB welcomes the commitment by the Applicant in paragraph 1.2.7 that the feasibility of green roofs and bio-solar roofs will be explored, and if feasible will be included in the final BLMS as secured through Requirement 5 of the draft DCO (see document 3.1, Rev 3). LBB seek assurances that such consideration, including any reasons why such works are, or are not feasible, will be set out within the biodiversity and landscape mitigation strategy that the Applicant will prepare, and which will be subject to LBB's approval prior to the commencement of the development.
- 5.2 LBB also welcome the additional mitigation for the proposed Data Centre site compound mentioned in paragraph 1.3.11 and included in the outline BLMS, consisting of:
- solid hoarding to screen the compound site from nearby habitats and provide noise reduction and dust control; and
 - noise attenuation barriers on the Crossness Nature Reserve side of the proposed Data Centre land compound.
- 5.3 LBB also welcomes the statement in paragraph 1.2.30 that Crossness Nature Reserve will be considered as part of the biodiversity offset site selection process, and that additional enhancements to the Reserve put forward by FoCNR will be explored at detailed design.

6 8.02.53 UPDATE ON ENVIRONMENT BANK SITE SELECTION PROCESS

- 6.1 This document indicates that the Applicant has provided LBB with a list of 13 potential sites for offset delivery that are situated within LBB's administrative area. It also states that LBB have confirmed its intent to provide a list of potential sites within its ownership. A subsequent and recent email from LBB to the Environment Bank (from Mark Taylor, 27/8/19) suggests four sites within LBB ownership that might be suitable for biodiversity offset. The Applicant has also indicated that it is speaking to other organisations in this regard including Peabody, Thames Water, London Wildlife Trust, Thames21, Dartford Council, Greenwich Council, Barking and Dagenham Council and Bromley Council.
- 6.2 Whilst the Applicant and the Environment Bank have confirmed the initial 'target area' for site selection is LBB, the 'overview of initial site options' sites will not be submitted for examination until Deadline 7. It is not clear what level of detail this overview will contain, but the terms 'overview' and 'initial' suggest that this process of identifying sites will still be at a very early stage by Deadline 7. Furthermore, the Applicant confirms here that no agreed list of offset sites will be available until the detailed design phase. As set out in paragraph 8.2 of LBB's submission at deadline 5, LBB remains concerned that confirmation of the quality, amount and location of compensation offsetting sites will not be available until after determination of the DCO application. In the absence of this detail it is not possible to ascertain whether residual impacts on biodiversity would be adequately mitigated or compensated.
- 6.3 LBB remain concerned that the feasibility of securing enough suitable offset land within LBB, to avoid net local loss, will not be fully demonstrated prior to DCO determination, and therefore a risk of biodiversity loss within the Borough remains. LBB consider that confirmation of suitable and secured offset sites within LBB should not be left to detailed design phase and there should be a requirement in the DCO to ensure no net loss of biodiversity within LBB's administrative area.

7 8.02.56 REP AND RRRF APPLICATION BOUNDARIES PLAN

- 7.1 The Applicant has shaded land that it proposes to be removed from all drawings and plans referred to in both the extant section 36 consent and the planning permission granted by LBB (Re: 16/02167/FUL) dated 4th October 2017 (the 'RRRF planning permission'). LBB object to the removal of any land from the section 36 consent or the RRRF planning permission. The only inconsistencies identified by the Applicant (in their previous submissions, including revision 2 of the draft DCO submitted by the Applicant at deadline 3) relate to the open mosaic ecological habitat and the ash storage area. The modifications that the Applicant considers are required to be made in relation to the ash storage area are set out in Schedule 14. In relation to the open mosaic habitat land, Article 6(3) will prevent any enforcement being taken against the Applicant for any breach of condition 1 or 22 of the RRRF Planning Permission as a result of inconsistency with the provisions of the DCO. LBB considers the scope of Article 6(3) should be limited to the open mosaic habitat land (as set out in LBB's marked up version of the DCO submitted at deadline 7) as this is the only inconsistency identified by the Applicant. The use of a plan should be to identify this open mosaic habitat land only. The Applicant has not justified why it is necessary to remove any land from existing controls afforded by the section 36 consent and the RRRF planning permission.
- 7.2 For the avoidance of doubt, LBB still object to the removal of the ash storage area, which if retained on-site will facilitate all bottom ash being transported by river and help minimise road traffic in the event of a jetty outage.

8 6.3 – ES APPENDIX L TO B.1 OUTLINE CONSTRUCTION TRANSPORT MANAGEMENT PLAN (CTMP) (REV 3) (WITH TRACKED CHANGES)

- 8.1 The Applicant has outlined a structure of a method for exploring opportunities to manage the disruption to bus services in paragraph 2.4.12 during the electrical connection works. TfL has stated within its SoCG with the Applicant 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. In addition, LBB seek impact assessments to quantify the impacts during construction phases.
- 8.2 The Applicant states in paragraph 6.2.5 that the focus should be on providing a proportionate approach, to mitigate the temporary and transient effects of the construction works on the operation of the road network in the context of normal street works procedures. A 'proportionate approach' is not clear terminology and more clarity on this from the Applicant is sought by LBB. It maybe that the Applicant is stating that the method of 'green' time allocation for temporary signals will be proportionate to volume of traffic on each approach of a junction. If this is true, the temporary traffic signal settings should be determined using static junction impact assessments, which is currently being sought by LBB. Presentation of results should accompany the CTMP's and be provided to the local highway authority for approval for each phase of construction prior implementing the traffic management.
- 8.3 LBB consider that junction impact assessments should be a requirement for the Applicant to ensure the most efficient layouts have been derived and this may also ensure more appropriate mitigation for disrupted bus services are identified and undertaken. The defined zones affected by the construction of the electrical connection should be modelled by the Applicant using the layout proposed in their CTMP's that require lane closures, as this may introduce network constraints or 'bottlenecks' which may not be identified without carrying out impact assessments.

9 7.5 OUTLINE CODE OF CONSTRUCTION PRACTICE (COCP) (REV 3) (WITH TRACKED CHANGES)

Air Quality matters

- 9.1 For the reasons described in relation to Document 8.02.54 Applicants response to comments on the draft DCO, the Outline CoCP should be amended as follows:
- "4.3.3 Additionally, all relevant mitigation measures for low risk sites, taken from the Institute of Air Quality Management (IAQM) document 'Dust and Air Emissions Mitigation Measures' tables would also be applied. These include but are not limited to:"*
- 9.2 In paragraph 4.3.2 of the Outline CoCP, the Applicant has introduced a limitation on the use of sheeting to prevent dust generation, specifying that this would be carried out *"as part of stockpile management."* The use of sheeting to prevent dust generation may be applicable to other parts of the construction process – for example, during use or transportation of dusty materials. It is requested that this amendment should be removed, or amended to specify that sheeting would be carried out *"as part of stockpile management, use or transportation of dusty materials."*
- 9.3 Paragraph 4.9.4 of the Outline CoCP should specify "best practice measures" not "best practice measure".

Transport matters

- 9.4 A requirement for a DSP has been set out by LBB in earlier submissions. The Applicant has responded in paragraph 4.2.4 with the proposed introduction of a vehicle booking management system to manage deliveries and extractions. However, LBB contend that a DSP should be presented to the local planning authority to ensure that the issues do not present from the onset. The vehicle booking management system can follow the plan outlined in the DSP and record movements. LBB also question the sentence included by the Applicant in paragraph 4.2.4 that suggests that an averaged figure should be adopted. LBB do not understand the justification for such an approach as the focus should be on minimising actual transport impacts.

Noise matters

- 9.5 An additional section has been added at paragraph 2.8.2 to cover the potential impact of night-time working on the Electrical Connection route. A night time site contact will be appointed to deal with any construction noise issues, whose contact details will be prominently displayed. In addition, a newsletter describing the nature and timing of the works will be distributed to potentially affected properties. It is considered that this provision will give adequate protection to local residents bearing in mind the limited duration of the works.
- 9.6 Additional 'best practice' measures noted by LBB at Deadline 2 have now been included at paragraph 4.4.3 of the Outline CoCP regarding reversing alarms and turning off machinery when not in use. Also, regulations for the requirements of noise emission levels of outdoor plant have now been included at 4.4.4 of the Outline CoCP. These additions to the Outline CoCP are welcomed.

- 9.7 As noted by LBB in its submission at deadline 2, the monitoring and measurement (section 2.9 of the Outline CoCP) makes no specific mention of noise. It is however expected by LBB that noise would be included during regular site inspections, especially considering the scale of the project.

10 8.02.54 APPLICANTS RESPONSE TO COMMENTS ON THE DRAFT DCO

Air Quality matters

Control of dust during construction

- 10.1 With regard to paragraph 6.8 relating to Requirement 11 (Code of Construction Practice) LBB welcomes the amendment to confirm that mitigation measures would include, but not be limited to, the list of measures in the Outline CoCP. However, this does not provide the full assurance that LBB requested. The principle is that, having adopted the IAQM guidance document for the assessment of impacts, the applicant must adopt all relevant mitigation measures from this guidance, in order to ensure that impacts can be controlled to the level described in the ES Section 7.12: “*Effects will not be significant following mitigation*”. LBB continues to request that the CoCP should reflect this principle, and proposes the following amendment:

Replace: “*Additionally, standard mitigation measures for low risk sites, taken from the Institute of Air Quality Management (IAQM) document ‘Dust and Air Emissions Mitigation Measures’ tables would also be applied. These include but are not limited to:*”

With: “*Additionally, all relevant ~~standard~~ mitigation measures for low risk sites, taken from the Institute of Air Quality Management (IAQM) document ‘Dust and Air Emissions Mitigation Measures’ tables would also be applied. These include but are not limited to:*”

- 10.2 LBB agrees that the CoCP will need to be approved by LBB, as highlighted by the Applicant. LBB also considers that the CoCP should be as complete as possible at this stage, and the opportunity for later approval should not be used as a justification to defer completion of the CoCP. This will minimise the need for later specification of additional control measures with potential for delay and additional unplanned costs to the construction process.

Ambient Air Quality monitoring

- 10.3 In paragraph 6.6 related to new DCO Requirements 15, 16 and 17 the Applicant states: “*Regarding Air Quality monitoring, the Applicant has inserted a new Requirement into the dDCO which provides for the Applicant to prepare an air quality monitoring programme, which must also meet the requirements of any air quality monitoring condition on the Environmental Permit for the REP.*” LBB welcomes this new Requirement. The use of the word “also” implies that the air quality monitoring should meet the requirements of LBB, as set out in LBB’s deadline 3 submission, in addition to meeting the requirements of the Environment Agency.
- 10.4 In LBB’s view, it is reasonable to expect the Applicant to prepare an air quality monitoring programme which meets the requirements of two separate bodies – namely, the Environment Agency and LBB. These requirements are likely to be closely aligned, but may differ in some respects. Whether this requires two programmes or one programme is a matter of detail. However, it is essential that both bodies have the opportunity to approve the monitoring programme/s, rather than one body being limited to the role a consultee.
- 10.5 The Applicant says that adopting a single programme will “*also ensure that there is no contradiction between the DCO and the Environmental Permit on this topic, which is*

what the NPSs advise should be avoided." This seems a spurious argument – of course the Applicant and other parties could readily ensure that two monitoring programmes do not contradict each other. However, LBB is open to the development and agreement of either a single monitoring programme, or two separate/related programmes, provided the final programme/s meet the requirements of both the Environment Agency and LBB, and are subject to the approval of both bodies.

Waste matters

- 10.6 Paragraph 2.2 of the Applicant's response to comments on the draft DCO, identifies that a plan has been produced to reflect the area of land that the Applicant seeks to remove from the section 236 consent and the extant RRRF planning permission. As set out in the comments made by LBB in the marked up versions of the draft DCO and explanatory memorandum as submitted at deadline 7 LBB consider that the Applicant is seeking to include land that does not relate to either land associated with the ash storage area or the open mosaic habitat land. LBB do not consider there to be any justification for seeking to include any other such land on this plan.
- 10.7 Paragraphs 3.1 to 3.5 of the Applicant's response to comments on the draft DCO, relates to the inclusion of a waste throughput cap. LBB firmly contend that this cap is necessary and should apply separately on both the proposed ERF plant as well as the proposed AD plant. As set out in paragraphs 2.9 to 2.16 of LBB's deadline 5 submission the requirement for the DCO to specify separate annual waste throughput consented limits is necessary because the Applicant may not fully build out or operate both the ERF and AD facilities. 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 ES that accompanied the DCO application. Furthermore, LBB contend that it is incorrect for the Applicant to suggest that an increase in the waste throughput would not increase the environmental effects of the ERF plant, effects that beyond an ERF capacity of 805.920 tpa and AD plant capacity of 40,000 tpa have not been assessed within the ES.
- 10.8 With regard to the Applicant's reference to National Policy Statement EN-3 in paragraph 3.3 of the Applicant's response to comments on the draft DCO LBB disagree with the Applicant's response provided for the reasons set out in paragraphs 2.20 to 2.23 in LBB's submission at deadline 5.

Biodiversity matters

- 10.9 Paragraph 4.9 of the Applicant's response to comments on the draft DCO, which relates to requirement 4 of Schedule 2 of the draft DCO, suggests that it is unreasonable of LBB to expect all offsetting to be implemented before works can commence. The Applicant uses the example that on-site mitigation is often not normally able to be delivered prior to impacts. Whilst this example has some basis in reality, it is not a valid comparison. LBB feel that off-site mitigation/compensation is not so restricted, as such land is independent of, and not subject to the construction activity taking place on, the site. Furthermore, there is clear precedent in the requirement to have compensatory habitat well-established prior to the realisation of on-site impacts. This can be seen in the requirement to have species receptor sites fully established in advance of works to be fit to receive translocated species. Similarly, fully-functioning compensatory habitat for adverse impacts to European sites (SAC/SPA) under the 'Habitats Regulations' derogation process (IROPI) is normally required in advance. Where this is not possible, additional compensation is normally required.
- 10.10 In paragraph 5.2 of the Applicant's response to comments on the draft DCO, which relates to requirement 5 of Schedule 2 of the draft DCO, the Applicant asserts that LBB

has misunderstood how the offsetting process will work. LBB disagree, or at least remain to be convinced of its error. Currently, Requirement 5(1) of the draft DCO does not require compensation to have been implemented before impacts are actualised. Therefore, there is a clear risk of temporary loss of biodiversity until the offset land has established its target value. Money being paid over to the Environment Bank, in itself, does not constitute a means of overcoming this temporary shortfall in compensation. Rather, the time-lag should be avoided or if that's not feasible, additional offset value should be provided to account for it.

Transport matters

- 10.11 LBB do not agree with the response provided by the Applicant with regard to paragraph 8.1, which is related to Schedule 2, Requirement 13 of the draft DCO. LBB consider that modelling assessments for each phase of construction of the Electrical Connection should be undertaken. This would ensure that any cumulative effects of concurrent construction schemes are taken into consideration when developing the most efficient CTMPs.
- 10.12 With regard to the Applicant's comments on Schedule 2 requirement 14 LBB welcome the clearer definition of traffic movements, the removal of reference to Norman Road and the amendment to the definition of jetty outage in line with the wording in the extant RRRF planning permission. However, the proposed inclusion of requirement 25 to Schedule 2 relating to phasing is vague and does not ensure that the AD plant is fully built out or becomes operational. The Applicant also fails to acknowledge the vast discrepancy between the volume of road movements sought under the DCO in the event of a jetty outage and the levels of operational traffic movements assessed in the ES. LBB remain firmly of the view that separate waste throughput levels and traffic movements should be set in the DCO for both the ERF and AD plants. The volumes of waste proposed by road to the ERF, the number of traffic movements by road during normal operations and during a jetty outage are considered too high by LBB for the reasons previously provided as well as those set out in the marked up versions of the DCO and explanatory memorandum as submitted by LBB at deadline 7. The LBB also sets out in its marked up versions of the draft DCO and explanatory memorandum submitted at deadline 7 concerns over the wording around provision of traffic records to LBB and maintains its requirement for a DSP to be provided by the Applicant.

Noise matters

- 10.13 The addition of Requirement 21, on the control of operational noise, to the draft DCO in response to the LBB request at Deadline 2, is welcome. LBB consider that Requirement 21 should also include the need for the monitoring methodology to take account of LBB's standard guidance on operational noise from fixed plant. This requires operational noise not to exceed 5dB below the background LA90 at the nearest sensitive receptor.

11 8.02.55 PRE-COMMENCEMENT PLAN

- 11.1 This Plan limits all pre-commencement works to areas of existing hardstanding within the REP site. This restriction of direct physical impacts to such areas of negligible biodiversity importance is welcomed by LBB.

12 3.3. DRAFT DCO SCHEDULE OF CHANGES (REV 1)

Air Quality matters

- 12.1 Minor changes to clarify new requirements 15 and 16 have been proposed by LBB. These are included in the marked up version of the draft DCO submitted by LBB at deadline 7.
- 12.2 LBB requests that the proposed new requirements 17 in the draft DCO should be amended in two important ways:
- The condition should be amended to specify that approval is required from both the Environment Agency and the relevant planning authority. This is to ensure that the ambient air quality monitoring programme will meet the requirements of both authorities.
 - The condition as drafted indicates that the monitoring programme is designed to demonstrate compliance with emission limits specified in requirements 15 and 16. This is not appropriate because (a) the monitoring programme will not demonstrate compliance with emission limits, and (b) requirements 15 and 16 refer only to emissions of oxides of nitrogen, whereas LBB and potentially the Environment Agency may wish to include a wider range of substances in the monitoring programme. The condition should be amended to remove reference to requirements 15 and 16, and replace this with a summary of the reasons for requiring the monitoring programme: *"to monitor compliance with the forecast environmental performance of Work No. 1A and Work No. 1B."*

Waste matters

- 12.3 As set out in earlier submissions by LBB, including the marked up version of the draft DCO submitted by LBB at deadline 2 and paragraphs 2.9 to 2.19 of LBB's submission at deadline 5, LBB strongly contend that there is a need for the DCO to fix maximum waste throughput levels for both the ERF and AD facilities.
- 12.4 LBB maintains its objection to the removal of the ash storage area from the REP site in the absence of the Applicant proposing to accept 100% of the bottom ash from the plant will be taken by river.
- 12.5 LBB do not accept the Applicant's proposal to provide LBB with annual records of vehicle movements. These records should be provided monthly and set out both vehicle movements and waste inputs for both the AD and ERF plants in order to enable LBB to effectively monitor and control the proposed development.
- 12.6 LBB do not consider that the proposed new requirement 18 in Schedule 2 of the draft DCO drafted by the Applicant will provide effective or sufficient control or safeguards to ensure that the waste hierarchy is followed. Controls should be applied to the Applicant that requires the undertaker to conduct waste composition audits of the materials received at the plant and for the undertaker to be subject to specific targets for continual improvement in reducing the percentage of re-useable and recyclable waste received at the plant.
- 12.7 With regard to proposed new requirement 27 in Schedule 2 of the draft DCO drafted by the Applicant, LBB feel that reviews should be undertaken every two years and since the Applicant should be seeking to maximise recycling opportunities in accordance with the waste hierarchy, LBB consider that there should be continuous reviews through the life of the AD plant to maximise the use of digestate as a fertiliser.

- 12.8 Proposed changes to reflect these comments have been made by LBB to both the draft DCO and explanatory memorandum in their submission at deadline 5.

Biodiversity matters

- 12.9 LBB note the removal of text in Schedule 2, Requirement 4 relating to landscape and offset. This is due to the changes confirmed by the Pre-commencement Plan which limit all pre-commencement works to areas of existing hardstanding within the REP site. This restriction of direct physical impacts to areas of negligible biodiversity importance is welcomed by LBB.
- 12.10 Requirement 4(2) of Schedule 2 of the draft DCO states: "*The pre-commencement biodiversity mitigation strategy submitted pursuant to sub-paragraph (1) must contain details of mitigation measures required to protect protected habitats and species during the pre-commencement works*". Requirement 5(1) contains the text: "*The biodiversity and landscape mitigation strategy must be substantially in accordance with the outline biodiversity and landscape mitigation strategy and include details of—*
- (a) mitigation measures required to protect protected habitats and species during the construction of the authorised development;*
- (b) mitigation measures required to protect protected habitats and species during the operation of the authorised development;*"
- 12.11 The current use of the qualifying word "protected" in these requirements limits these requirements to those habitats and species that benefit from legal protection and does not clearly provide for protection of other important habitats and species (as noted in the ES), in particular non-protected Habitats of Principal Importance and Species of Principal Importance listed under the NERC Act 2006 and non-statutory designated sites. The former would include the Open Mosaic Habitat situated within the REP site that will be surrounded by the pre-commencement works, and some of the species that use this and the adjacent Crossness Nature Reserve. LBB therefore wish to see these requirements extended to include protection of Habitats and Species of Principal Importance and to designated non-statutory local wildlife sites.
- 12.12 Schedule 2, Requirement 5(1d) states: "*...the mechanism for securing the off-setting value and (where appropriate and necessary) any long-term management and monitoring commitments in respect of off-setting*". The text in brackets should be deleted, as LBB does not consider there are any situations in which long-term management and monitoring of biodiversity offset sites would not be 'appropriate and necessary', and this wording reduces confidence that such measures will be delivered in all cases.
- 12.13 Schedule 2, Requirement 5(2) does not provide for ensuring that biodiversity offset value equivalent to biodiversity impact/loss is provided in advance of such losses. LBB wish to see this requirement amended to ensure that there is no significant time-lag between biodiversity losses being actualised and the replacement (offset) habitat providing equivalent value. Or, where a time-lag cannot be avoided despite evidence of all reasonable effort to do so, then the amount of compensatory habitat (biodiversity offset) should be increased in order to take account of those shorter-term losses. This is in addition to the 10% net gain already proposed.

Transport matters

- 12.14 With regard to Schedule 2 requirement 13 LBB consider that modelling impacts at junctions should be included within CTMP's along with a requirement for baseline

- condition surveys to be undertaken by the Applicant in advance of the works with any damage to the highway being repaired at the expense of the Applicant.
- 12.15 With regard to Schedule 2 requirement 14 LBB welcome the clearer definition of traffic movements, the removal of reference to Norman Road and the amendment to the definition of jetty outage in line with the wording in the extant RRRF planning permission. However, LBB remain firmly of the view that separate waste throughput levels and traffic movements should be set in the DCO for both the ERF and AD plants. The volumes of waste proposed by road to the ERF, the number of traffic movements by road during normal operations and during a jetty outage are considered too high by LBB for the reasons previously provided as well as those set out in the marked up versions of the DCO and explanatory memorandum as submitted by LBB at deadline 7. The LBB also sets out in its marked up versions of the draft DCO and explanatory memorandum submitted at deadline 7 concerns over the wording around provision of traffic records to LBB and maintains its requirement for a DSP to be provided by the Applicant.
- 12.16 A minor amendment is proposed to the current wording of requirement 19 of Schedule 2 of the draft DCO. This amendment is sought to ensure that controls over workers travel plans apply during the commissioning period of the proposed plants. In the ES this period is stated as potentially lasting for 18 months.
- 12.17 The proposed inclusion of requirement 25 to Schedule 2 relating to phasing is considered by LBB to be too vague and would not ensure that the AD plant is fully built out or becomes operational.

Noise matters

- 12.18 A new Requirement 21 has been inserted in Schedule 2 in the draft DCO in response to LBB comments at Deadline 4 on the draft DCO, matters which were also raised by LBB at Deadlines 3 and 2. This new requirement requires the Applicant to submit an operational noise monitoring scheme to be approved by the Local Planning Authority. LBB consider that an amendment to the wording of this requirement is required to ensure that the monitoring methodology takes account of LBB's standard guidance on operational noise from fixed plant. This requires operational noise not to exceed 5dB below the background L_{A90} at the nearest sensitive receptor.

Combined Heat and Power (CHP)

- 12.19 A minor amendment is proposed to the current wording of requirement 26 of Schedule 2 of the draft DCO related to CHP. This amendment is sought to ensure that reviews are undertaken every 3 years. Furthermore, since the Applicant should be seeking to maximise CHP opportunities, LBB consider that removing the requirement for continuous reviews where the maximum thermal output of the plant has not been achieved would be contrary to this objective and planning policy.

13 LB HAVERING'S – RESPONSE TO THE EXAMINATION AUTHORITY'S FURTHER WRITTEN QUESTIONS

Impacts due to emissions of nickel

In the absence of an assessment of property numbers forecast to experience a “minor” impact due to emissions of nickel, London Borough of Havering (LBH) has carried out its own estimate of the number of properties affected by emissions of nickel from the proposed facility. LBH estimates that “*hundreds of residential properties will be exposed to Minor impacts from Nickel emissions.*” In the light of Document 6.2 Figure 7.5 Contour Nickel (Rev. 2 June 2019), LBH's assessment appears to be a reasonable, as a large number of properties are included within the “0.001” contour. LBB requests that the applicant provides the information on property numbers.

14 8.02.60 APPLICANT'S RESPONSE TO THE EXAMINATION AUTHORITY'S SECOND WRITTEN QUESTIONS

Waste matters

- 14.1 In response to the Examination Authorities Written Questions Q2.2.1 and Q2.2.2 the Applicant identifies the current use by the Applicant of existing riparian transfer facilities at Smuggler's Wharf, Cringle Dock, Walbrook Wharf and Northumberland Wharf. These sites are stated as having sufficient permitted capacity to serve the existing RRRF plant and the proposed REP site. However, it is understood that use of these facilities by the Applicant are subject to current contractual arrangements, with these sites effectively leased from the Local Councils for the term of the contracts. In the event that future contracts with these Councils are not gained by the Applicant can the Applicant clarify whether the Applicant would still have access to these sites and, if not, how they would ensure that river transport of waste will be maintained.
- 14.2 The vast majority of the spare capacity at these sites is shown in Table 2.1 of the Applicant's response to the Examination Authority's second written questions to be located at Smugglers Wharf and at Cringle Dock in Wandsworth. With these sites being located on the river close to the centre of London and already serving the RRRF plant with municipal wastes from these local areas the question arises as to the validity of these sites being suitable locations both to serve London's waste needs and being accessible for deliveries of waste from locations referenced in the Applicant's in its London Waste Strategy Assessment (Annex A of The Project and its Benefits Report (7.2, APP-103) such as Norfolk, Essex, Kent, Hertfordshire and Suffolk.

Biodiversity matters

- 14.3 Questions 2.3.1 to 2.3.5 of the Applicant's response to the Examination Authority's second written questions relate to biodiversity offsets. The Applicant's responses refer the Examination Authority to other documents which have been reviewed by LBB within this response. Therefore, any comments that LBB wish to make regarding the Applicant's responses to these questions are dealt with elsewhere in this document under the other headings. It is noted and welcomed that the response to Question 2.3.4 confirms the Applicant's intention to provide a commitment within the draft DCO at Deadline 8, to funding the management of offset sites for 25 years.

Transport matters

- 14.4 With regard to paragraph 2.2.4 of the Applicant's response to the Examination Authorities second written questions LBB remain firmly of the view that separate waste throughput levels and traffic movements should be set in the DCO for both the ERF and AD plants. The volumes of waste proposed by road to the ERF, the number of traffic movements by road during normal operations and during a jetty outage are considered too high by LBB for the reasons previously provided as well as those set out in the marked up versions of the DCO and explanatory memorandum as submitted by LBB at deadline 7.

15 OUTLINE BIODIVERSITY LANDSCAPE MITIGATION PLAN (OBLMS) (REV 2) (WITH TRACKED CHANGES)

- 15.1 Paragraph 5.1.9 of the OBLMS has been added to this Plan. This prioritises sites that are within LBB's administrative boundary and which offer like-for-like replacement of habitat, with specific regard to the Open Mosaic Habitat. This prioritisation is welcomed. This paragraph goes on to say that where like-for-like habitat can't be found within LBB but is available outside of the borough then the site that provides the most "ecologically appropriate" offsetting will be prioritised. It is not clear from this statement who will decide what is most ecologically appropriate and by what criteria. Given LBB's stated concerns about such offsetting being located outside of LBB's administrative area, and the resulting loss of biodiversity within the borough, this decision is of significant importance and must be based on criteria agreed with LBB and the outcome also subject to agreement by LBB. Wording should be added to the Outline Plan to reflect this.
- 15.2 Paragraphs 5.2.4 to 5.2.7 of the OBLMS describe how risk in the establishment of offset land is accounted for in the biodiversity metric, including the risk of temporal delays in attainment of target habitat condition, which is accounted for by inclusion of additional offset land. What is not clear is whether this additional offset provision for 'risk' also accounts for the predicted time-lag between habitat impacts being actualised in and around the proposed development and the attainment of at least equivalent habitat value within the offset land. LBB wish to ensure that there is no significant time-lag between biodiversity losses being actualised and the replacement (offset) habitat providing equivalent value; or, where a time-lag cannot be avoided, despite evidence of all reasonable effort to do so, then the amount of compensatory habitat (biodiversity offset) should be increased in order to take account of those shorter-term losses. This is in addition to the 10% net gain already proposed.

APPENDIX A

Tracked-changed version of the draft DCO (Rev 3)

(Separate document)

APPENDIX B

Tracked-changed version of the draft DCO Explanatory Memorandum (Rev 2)

(Separate document)