

**RIVERSIDE ENERGY PARK DEVELOPMENT CONSENT ORDER APPLICATION**  
**LONDON BOROUGH OF BEXLEY'S WRITTEN SUMMARY OF ORAL SUBMISSIONS**  
**PUT AT DRAFT DCO HEARING**

**THURSDAY 19 SEPTEMBER 2019**

**Slade Green Community Centre, Chrome Road, Erith, DA8 2EL**

**1 Introduction**

1.1 This document summarises the oral submissions made by London Borough of Bexley (**LBB**), at the Issue Specific Hearing on the draft Development Consent Order (**dDCO**). The hearing opened at 10.00 am on 19 September 2019 at Slade Green Community Centre, Chrome Road, Erith, DA8 2EL. The agenda for the hearing was set out in the Examining Authority's (**ExA**) letter published on the National Infrastructure Planning website on 9 September 2019.

1.2 In what follows, LBB's submissions on the points raised broadly follow the items as set out in the ExA's agenda. During the hearing the Applicant outlined a number of proposed amendments to the dDCO. As set out below, whilst LBB agreed to most of these changes in principle, there is a significant amount of detailed wording and justification that LBB is awaiting and therefore LBB cannot agree unconditionally to those changes until it has had the opportunity to review this documentation.

**2 Agenda Item 3: Articles - changes proposed by the Applicant and by Interested Parties**

*REP and RRRF Application boundaries plan, Article 6 and Schedule 14*

2.1 LBB had previously requested that the extent of the land identified on the REP and RRRF Application boundaries plan was reduced to the open mosaic habitat land only. The Applicant noted that it would not be amending the extent of the land shaded on the REP and RRRF Application boundaries plan. The Applicant explained that the land area identified on the plan comprises:

2.1.1 land for the existing ash storage area for the RRRF plant;

2.1.2 land for the open mosaic habitat; and

2.1.3 other land (comprising road and bunds) that is land that will be acquired by REP from the RRRF ownership.

2.2 LBB accept the Applicant's justification for the inclusion of the additional land shown on the plan and no longer object to the scope of the land shown in the plan including land greater than just the Open Mosaic Land. LBB will also now accept that the ash storage area may be lost on the basis that the Applicant provides evidence of the provision of at least five days (with the ERF plant operating at full capacity) bunker storage for Incinerator Bottom Ash.

- 2.3 LBB had objected to the *removal* of the land identified on the plan from the control of the s36 consent and the RRRF planning permission. LBB had questioned the justification for this given the presence of article 6(3) to protect the Applicant from enforcement for breach of the RRRF planning permission due to an inconsistency with provisions of the DCO. The Applicant agreed to amend the wording on the plan so that it no longer 'removed' any land from the controls of the s36 consent or the RRRF planning permission. The Applicant also noted it would remove paragraph 1 of Schedule 14 which is the provision which implemented the removal of the land from the s36 consent and the RRRF planning permission.
- 2.4 LBB noted it accepted these amendments in principle but would need to review the revised drafting of Article 6 and Schedule 14 and the amended REP and RRRF Application boundaries plan.

### **3 Agenda Item 4: Schedule 1 (definition of Authorised Development)**

- 3.1 LBB has maintained throughout the examination period that the inclusion of a maximum waste throughput on the proposed ERF and AD plants is necessary to ensure that the operation of the development does not exceed the basis of the assessments presented in the Environmental Statement. LBB had proposed that caps on waste throughput be identified separately for Works No 1A and 1B in Schedule 1.
- 3.2 There were no changes proposed by the Applicant in relation to the definition of Authorised Development and this is accepted by LBB on the basis that the Applicant agreed to insert a new requirement setting a maximum capacity of waste, being 805,920 tpa for the ERF and 40,000 tpa for the AD in line with the changes proposed by LBB.
- 3.3 LBB is content with this cap being included as a requirement as opposed to being included in the definition of Authorised Development in Schedule 1.
- 3.4 The Applicant did not agree to LBB's amendment to include reference to a dedicated bottom ash storage area in Word No 1A. As already noted above, LBB will no longer require a dedicated bottom ash storage area if the Applicant demonstrates that there will be provision of at least five days bottom ash bunker storage and no significant effect on the road network in the event of a jetty outage.
- 3.5 LBB noted it accepted these amendments in principle but would need to review the revised drafting of Schedule 2 of the DCO to include for this new requirement.

### **4 Agenda Item 5: Schedule 2 Requirements - changes proposed by the Applicant and by Interested Parties**

#### *Requirements 4 & 5*

- 4.1 The Applicant accepted the proposed amendment from LBB to extend Requirements 4(2) and 5(1) to include 'non-statutory designated sites and other habitats and species of principal importance'.
- 4.2 The Applicant agreed to further amend Requirement 5 to include LBB's proposed amendments submitted at Deadline 7a (in response to ExA's Rule 17 request). The Applicant noted that the drafting may vary from that proposed by LBB but the requirement will secure; prioritisation of

offsetting sites within LBB (and owned by LBB) and where this is not possible site selection based on criteria agreed with LBB. LBB accept this in principle but will need to review the drafting of the revised Requirement 5 to confirm acceptance.

- 4.3 In terms of providing assurance of biodiversity compensation being provided within LBB, the Applicant stated that where possible it would provide the biodiversity compensation in LBB and on LBB land and will enter into a legal agreement in relation to this matter with LBB. Whilst such an agreement is unlikely to be completed before the end of the examination, it will hopefully be in place by the end of the year (and in time for the SoS to consider in making a decision on the application). Given the timing, the ExA will have to proceed on the basis that it has not been agreed.
- 4.4 LBB have previously raised concerns about the possible temporary loss of compensation before new compensation is in place and have stated that the biodiversity metric should have regard to this. The Applicant stated that this is already included within the metric calculation and noted that it would submit further information explaining the calculation prepared by the Environment Bank. LBB will review this note to confirm whether or not it agrees with the conclusions.

#### *Requirement 11*

- 4.5 LBB proposed an amendment to Requirement 11 to include reference to the vehicle booking management system to ensure this is added into the draft CoCP. The Applicant proposed to include the vehicle booking management system to the CTMP instead of the CoCP and so this amendment would be made to Requirement 13 instead. LBB accept this proposed change from the Applicant in principle but will need to review the drafting of the revised Requirement 11 to confirm acceptance.

#### *Requirement 13*

- 4.6 LBB proposed an amendment to Requirement 13(2) to require the Applicant to submit updated junction impact assessments with the CTMP. The Applicant proposed to undertake this for three key junctions after detailed design. LBB would need confirmation of which three junctions the Applicant proposes to assess and this information will need to be reviewed and agreed by LBB's highways expert. However, LBB does have concerns generally about this approach since without detailed plans or knowledge of other works that may be occurring at the time of construction, it can't be known which sections of highway or junctions the impact assessments should cover. For these reasons LBB do not feel that such modelling should be restricted at this stage. Once this information has been reviewed LBB will be able to confirm agreement or not to this proposed limitation.
- 4.7 LBB also proposed an amendments to Requirement 13(3) to require the Applicant to: i) take highways baseline condition surveys; and ii) make good any damage to highways following construction works.
- 4.8 The Applicant agreed to undertake highways baseline surveys but only to restore any damage caused during construction to Norman Road. This is accepted by LBB but LBB suggest that the liability should cover the whole of Norman Road.

#### *Requirement 13A*

- 4.9 LBB proposed new Requirement 13A to ensure the Applicant must provide a Delivery and Servicing Plan (**DSP**) to ensure that all deliveries to site are managed and planned appropriately.
- 4.10 The Applicant agreed to the inclusion of a DSP but not including a vehicle cap. LBB agreed to this in principle but will need to review the wording proposed to ensure that the DSP will still provide for vehicle movements to be managed as efficiently as possible. The Applicant noted that this Requirement would be moved to new Requirement 32.
- 4.11 It was noted that the DSP would relate to vehicles outside the scope of Requirement 14.

#### *Requirement 14*

- 4.12 LBB had submitted that traffic and waste throughput limits should be included separately for the ERF facility and the AD plant as there is no guarantee (even with the proposed Applicant's wording in requirement 25 of Schedule 2 of the dDCO submitted at deadline 5) that both facilities will be fully built out and operational at the same time. LBB had requested a cap of 65,500 tpa for the ERF and 40,000 tpa for the AD.
- 4.13 The Applicant proposed amending the waste throughput accepted by road to be specified and split by ERF and AD facility with a limit of 130,000 tpa in relation to the ERF and 40,000 tpa for the AD. These caps are accepted by LBB in principle but will need to review the drafting of the revised Requirement 14 to confirm acceptance.
- 4.14 The Applicant agreed to reduce the number of vehicles that can deliver waste to the REP site (combined vehicle numbers for the AD and ERF plants) from 90 per day to 75 per day. This is accepted by LBB in principle but will need to review the drafting of the revised Requirement 14 to confirm acceptance.
- 4.15 In relation to traffic movements during a jetty outage, LBB maintains that the numbers proposed by the Applicant have not been fully assessed. The Applicant stated that it had done a further assessment and would provide a note on this to demonstrate that there would be no significant adverse impact at 300 waste vehicle movements plus other vehicle movements (including bottom ash) per day from REP. LBB have yet to see this assessment. Once LBB have had the opportunity to review this note, and if it agrees to the conclusions, then it would not object to the 300 and 30 waste vehicle limits proposed by the Applicant for the REP site in requirement 14.
- 4.16 In relation to Requirement 14(5), LBB had proposed reports should be provided on a monthly basis and should cover both waste and vehicle numbers. The Applicant proposed quarterly reporting of both vehicle movements and waste tonnage levels to both the ERF and AD plants and LBB will accept this in principle but will need to review the drafting of the revised Requirement 14 to confirm acceptance.

#### *Requirements 15 and 16*

- 4.17 The Applicant proposed to remove Requirement 15 and explained that the Applicant will have to comply with the emissions limits referred to as a matter of law. The Applicant noted that

Requirement 16 would remain as this secured stricter emission limits required in order to reduce the environmental impacts.

- 4.18 LBB does not object to the removal of Requirement 15 on the basis that the Applicant has agreed to include a cap on waste throughput for the ERF and AD plants.

*Requirement 17*

- 4.19 The Applicant proposed to remove Requirement 17 on the basis that it would agree a section 106 agreement with LBB including a commitment to provide £30k pa index linked for 25 years for Air Quality monitoring.

- 4.20 Whilst LBB has not yet been made aware of the proposed wording of the s106 obligation, the scope of the proposed funding is accepted by LBB and with this agreement LBB do not object to the removal of this requirement.

- 4.21 A local resident requested details about the scope of the proposed air quality monitoring scheme and LBB undertook to provide further detail of this. This is provided at Appendix 1.

*Requirement 18*

- 4.22 LBB did not consider that the current drafting of Requirement 18 offered sufficient control or safeguards to ensure that the waste hierarchy is followed. LBB submitted that the requirement should secure the undertaking of annual waste composition audits of the waste received at the plant to identify the percentage of reusable and recyclable material received at the plant and the publication of these results. LBB also stated that specific targets should be placed on the undertaker for continual improvement in reducing the percentage of reusable and recyclable waste received at the plants.

- 4.23 The Applicant agreed to revise the wording of Requirement 18 to include for reference to further commitments and contractual measures put on waste suppliers to minimise bringing residual waste. The Applicant agreed to annual composition audits being undertaken and to specific targets being placed on waste suppliers. Whilst LBB agrees in principle to these proposed amendments, LBB suggested that targets should be placed on the undertaker rather than waste suppliers.

*Requirement 19*

- 4.24 LBB proposed a minor amendment to Requirement 19 to ensure controls over workers travel plans during the commissioning period. The Applicant proposed to include workers in the commissioning phase within the CTMP. LBB agreed to this proposal in principle, subject to review of the exact wording.

*Requirement 21*

- 4.25 The Applicant agreed to LBB's proposed minor amendments; i) the addition of the word "written" and ii) "(as defined in the written noise monitoring scheme)".
- 4.26 The Applicant agreed to include reference to LBB's standard guidance targets on noise monitoring in the noise monitoring scheme but would not include wording in the requirement

around meeting LBB's 5dBA limit. LBB agreed in principle to this approach but will need to review the proposed wording to confirm acceptance.

#### *Requirement 25*

- 4.27 LBB confirmed that, with the addition of a new requirement securing a cap on waste throughput, it was satisfied with the current drafting of Requirement 25. A split cap for the ERF and AD plants will prevent a situation where construction could commence on one part of the facility but not be fully built out and therefore a single total cap could be reached by only part of the facility.

#### *Requirement 26*

- 4.28 The Applicant agreed with LBB's amendment to 3 year reviews as opposed to every 5 years.
- 4.29 LBB had raised concerns about the wording in the requirement stating that the Applicant must only consider 'commercially viable and technically feasible' options. The Applicant noted it would retain this wording proposed by the GLA. LBB noted that its concerns in relation to this wording were that without an agreed definition the Applicant may be able to avoid meeting its requirements. LBB suggested replacing this wording with 'viable' only which is a term that could be challenged at arbitration.
- 4.30 In relation to Requirement 26(7), LBB were seeking to remove paragraph (7) which ends the requirement for continuous reviews. LBB's position is that the Applicant should be seeking to maximise recycling opportunities in accordance with the waste hierarchy. The Applicant did not accept removal of this paragraph but proposed an amendment to ensure 5 year reviews. This would be acceptable to LBB in principle as the issue is LBB want to ensure that the operator is to continually review and continue to seek to extend the CHP export. LBB agreed in principle to this approach but will need to review the proposed wording to confirm acceptance.

#### *Requirement 27*

- 4.31 The Applicant agreed with LBB's amendment to 2 year reviews as opposed to every 5 years.
- 4.32 It is noted that the position regarding the proposed amendments to the wording 'commercially viable and technically feasible' is the same as set out above in relation to Requirement 26.
- 4.33 In relation to paragraph (7), as with Requirement 26, the Applicant did not accept LBB's proposal to remove this paragraph. However the Applicant agreed to further reviews every 2 years in the event that export from the plant was stopped. LBB consider that the Applicant should seek to maximise the use of compost material and thus the AD reviews to identify and implement opportunities to export compost material should be maintained during the life of the AD plant and LBB see no reason why the operator should wait 2 years from exports ceasing to recommence AD reviews. As with the above the key issue for LBB is that the operator is required to continue to seek export opportunities. LBB will review the proposed wording once provided by the Applicant.

#### *Requirement 28*

- 4.34 LBB seek a decommissioning fund from the Applicant to cover the costs of decommissioning and restoration. This approach mirrors that provided by the Applicant in relation to the RRRF

development. LBB expects a decommissioning fund to be provided by the Applicant and secured by a s106 agreement as was put in place in relation to the RRRF development

- 4.35 The Applicant agreed to a S106 obligation to provide a decommissioning fund / guarantee in the same way as for the RRRF plant. LBB and the Applicant noted that agreement was still be reached between the parties as to when the decommissioning fund would be put in place.

## **Appendix 1 - Proposed scope of air quality monitoring programme**

At this stage, LBB intends to use the funding provided by the applicant to fund core monitoring activities, with any remaining balance to be used to fund further relevant air quality monitoring. It is not possible to be definitive on the scope of monitoring to be carried out, in view of uncertainties in the economic cost of monitoring equipment and services over a 25 year time period.

### ***Core monitoring***

- (1) Purchase, installation and commissioning of a continuous monitoring laboratory, likely to be located so as to primarily provide information on potential impacts associated with road traffic movements to/from the proposed facility. The laboratory will consist of instruments measuring oxides of nitrogen, PM10 and PM2.5, together with an airconditioned enclosure
- (2) Operation of the continuous monitoring laboratory, including QA/QC, audit, calibration data processing, data management and analysis, routine maintenance and repair, including purchase of consumables/replacement parts

### ***Further monitoring options***

- (3) Option 1: Purchase, installation, commissioning and operation of a second continuous monitoring laboratory, if funds are sufficient
- (4) Option 2: Operation of a widespread programme of air quality monitoring to provide additional information on air quality in the Borough using lower cost techniques e.g. low-cost air quality sensors and/or diffusion tubes. This would enable more detailed information to be obtained on road traffic impacts and REP process emissions, as well as enabling the potential impacts of shipping movements on air quality to be studied in more detail, building on work currently being led by the Port of London Authority
- (5) Option 3: Periodic sampling and analysis for airborne dioxins and furans, polycyclic aromatic hydrocarbons (PAHs) and/or metals. This would provide information to enable LBB to respond authoritatively to the concerns which are raised by residents in relation to the air quality and health impacts of the existing and proposed facilities.
- (6) Option 4: Detailed evaluation of air quality monitoring records using techniques such as the Open Air package (<http://www.openair-project.org/>) in order to obtain additional insights into the factors affecting air quality in Bexley, to support informed decisions on effective measures to manage and secure ongoing improvements in air quality in Bexley.