

Riverside Energy Park

Applicant's response to London Borough of Bexley Deadline 7 Submission

VOLUME NUMBER:

08

PLANNING INSPECTORATE REFERENCE NUMBER:

EN010093

DOCUMENT REFERENCE:

8.02.80

September 2019 | Revision 0 (Deadline 8) | APFP Regulation 5(2)(q)

Planning Act 2008 | Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

Contents

1	APPLICANT'S RESPONSE TO THE LONDON BOROUGH OF BEXLEY'S DEADLINE 7 RESPONSE	2
1.1	Introduction	2
1.2	8.02.51 Applicant's Response to LBB's Deadline 4 Submission	3
1.3	8.02.46 Applicant's Response to GLA's Deadline 4 Submission	16
1.4	8.02.47 Applicant's Response to Chris Rose Deadline 4 Submission	18
1.5	8.02.47 Applicant's Response to Friends of Crossness Nature Reserve (FOCNR)	
1.6	8.02.53 Update on Environment Bank Site Selection Process	19
1.7	8.02.56 REP and RRRF Application Boundaries Plan	21
1.8	6.3 – ES Appendix L To B.1 Outline Construction Transport Management Plan (CTMP) (Rev 3) (With Tracked Changes)	22
1.9	7.5 Outline Code of Construction Practice (COCP) (Rev 3) (With Tracked Changes)	23
1.10	8.02.55 Pre-Commencement Plan	24
1.11	LB Havering's – Response to the Examination Authority's Further Written Questions	24
1.12	8.02.60 Applicant's Response to the Examination Authority's Second Written Questions	25
1.13	Outline Biodiversity Landscape Mitigation Plan (OBLMS) (Rev 2) (with Tracked Changes)	25

1 Applicant's response to the London Borough of Bexley's Deadline 7 Response

1.1 Introduction

1.1.1 This document provides a response to the documentation submitted by London Borough of Bexley (LBB) at Deadline 7. Many of the matters raised by LBB have been set out in its previous submissions. In some cases, the Applicant has made significant progress in addressing LBB's concerns following the LBB response and this is set out in this response. It should be noted that LBB and the Applicant are nearing finalisation of a Statement of Common Ground (SOCG) between the parties, which is intended to be submitted at Deadline 8a alongside an updated version of the dDCO (**3.1, Rev 4**). The Applicant anticipates that the SOCG will confirm agreement to the final outstanding matters which have been in discussion between the parties. LBB stated in their Written Representation (Paragraph 1.8, REP2-080) that they were supportive of the Proposed Development in principle and that the national policy position (in the relevant National Policy Statement) supports the use of REP's Energy Recovery Facility (ERF) technology as part of the waste hierarchy. The Applicant has subsequently sought to address and resolve LBB's detailed comments on the application.

1.1.2 This response provides comments on the following remaining matters raised by LBB, using the headings as set out in their submission:

- 8.02.51 Applicant's Response to LBB's Deadline 4 Submission;
- 8.02.46 Applicant's Response to GLA's 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 (FOCNR) Deadline 4 Submission;
- 8.02.53 Update on Environment Bank Site Selection Process;
- 8.02.56 REP and RRRF Application Boundaries Plan;
- 6.3 – ES Appendix L to B.1 Outline Construction [Traffic] Management Plan (CTMP) (Rev 3) (With Tracked Changes);
- 7.5 Outline Code of Construction Practice (CoCP) (Rev 3) (With Tracked Changes);
- 8.02.55 Pre-Commencement Plan;
- LB Havering's Response to The Examination Authority's Further Written Questions;

- 8.02.60 Applicant's Response to The Examination Authority's Second Written Questions; and
 - Outline Biodiversity Landscape Mitigation Plan (OBLMS) (Rev 2) (With Tracked Changes).
- 1.1.3 LBB sets out its comments on the dDCO in the headed sections "8.02.54 Applicant's response to comments on the draft DCO", "3.3 Draft DCO schedule of changes (Rev 1)" and in their Appendices A and B to its response.
- 1.1.4 The Applicant's responses to these comments on the dDCO, as well as from other interested parties, will be contained in a single submission document, the **Applicant's response to comments on the draft Development Consent Order (dDCO)** to be submitted at Deadline 8a, along with an updated **dDCO (3.1, Rev 4)**.

1.2 8.02.51 Applicant's Response to LBB's Deadline 4 Submission

Air Quality Matters

Assessment of dioxins and furans

- 1.2.1 The Applicant notes that LBB have confirmed that they are primarily concerned with the assessment of cancer risks and therefore do not intend to make further submissions on this matter.
- 1.2.2 The Applicant also notes that LBB agrees that the IAQM guidance is not designed to apply to the assessment of health impacts and that it was referenced so as to highlight a suggested approach to the assessment.
- 1.2.3 The Applicant agrees with LBB that it is incumbent on the Applicant to provide a robust assessment, but disagrees with the assertion that it has not done so. LBB contends that the results of the Human Health Risk Assessment (HHRA) are significant by evaluating the results of the cancer risk assessment against the IAQM significance criteria which does not apply to such an assessment. When considering the results of the cancer-risk assessment, the results are considered in terms of whether the Committee on Toxicity (COT) Tolerable Daily Intake (TDI) values are exceeded or not, not whether they are above a specific percentage value of the TDI. The TDI is a risk threshold, below which there is a negligible risk of adverse health effects occurring, and above which there is an increased risk to human health.
- 1.2.4 In this regard, as summarised in the conclusions of the **HHRA (Paragraph 3.6.4, REP2-040)**, the results of the modelling of the emissions from REP are a maximum value of 4.2% of the COT TDI. This result is for the 'farmer east child' receptor which is a highly conservative assessment, assuming as it does, that a farmer type receptor consumes mostly home-grown food. For the more realistic scenario of a resident receptor, the maximum results are 0.25% of the COT TDI. As these results are well below the TDI and therefore well

below a level of negligible risk, it can be concluded that there is no significant cancer risk from emissions from REP.

- 1.2.5 LBB has suggested that the assessment is not robust as it did not specifically include a consideration of background pollutant concentrations in the **HHRA**. As stated in **Paragraph 1.2.7** of the Deadline 5 submission (**8.02.51, REP5-022**) the background concentration would need to be approximately 400 times higher than the highest REP contribution for the more realistic resident type receptor for the TDI to be equal to 1. Even for the very conservative farmer type receptor, the background concentration would need to be approximately 23 times higher than the REP contribution for the TDI to be equal to 1. As shown in **Table 7.28** of the **ES (REP2-019)**, background dioxin and furan concentrations are assumed to be 8.0 fg/m^3 ($8.0 \times 10^{-9} \text{ } \mu\text{g/m}^3$). This compares to the maximum predicted ground level concentration from REP of $2.7 \times 10^{-9} \text{ } \mu\text{g/m}^3$ (**Table 7.34** of the **ES (REP2-019)**), i.e. background concentrations are approximately 3 times the maximum contribution from REP and therefore the TDI will not be approached even taking into account background concentrations.
- 1.2.6 The results of the assessment are consistent with the evidence presented on the impacts of emissions from similar facilities to REP in the **Applicant's Post Hearing Note on Public Health and Evidence (8.02.27, REP3-033)**.
- 1.2.7 The Applicant and LBB have been in discussion since Deadline 7 on the outstanding matters between the parties. As stated above the Applicant aims to submit a SOCG between the parties at Deadline 8a confirming agreement to all outstanding matters, including agreement on the assessment of Air Quality and potential impacts on human health.

Assessment of nickel

- 1.2.8 The number of properties, and further information on the reasons behind the assessment of significance, was provided in the **Applicant's response to air quality matters (8.02.70, REP7a-002)**. The assessment included the number of properties in **Paragraph 1.7.8** of the response. However, as outlined in the overall response (**Paragraphs 1.7.7 to 1.7.11**), in undertaking the analysis of the significance of the effect, it is necessary to take into account more than just the number of properties affected. When the fact that the total predicted concentrations are less than 25% of the assessment level and the conservative nature of the assessment are taken into account, the judgement is that the impacts of nickel emissions are not significant.

Assessment of short-term impacts

- 1.2.9 The Applicant acknowledges LBB's agreement that short term impacts due to nitrogen dioxide levels can be classified as 'insignificant' in accordance with IAQM Guidance.
- 1.2.10 LBB conclude that, whilst they do not intend to make further submissions on this matter, 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". Furthermore, LBB restate reference to the potential substantial risk of for short-term concentrations approaching the relevant AQAL (Air Quality Assessment Level).

1.2.11 The Applicant reconfirms, as set out by LBB above, that the assessment did consider short-term impacts and that all short-term impacts are insignificant at the points of maximum concentration for emissions occurring at the daily average emission limits in **Table 7.17** of the **ES (6.1, REP2-019)**. The modelled case of continuous emissions at the ½ hourly emission limit value cannot occur in practice, as the daily emission limit must also be met. The results of this modelling scenario as set out in **Table 7.35** of the **ES (6.1, REP2-019)** show that the maximum process contribution is 26.1% of the AQAL for 15-minute sulphur dioxide concentrations and therefore the AQAL is not approached even under this very conservative modelling scenario. These matters remain as set out at Deadline 5 in **The Applicant's Response to the London Borough of Bexley Deadline 4 Submission (8.02.51, REP5-022)** and, in light of the LBB response, the Applicant does not consider this to be an outstanding matter of concern to LBB.

Air Quality Neutral

1.2.12 The Applicant has previously confirmed that the Proposed Development would not be air quality neutral but that all air quality effects were assessed in accordance with the relevant air quality guidance and standards and found to be Negligible. Additionally, the Applicant has proposed a funding contribution arrangement with LBB in relation to supporting ambient air quality monitoring in the LBB area which will be secured through a s106 agreement. In reaching this arrangement, the Applicant has made it clear that it does not accept the DEFRA 'damage cost' estimation framework used in policy formulation (and not in relation to individual projects). On the basis of the agreement reached on funding through a s106 contribution, the Applicant assumes that LBB would not seek to pursue the issue in relation to compliance with the GLA's air quality neutral policy further.

Control of dust during construction

1.2.13 The Applicant agrees with LBB that the IAQM measures that are proposed must be relevant to the Proposed Development and therefore agrees to the proposed wording. The **Outline Code of Construction Practice (CoCP)** has therefore been updated accordingly at **Paragraph 4.3.2** for Deadline 8 (**7.5, Rev 4**).

Support for Air Quality monitoring

1.2.14 The Applicant provided substantive and robust responses at previous deadlines relating to why 'Damage Cost' policy (not intended for individual projects) was not an applicable or appropriate measure by which to discuss air quality monitoring contributions. The Applicant notes that LBB does not

consider it necessary to pursue this matter further in light of further discussions between the parties. Discussions between LBB and the Applicant have ultimately concluded that the previous Requirement is not necessary now that funding has been agreed to be secured via a Section 106 agreement. The draft s106 agreement will be submitted to the Examination as soon as possible, and confirmation of the above conclusions will be confirmed in the SOCG which the parties are currently finalising, which is also to be submitted for Deadline 8a.

Waste Matters

Waste need and capacity

- 1.2.15 The Applicant has maintained throughout the Examination, its reasoning why an overall waste throughput cap is not required, particularly given the parameter-driven Requirements added to the draft DCO. It therefore remains the Applicant's position that a waste throughput cap is not necessary in respect of controlling potentially adverse environmental effects. However, through discussions with LBB in order to reach a final agreed SoCG, the Applicant proposed, as set out at the second Issue Specific Hearing (ISH) into the dDCO, to offer such a constraint and this is included at **Requirement 32** in the **dDCO (3.1, Rev 4)** (to be submitted at Deadline 8a). This constraint is provided separately for both the ERF and for the Anaerobic Digestion facility, as requested by LBB. The Applicant therefore considers this matter agreed with LBB.
- 1.2.16 Notwithstanding the Applicant's revised position, set out above, on an overall waste throughput cap, the Applicant disagrees with the LBB's position in respect of effects assessed and reported in the ES. The Applicant has set out, at several deadlines, that the effects reported in the ES were assessed on the basis of parameters derived from waste throughput but that these parameters were not reliant upon it. It is entirely conceivable that the Proposed Development could treat a greater volume of waste without the assessment parameters being undermined or the effects reported in the ES being exceeded (for example, the NO_x emissions remaining well below 120 mg/Nm³ as a result of the technology choice within the Environmental Permit, or road vehicle movements which would not exceed the EIA 100% by road scenario – which in itself is much higher than the Heavy Commercial Vehicle movements constrained under Requirement 14).
- 1.2.17 The Applicant stated in **Paragraph 1.2.2** of its Deadline 5 submission (**8.02.51**) that *"...in several scenarios, the LWSA [the London Waste Strategy Assessment] found that there was a waste capacity need to manage not only the nominal REP throughput but waste in excess of 805,920 tpa"*. Whilst the LBB state that the waste need assessment is 'weakened' (on the LBB's assertion that the Applicant considered a need for only 655,000 tpa), it is noted that the submission by LBB does not explain why any of the scenarios which identify a need above this level of tpa should not be considered valid and given full weight. The Applicant therefore considers that LBB has no substantive basis on which to disagree with the scenarios presented in the

LWSA, which justify a significant demand for residual waste treatment up to, and exceeding, the overall 805,920 tpa cap now proposed by the Applicant.

Proximity principle

1.2.18 In the GLA's Deadline 3 response (GLA Commentary on Applicant's response to ExA's first Written Questions) the GLA confirmed that:

"To ensure that the applicant does not simply use larger size HGV (i.e 20 tonnes per vehicle) vehicles to transport a higher proportion of the waste to the site by road or use a lot of small vehicles which would not be subject to the cap; the GLA/TfL would request a provision to be included in the requirement to limit the volume of waste delivered by road set at 200,000 tonnes per annum (t/pa), which is approximately 25% of the ERF's maximum waste throughput and around 30% of the ERF's nominal scenario waste throughput (655,000 t/pa); therefore, still allowing for some contingency".

1.2.19 Acknowledging the above, the Applicant moved to include a cap of 240,000 tpa by road in the **dDCO (3.1, Rev 3)** at Deadline 5, comprising the 200,000 tpa requested by the GLA as above, plus 40,000 tpa attributed to the Anaerobic Digestion facility. This was further reduced to a final agreed position with LBB, and as presented at the second ISH into the dDCO, to be 130,000 tpa for the ERF and 40,000 tpa for the Anaerobic Digestion facility. At the same ISH, the GLA confirmed that this would result in movements by road being lower than their original request for a maximum of 25%. The Applicant therefore considers these separate caps and their tpa levels in respect of ensuring appropriate river use, as being agreed by both of the above parties.

1.2.20 LBB has previously stated that a cap, of only 65,500 tpa, on tonnage delivered by road should be applied. The Applicant considers that it has responded to the GLA's and LBB's original waste cap reasoning adequately in its amendment to **Requirement 14** and has now reached an agreed cap level with LBB, which is also acceptable to the GLA. Notwithstanding the agreement reached, it should be noted that the cap of 170,000 tpa (130,000 tpa ERF waste, 40,000 tpa Anaerobic Digestion waste) by road is:

- **Unjustified in EIA terms:** the assessment presented in the ES included a 100% by road scenario and found that all transport-related effects were Negligible and therefore not significant. The Applicant, has included an updated cap on heavy commercial vehicle movements carrying waste of 75-in, 75-out in the **dDCO (3.1, Rev 4)**, to be submitted at Deadline 8a) which is below the level assessed in the 100% by road scenario. In this regard, the Applicant considers LBB's previous request for a 65,500 tpa by road cap was unsupported by evidence including a need to control the potential adverse environmental effects reported in the ES; and
- **In line with policy on sustainable transport and river-use (Draft London Plan 2017 Sustainable Infrastructure Policy S18 (D)(5) "Waste capacity and net waste self-sufficiency" and paragraph 9.8.16 and Policy S15 (C) (D) (F) "Water Transport"):** The 130,000 tpa cap ensures

that the benefits in respect of river use are delivered by ensuring that at least 83.8% of the 805,920 tpa ERF throughput cap must be delivered by river.

1.2.21 The final 130,000 tpa ERF waste cap by road has been proposed by the Applicant on the basis that it supports compliance with sustainable transport policy and delivers the benefits of the Proposed Development.

1.2.22 Whilst LBB refer to waste apportionment targets for Commercial and Industrial waste, these are part of waste planning to ensure that sufficient land and facilities are available and should not lead to less sustainable means of disposal being chosen, where REP can provide a local and low carbon solution to waste treatment. In the absence of any EIA or planning policy reason, the Applicant has identified no basis for an arbitrary cap by road below its agreed 130,000 tpa with LBB for the ERF.

Transport Matters

1.2.23 In its previously submitted **Temporary Jetty Outage Review (8.02.31, REP3-036)** the Applicant demonstrated that there was ample capacity at relevant junctions to accommodate the scale of traffic that would occur during an outage scenario where neither REP or RRRF could use the jetty (being all of the RRRF and REP waste deliveries and ancillary movements combined). The Applicant maintains that a jetty outage would be an extremely unlikely event and as such does not reflect a reasonable worst case scenario for assessment within an EIA. The approach taken to the assessment in the **Temporary Jetty Outage Review (8.02.31, REP3-036)** was considered proportionate and appropriate, given the scale of reserve capacity already identified at the junctions in respect of the 100% by road scenario. However, the Applicant acknowledges that an explicit analysis of a daily capped waste delivery movement of 300 HCVs in and 300 HCVs out by road for each of RRRF and REP, considered through associated peak period caps of 30 HCVs in and 30 HCVs out during the network peak periods, (as secured for by **Requirement 14** of the **dDCO (3.1, Rev 4)** and RRRF under its Planning Approval Conditions) was not presented. For the avoidance of doubt, the Applicant has prepared a **Supplementary Temporary Jetty Outage Review (8.02.86)** at Deadline 8 which demonstrates that all transport capacity effects are Negligible due to ample junction capacity. As an extremely robust assessment, this explicitly shows the effect of 30 HCVs in and out at RRRF plus 30 REP HCV movements in and out per peak period (each being 1.5 hrs in length) associated with the ERF and Anaerobic Digestion facility (equivalent to 20 HCV movements in and out from each of REP and RRRF during the modelled network peak hour = 40 HCV movements in and 40 out per peak hour). The output from that scenario assessment, including what this would equate to over a 24 hr period, is reported in the **Supplementary Temporary Jetty Outage Review (8.02.86)**.

1.2.24 The **Temporary Jetty Outage Review (8.02.31, REP3-036)** and **Supplementary Temporary Jetty Outage Review (8.02.86)** do not form part of the ES, and the Applicant has set out its reasons for this at previous

deadlines, on the basis that it would be an exceptional event. The Applicant maintains that the assessment of the 100% by road scenario associated with the normal operations at RRRF is the reasonable worst case. The combined jetty outage for REP and RRRF is an extremely unlikely event. It is of note that the baseline traffic flows used in the scenario presented in the **Supplementary Temporary Jetty Outage Review (8.02.86)** includes normal operational HCV movements to RRRF at the time of the traffic monitoring. It is not feasible to remove those movements reliably from the empirically observed data, as the origins and destinations of the observed vehicles are not known. Retaining the baseline flows for the jetty outage scenario therefore overestimates the movements associated with RRRF since there is some double-counting of RRRF traffic, and as such the assessment is considered over-robust.

- 1.2.25 Further to the specific jetty outage scenario, the Applicant has also provided sensitivity evidence to the Examination (in the **Supplementary Temporary Jetty Outage Review (8.0.02.86)**) which demonstrates there is ample spare capacity within the local road network to allow for a substantial increase in excess of the theoretical simultaneous operation of REP and RRRF during a jetty outage. As expressed in the technical note, the sensitivity analysis was prepared to analyse the quantity of additional vehicles that could pass through the local junctions on Picardy Manorway during the network peak period before those junctions exceed theoretical capacity. Whilst that sensitivity work was carried out in relation to activity during the construction period, the network configuration is unchanged and the data are equally relevant to the operational period. The peak hour analysis, presented at Appendix B of the **Temporary Jetty Outage Review (8.02.31, REP3-036)**, shows that the junctions of Picardy Manorway would require a significant increase in additional traffic above the capped jetty outage before they exceed theoretical capacity.
- 1.2.26 Considering the further explicit appraisal of the capped jetty outage scenario, which provides an overly-robust assessment, the Applicant does not agree that *'further impact assessments'* are required as stated by LBB.
- 1.2.27 As set out above, a cap on the delivery of waste to REP has now been agreed with LBB. That cap is for a maximum of 130,000 tpa of waste material to be delivered to the ERF by road and a maximum of 40,000 tpa of waste material to be delivered to the Anaerobic Digestion facility by road. This will be reflected in the **dDCO** to be submitted at Deadline 8a.
- 1.2.28 The Applicant has included **Requirement 23** which ensures that REP's two waste treatment facilities (Works 1A and 1B) are brought forward in the same phase. As set out above, the 130,000 tpa ERF waste control ensures that the benefits in respect of river use are delivered by ensuring that at least 83.8% of the 805,920 tpa ERF throughput cap must be delivered by river. The Applicant considers this proportion to be entirely reasonable and in support of policy which seeks to ensure sustainable modes of transport and use of the river. The level of movements permitted would, in any case, fall well below the level

of road movements assessed and reported in the ES as having a Negligible effect.

1.2.29 LBB's comment in respect of RRRF accommodating their municipal waste does not address the Applicant's position in respect of there being no EIA basis for a more restrictive 'by road' constraint or the potential to receive Commercial and Industrial waste (see the Applicant's response at **Paragraph 1.2.20** above).

1.2.30 Notwithstanding the Applicant's response immediately above, LBB refer to their paragraphs 2.17 and 3.10 of their Deadline 5 submission (REP5-037), as representing their reasoning why a level of 90 HCV two-way vehicle movements carrying waste is too high. However, their paragraph 2.17 is focussed on why a waste cap is required to ensure that a majority by road waste proportion cannot be achieved within a 90 HCV in, 90 HCV out cap. Their paragraph 3.10 focusses on similar matters, namely the Applicant's use of 7 tonne vehicles to determine the realistic worst case transport movements and again raises concerns relating to the use of larger bulk vehicles. The position of LBB and the Applicant has progressed significantly during the final stages of agreement of a SOCG. The Applicant has addressed LBB's concerns through the imposition of the 130,000 tpa (ERF) and 40,000 tpa (Anaerobic Digestion facility) waste cap by road and has also lowered the permissible movements from 90 HCV's in, 90 HCV's out to 75 HCV's in, 75 HCV's out. Whilst, in their paragraph 3.10, LBB previously stated that the 90 HCVs in, 90 HCVs out during normal operation is too high, no explanation had been provided in any LBB submission. The agreed 75 HCVs in, 75 HCVs out cap on road movements carrying waste does not approach the level of movements that were found to be Negligible in the ES, whilst the waste cap by road ensures that, regardless of vehicle size, REP will be a heavily river focussed operation.

1.2.31 The Applicant welcomes the clarification from LBB that its comments on modelling, included under its heading of Public Rights of Way in its Deadline 4 submission at paragraph 3.42, were intended to relate to highway lane closures during works to install the Electrical Connection.

1.2.32 LBB refer to the potential for modelling of disruption caused by the Electrical Connection works. The Applicant has previously set out that modelling, of junctions in particular, would not be proportionate for short-term localised streetworks' effects, since:

- there are inherent limitations within the available transport planning modelling software such that the details of temporary traffic management could not be reliably appraised. For example, the 'Junctions 9' Arcady package does not make adjustments for restrictions to road width on the exit from roundabouts which might result from the temporary traffic management at the works area immediately after the junction. Similarly, it is not able to model partial changes to the carriageway within a roundabout which might occur where the works pass through the circulation within the roundabout;

- constraints to the final cable alignment through particular junctions may result in limited or no routeing flexibility, such that modelling would not meaningfully inform any changes to the management of those works through the junction, including matters such as selection of lane closures;
- the timescale for works at any junctions is dependent on the constraints that are encountered, such that it would be disproportionate to seek modelling for junctions for the brief period that the works would affect the junction;
- the link roads between junctions on the A2016/A206 corridor during off-peak periods (and during peak periods to the north of the Bexley Road junction) are of sufficient capacity such that the closure of a lane is of little consequence to the effects that might occur. Those links experiencing peak period congestion south of Bexley Road are associated with the specific junctions which will be the subject of junction appraisals, as listed within the updated **Outline CTMP (6.3, Rev 5)**; and
- the requirements of temporary traffic management layout in accordance with the Traffic Signs Manual Chapter 8 (Road Works and Temporary Situations) mean that, for a given lane closure through a junction, the temporary traffic management layout has limited flexibility and the most useful mitigation is to minimise the extent of traffic management rather than any detailed manipulation of routeings through the junction.

1.2.33 Notwithstanding the above, as set out at the second ISH on the dDCO, the Applicant confirmed that it will accept LBB's request to include a need for future consideration of specific junctions through 'junction appraisals' that will be included in **Requirement 13** of the **dDCO (3.1, Rev 4)**, to be submitted at Deadline 8a. Furthermore, the Applicant has included the following text at **Paragraph 6.2.12** of the updated **Outline CTMP (6.3, Rev 5)**, together with other associated linking text within that document:

*"The following junctions will be subject to specific 'junction appraisals', as required by **Requirement 13** of the **DCO**:*

- *The junctions of the A206/A2016 with:*
 - *Bexley Road and James Watt Way;*
 - *Perry Street and Howbury Lane; and*
 - *Crayford Way.*

The junctions have been grouped into 3 groups for appraisal to reflect their relative proximities.

The junction appraisals will be proportionate to and address:

- *The anticipated time and phasing that UK Power Networks (or its installer) expects the works to follow when working within the junction;*

- *The potential alignment options available within the junction for the Electrical Connection and their relationship with general traffic and bus services/infrastructure;*
- *The extent to which different temporary traffic management options, works procedures (including special working such as off-peak in exceptional cases) and coordination with other works can be considered whilst complying with relevant safety and traffic regulations; and*
- *The extent to which, in light of all the above, the adjustment of times at signal controlled junctions could meaningfully affect flows of traffic through the junction.*

As their output the junction appraisals will include:

- *The timing (i.e. which time of year) and routeing of works through the given junction and the timescales/phasing of those works (including explanation of how mitigation measures that have previously been set out have been considered);*
- *Any special construction measures that UKPN proposes such as off-peak working in exceptional circumstances;*
- *Relative timing of other works (which could include: works at the main REP site; or other third party works that UKPN is made aware of by the relevant authorities or through the London Works and NRSWA processes, which still apply; and how interaction has been minimised where practicable);*
- *Any flexibility that was reasonably available in the cable routeing and associated temporary traffic management and how that has been considered in the final proposed layout;*
- *The relationship that the detailed temporary traffic management proposals have with bus infrastructure and how they incorporate mitigation;*
- *Proposals for any additional community information regarding the final implementation – including advance notices on street;*
- *An appraisal of the current bus route interactions and frequencies on those routes and the expected interaction with the works at the above junction locations;*
- *An appraisal of vehicle trends from empirical data and the expected interaction during the works at the junction locations;*
- *Proposals for any further appraisal where this is proportionate and appropriate to the expected interaction at the junction, which may include:*

- *Local junction modelling; and*
- *Management of traffic through signal timings.”*

1.2.34 The Electrical Connection between REP and the sub-station at Littlebrook Power Station is essential associated infrastructure which is to be constructed under a Grid Connection Agreement with UKPN. UKPN is a Statutory Utility company governed by the Electricity Act 1989 and carries out works in the highway in accordance with the New Roads and Street Works Act 1991.

1.2.35 There is no entitlement to compensation if a business, including bus services, is affected by roadworks undertaken by statutory undertakers or the highway authority and the circumstances in this case are no different. Therefore, there could be no claim for compensation against the Applicant or UKPN. The Applicant has set out in the **Outline CTMP (6.3, Rev 5)** at section 6.2 that it will work with UKPN to define a method to minimise the potential effects on the road network of the construction of the Electrical Connection. As explained above, the Applicant has agreed to undertake targeted junction appraisals, with mitigation to be provided via the CTMP, if demonstrated to be required. That mitigation will be funded by the Applicant, but there is no justification for any additional compensation in relation to any temporary impact arising as a result of the Electrical Connection works to be undertaken by UKPN.

1.2.36 The Applicant has previously set out, in Paragraphs 1.2.34 and 1.2.35 of its Deadline 7 submission (**8.02.66, REP7-014**), why a Delivery and Servicing Plan (DSP) is unnecessary in light of the substantial reduction in HCV movements secured by **Requirement 14**, relative to the 100% by road scenario, and the low number of movements required for delivery of ancillary materials and servicing of the facilities.

1.2.37 Notwithstanding this, in the interests of demonstrating to LBB that there is an intent to explore efficiencies regarding road movements associated with the delivery of ancillary materials and servicing of the facilities, the Applicant confirms that it is willing to propose a Requirement in this regard to apply to non-waste movements (i.e. those not falling within Requirement 14). This will be included in the **dDCO (3.1, Rev 4)** of the Deadline 8a submission. The Applicant disagrees with LBB's proposed wording of such a Requirement in respect of a cap on non-waste vehicle movements and LBB has subsequently agreed that such a cap is not necessary. The wording of this requirement has been agreed with LBB.

1.2.38 As stated in **Paragraphs 1.2.236** of this response, an assessment of the effects arising from an exceptional jetty outage is before the Examining Authority to consider whether the operation of Requirement 14 is acceptable. The Applicant continues to disagree that such an exceptional occurrence should be included in the ES for the proposed **Requirement 14** to be considered valid. The **Supplementary Temporary Jetty Outage Review (8.02.86)** is submitted to the Examination which demonstrates that a jetty outage scenario would have Negligible effects on the Strategic Road Network

and would be judged to be Not significant. There is no justification for including the jetty outage scenario within the EIA.

1.2.39 At paragraph 2.26 of its submission LBB contest that “...*the construction impact assessments undertaken can also be used to justify the cumulative impacts of a jetty outage for REP and RRRF*”. The sensitivity analysis that was carried out at Appendix A of the original **Temporary Jetty Outage Review (8.02.31, REP3-036)** explored the quantity of traffic that could pass through the local junctions on Picardy Manorway. That analysis was carried out as part of a review of construction impacts but was provided in the technical note to illustrate the effect of that quantum of traffic, whether that be during a construction phase or (jetty outage) operational phase. The Applicant has now explicitly assessed the potential effect on HCV flows of a simultaneous jetty outage operation at REP and RRRF (including baseline flows which conservatively include observed RRRF operational movements) to represent a jetty outage scenario. This assessment is reported in the **Supplementary Temporary Jetty Outage Review (8.02.86)** submitted at Deadline 8. The analysis concludes that the effects of a simultaneous jetty outage scenario remain Negligible and therefore remain Not Significant.

1.2.40 In respect of LBB's comments on the assumption of a flat rate of delivery of waste, the Applicant reiterates that the peak movement level for normal operation falls well below the movements assumed in the 100% by road scenario, which was found to result in Negligible effects. There is therefore no basis for any concern in relation to the assumption of a flat profile. In respect of the jetty outage scenario, the assessment of potential network impacts has been carried out on the basis of the capped peak period movements, as secured by Requirement 14(3) of the **dDCO (3.1, Rev 4)**. This comprises a maximum of 30 HCVs in and 30 HCVs out delivering waste material between 07:30-09:00hrs and 16:30-18:00hrs – equivalent to a maximum of 20 HCVs in and 20 HCVs out from REP per hour in addition to the similar capped movement of HCVs delivering waste to RRRF occurring simultaneously. This assessment is set out in the **Supplementary Temporary Jetty Outage Review (8.02.86)** and shows that in the peak hours all junctions operate with at least 5% spare capacity. Outside of the peak hours all junctions would operate with more than 5% spare capacity. The peak hour assessment shows that the network, over a 24 hour period, could accept far in excess of the 300-in, 300-out per day constraint contained in **Requirement 24**.

Noise Matters

1.2.41 The Applicant notes the comments within the scoping report which refer to typical background noise level. As previously highlighted in **Paragraphs 1.2.11 to 1.2.113** of the **Applicant's Response to London Borough of Bexley's Deadline 4 Response (REP5-022)**, BS4142:2014 (the standard by which operational noise of this type would be assessed and refers to background noise levels) does not require longer term measurements, only that the background sound levels on which the assessment is based are judged to be representative. The surveys were undertaken over both a weekend and weekday which are considered to cover variations in traffic and

are therefore considered to be representative and typical. Furthermore, this is confirmed in a review of traffic information for the main road traffic source A2016 impacting on the receptors. The variation in the basic noise levels over a 24 hour period, based on traffic flow analysis, between any weekday is less than 0.2 dB which is not considered significant. The larger variation in traffic flows is between a weekday and weekend which has been covered in the baseline noise survey.

- 1.2.42 LBB comment that measurements over one night cannot be considered typical. However, measurements were undertaken over two nights as previously stated to cover a weekend and weekday.
- 1.2.43 The Applicant also re-iterates that LBB were consulted prior to the surveys being undertaken and approved of the methodology at that time.
- 1.2.44 The Applicant and LBB have both made detailed submissions in relation to the validity of baseline sound surveys over a number of deadlines. For the reasons given previously, including compliance with the relevant British Standard for such surveys, the Applicant is satisfied that the baseline sound surveys were not limited and are entirely adequate. It is also noted that the background sound levels surveyed were lower than those used as the basis for the RRRF noise restrictions, i.e. the REP assessment works on the basis of lower background levels with a 5dB penalty such that noise outputs are particularly conservative relative to the Environmental Health Officer's expectations for the Proposed Development.
- 1.2.45 The Applicant disputes LBB's position, set out in their paragraph 2.30, that pre-operational background surveys are required. The Applicant considers that the sound surveys are robust and assessed noise levels that are more than 5dB lower than those secured for comparable receptors for the RRRF scheme. The proposed **Requirement 19** within **dDCO (3.1, Rev 4)** (to be submitted at Deadline 8a), secures a monitoring scheme that will ensure that noise effects are in line with those assessed and reported in the EIA.
- 1.2.46 The Applicant welcomes LBB's acknowledgement of changes made to the Outline CoCP which embody and respond to requests made and matters raised previously by LBB in respect of night-time working and other measures.
- 1.2.47 The Applicant acknowledges that LBB have welcomed the addition of **Section 2.8.2** of the **Outline CoCP** (namely in respect of site presence, newsletter/notices and newsletters) as addressing their submission in this regard on night-time noise. Furthermore, LBB consider that daytime construction noise monitoring should not be necessary.
- 1.2.48 Save for the disputed matter relating to background noise surveys, the Applicant believes that LBB's submissions have been addressed on all noise related matters, including through having regard to LBB's standard guidance on operational noise (to be included in **Requirement 19** of the **dDCO (3.1, Rev 4)**, to be submitted at Deadline 8a)).

1.3 8.02.46 Applicant's Response to GLA's Deadline 4 Submission

Air Quality Matters

Long term health impacts of air pollution

- 1.3.1 LBB suggests that the Applicant should consider the evidence which supports GLA's contention regarding life-long risks due to exposure to airborne pollution, and specifically references the evidence pertaining to damage costs cited in Paragraphs 3.1 to 3.7 of the LBB Deadline 3 Submission (REP3-047). The Applicant has previously responded to these specific points in **Paragraphs 1.3.1 to 1.3.9** of the **Applicant's response to London Borough of Bexley Deadline 3 Submission (8.02.36, REP4-015)**. In this response, the Applicant explains in detail why the DEFRA "Damage Cost" guidance is not planning policy, is not supported by the NPSs and is not applicable to individual projects including REP. LBB has not presented any new evidence in its Deadline 7 submission. In any event, LBB and the Applicant have now concluded that a financial contribution towards funding ambient air quality will be secured via a Section 106 agreement, a draft of which will be submitted to the Examination as soon as possible.
- 1.3.2 If, by "*...the evidence which supports GLA's contention regarding these life-long risks*", LBB is referring to the material presented by GLA in Paragraphs 5.7 to 5.11 of its Deadline 4 Final Report (REP4-024), the GLA has offered one additional paper¹ in an attempt to support this position. The Applicant has responded to this in **Section 12.4** of the **Applicant's Response to the GLA Deadline 4 Submissions (8.02.46, REP5-017)**. In summary, the GLA criticises the Applicant for not referring to the paper in its **Post Hearing Note on Public Health and Evidence (8.02.27, REP3-033)** submitted at Deadline 3 (18 June 2019). The GLA paper was published at 00:01 on 21 June 2019 and it is unreasonable to expect the Applicant to include a reference to something which was published long after the submission deadline. As such, any criticism is unjustified.
- 1.3.3 The objective of the paper is "*..to conduct a national investigation into the risk of congenital anomalies in babies born to mothers living within 10 km of an MWI associated with: i) modelled concentrations of PM10 as a proxy for MWI emissions more generally and; ii) proximity of residential postcode to nearest MWI, in areas in England and Scotland that are covered by a congenital anomaly register*". Under objective (i), which relates congenital anomalies to modelled concentrations and so would be considered the more representative approach, the study found no association. Under objective (ii), there is a small excess risk, but the paper's authors note that this may be due to residual confounding.

¹ Parkes B, Hansell A.L., Ghosh R.E, Douglas P., Fecht D., Wellesley D., Kurinczuk J.J., Rankin J., de Hoogh K., Fuller G.W, Elliot P., and Toledano M.B. "Risk of congenital anomalies near municipal waste incinerators in England and Scotland: Retrospective population-based cohort study". Environment International (Parkes et al)

- 1.3.4 The researchers issued a statement² on the Imperial College website which takes account of the full body of work, not just this latest paper. This statement is included as **Appendix A** to the **Applicant's Response to the GLA Deadline 4 Submissions (8.02.46, REP5-017)** and aligns with Public Health England's view of public health impacts.
- 1.3.5 Therefore, contrary to the LBB's submission, the Applicant has considered the evidence presented by both the GLA and LBB, and found it to be either irrelevant or that it supports the position held by the Applicant, rather than undermining it. The GLA has presented no evidence to support the implication that REP would have adverse health effects. In making its submission, the GLA appears to have not considered the following:
- Public Health England's well-known statement RCE-13 "The Impact on Health of Emissions to Air from Municipal Waste Incinerators", quoted in the **Post Hearing Note on Public Health and Evidence (8.02.27, REP3-033)**;
 - the detailed air quality assessment, **Chapter 7 Air Quality** of the **ES (6.1, REP2-019)**;
 - the detailed health impact assessment, **Appendix K.1 Health Impact Assessment** of the **ES (6.3, APP-094)**; and
 - **Appendix C.3 Human Health Risk Assessment (HHRA)** of the **ES (6.3, REP2-040)**.
- 1.3.6 In addition, at Deadline 7, the Applicant submitted the **Applicant's response to Air Quality Matters (8.02.70, REP7-018)** and the **Anaerobic Digestion Facility Emissions Mitigation Note (Rev 1) (8.02.42, REP7-010)** which further consider and clarify air quality concerns.

Justification for ambient air quality monitoring

- 1.3.7 The need for ambient air quality monitoring is, in itself, not justified by policy in this case, and the normal approach of at-source monitoring through the Environmental Permit (EP) would ordinarily be considered entirely appropriate and sufficient. LBB and the Applicant have now concluded that the previous Requirement is not necessary given that a financial contribution towards funding ambient air quality in LBB has been agreed to be secured via a Section 106 agreement, a draft of which will be submitted to the Examination as soon as possible.

Waste Matters

- 1.3.8 LBB notes that the riparian Waste Transfer Stations (WTS) operated by the Applicant are subject to contractual arrangements with Local Councils and seeks clarification on "*whether the Applicant would still have access to these*

² <https://www.imperial.ac.uk/news/191653/major-study-finds-conclusive-links-health/>

sites and, if not, how they would ensure that river transport of waste will be maintained.” The WTS are secured through differing contractual arrangements, including lease arrangements or long-term contracts with local authorities. In the unlikely event that access to a WTS is no longer available, alternative sites along the river will be sourced.

- 1.3.9 LBB refer to the GLA's evolving position in respect of the acceptable tonnage of material that could be delivered by road, which changed from 200,000 tpa (for the ERF) to 65,500 tpa during the Examination. However, the Applicant and LBB have reached agreement on a cap of 130,000 tpa for the ERF and 40,000 tpa, as reported at the 2nd ISH on the dDCO. In response the GLA confirmed at the ISH that this would secure road use of less than 25% of the overall capped waste throughout, being below their original stipulation. TfL did not make any representation on this matter at the 2nd ISH on the dDCO and the Applicant is not aware of TfL having presented any reason why a 10% cap should be imposed, other than to align with the GLA's previous request.

Transport Matters

- 1.3.10 In respect of TfL's suggestion that local junction modelling may be required, the Applicant has responded on junction modelling matters generally in **Paragraph 1.2.23 – 1.2.40** above. The Applicant therefore proposes to adopt the LBB request for junction impact assessment through agreement to 'junction appraisal' and has inserted wording in the CTMP accordingly. The Applicant considers that this will adequately address the concerns of LBB in respect of exploring mitigation opportunities as UKPN's detailed traffic management and cable alignment proposals become available.

1.4 8.02.47 Applicant's Response to Chris Rose Deadline 4 Submission

- 1.4.1 The Applicant confirms that if, in accordance with **Paragraph 2.6.26** of the **Design Principles (7.4, APP-105)**, the final design allows green roofs and bio-solar roofs to be explored and implemented if viable, that these measures will be included in the final Biodiversity and Landscape Mitigation Strategy. This aligns with the request by LBB.

- 1.4.2 The Applicant notes that LBB welcome the additional mitigation measures for the proposed use of the 'Data Centre' site as part of the Main Temporary Construction Compound.

1.5 8.02.47 Applicant's Response to Friends of Crossness Nature Reserve (FOCNR) Deadline 4 Submission

- 1.5.1 The Applicant confirms that if the final design allows green roofs and bio-solar roofs to be explored and implemented if viable, that these measures will be included in the final Biodiversity and Landscape Mitigation Strategy (BLMS). Furthermore, should such works be unfeasible, the Applicant confirms that such reasoning will be provided in the final BLMS, being the appropriate place to explain such a design decision.

- 1.5.2 The Applicant notes that LBB welcome the additional mitigation measures for the proposed use of the 'Data Centre' site as part of the Main Temporary Construction Compound.
- 1.5.3 The Applicant notes that LBB welcome the inclusion of Crossness Local Nature Reserve in the biodiversity offset site search and that additional enhancement to the Reserve will be considered at detailed design stage.

1.6 8.02.53 Update on Environment Bank Site Selection Process

- 1.6.1 An update on the Environment Bank process was provided in the **Site Selection for Biodiversity Offsetting Report (8.02.71, REP7-019)**, which includes sites identified during the preliminary site search which provide potential offsetting opportunities. A summary of the sites is included in **Table 4.3 Site Selection for Biodiversity Offsetting Report (8.02.71, REP7-019)** and the locations of these sites are illustrated in **Figure 7.1 Site Selection for Biodiversity Offsetting (8.02.71, REP7-019)**. A total of 14 sites in London Borough of Bexley, Royal Borough of Greenwich, London Borough of Bromley and London Borough of Barking and Dagenham are presented, with 9 sites being wholly or partly within Bexley.
- 1.6.2 Further to the next steps presented within the report, the Applicant has committed to further investigation of the potential offset sites in advance of the detailed design stage of the Proposed Development, to enable a more comprehensive and detailed review of the scale, quality and location of the offset package, to be provided to the Secretary of State later this year.
- 1.6.3 For a compensation scheme of a maximum of 54.39 biodiversity units, it is currently estimated that a biodiversity offset scheme of up to 12.5 hectares (ha) would be required.
- 1.6.4 As stated at Deadline 7, it is agreed between the Applicant and LBB, that LBB is the target borough for the biodiversity offset. **Paragraph 5.1.2** of the **Site Selection for Biodiversity Offsetting Report (REP7-019)** states that:

"A total of nine potential offset sites (including one site spanning LBB and Greenwich) have been identified within LBB. These sites cumulatively comprise 78.22 ha with potential for habitat enhancement works within LBB. This far exceeds the total ha required (which is currently estimated to be between 8.2 – 11.3 ha [in the realistic best case scenario, and 12.5 ha in the realistic worst case scenario as presented in the site selection report]) to compensate the Proposed Development".

- 1.6.5 **Paragraph 5.1.5** of the **Site Selection for Biodiversity Offsetting Report (REP7-019)** further states that:

"The offset search identified sites or projects that could cumulatively provide up to an estimated area of 114.62 ha, with opportunities for habitat enhancements. It is acknowledged that not all land in each site will be suitable as offset and provide an uplift in biodiversity value. The area available will

therefore be further refined as detailed assessment is carried out and the number of biodiversity unit uplift calculated.”

- 1.6.6 The final offset would be determined upon site baseline, achievable targets and management proposals.
- 1.6.7 The outcomes of this report clearly demonstrate that it will be possible for a site, or sites, within LBB to provide the required quantum and quality for the biodiversity offsetting for the Proposed Development. Therefore, there is the ability to provide delivery of the off-set within LBB, as preferred by the Council.
- 1.6.8 As stated in the **Applicant's response to the ExA's Rule 17 letter (REP7a-004)**, at a meeting between the Applicant, Environment Bank and LBB on 9 September 2019, 5 preferred sites in LBB ownership were identified for further assessment, including an additional candidate site identified by LBB during the meeting (Appendix A provides information on Site 15). These sites will be subject to more detailed site surveys in September/early October 2019 to provide further detail on the existing baseline conditions, target habitat opportunities and biodiversity accounting calculations of achievable biodiversity gains.
- 1.6.9 Given the positive and direct discussions with LBB, the Applicant considers that the identification of available and suitable sites is significantly progressed beyond the initial site search stage and that these are highly likely to be located entirely within LBB. This firm expectation is to be confirmed through a legal agreement between the Applicant and LBB, to be secured before the end of 2019.
- 1.6.10 The Applicant disagrees with LBB that full offset compensation should be provided in advance of the loss of biodiversity value. The Applicant has previously responded at Deadline 7 on this matter as follows:

“The final Biodiversity and Landscape Mitigation Strategy will be prepared prior to commencement of the Proposed Development and will include the final results of a Biodiversity Accounting Assessment which will confirm the value of the required offset, net gain requirements, and location and details of the offset; with a preference to deliver the biodiversity creation or enhancements in the local area, targeting the enhancement and restoration of Habitats of Principal Importance. The Applicant has also committed to delivering a minimum of 10% biodiversity net gain. A legal agreement between the Applicant and Environment Bank will then be entered into requiring Environment Bank to secure and deliver the offset. The Applicant considers that this timeframe for delivering the offset is appropriate, and the legal mechanisms are in place to ensure its delivery. It would be unreasonable and unrealistic, given the time for habitats to mature and evolve, for the required habitat compensation to be in place and established prior to commencement of the proposed works”.

- 1.6.11 The issues around risk of delivery of habitats and temporal factors were also discussed at the meeting with LBB on 9 September 2019. A discussion took

place on how delivery risk was accounted for within the biodiversity metric. Initial information on risk is provided in section **2.2 of the Biodiversity Accounting report (reference 8.02.09)**. In summary:

- the Defra biodiversity metric, as standard, accounts for delivery risk of habitat creation and restoration. These take the form of risk factors, which when applied to the assessed biodiversity uplift potential of a parcel of land, reduce the achievable units when there is any risk. Thereby increasing the number of hectares of land that will be required in compensation. Risk factors take 2 forms;
- difficulty in restoration/creation - "to protect against situations where habitats that are created, enhanced or restored fail to adequately compensate for the lost biodiversity" despite appropriate site assessment and management plans, monitoring and management adaptation. Meaning that the target condition may not be fully reached across the site; and
- time to target condition - "to compensate for temporal losses of biodiversity (e.g. where there is a period of diminished biodiversity between the point in time when a habitat is impacted and it is replaced by habitat of equivalent biodiversity value)." This means that the delay between the time of impact and the time target condition of the associated compensation is attained.

1.6.12 The use of risk factors does not replace the need for diligent site assessment and consideration of appropriate target habitats and management practices. LBB will have the opportunity to review and comment on all habitat and condition targets, risk factors and management plans for the proposed offset prior to its commencement.

1.6.13 The Applicant has provided two worked examples in the **Applicant's Response to the London Borough of Bexley's Deadline 7a Submission (REP7a-006)** which has also been submitted at Deadline 8. It should further be noted that **Requirement 5** of the **dDCO (3.1, Rev 4)** (to be submitted at Deadline 8a) will reflect specific mention of temporal lag.

1.7 8.02.56 REP and RRRF Application Boundaries Plan

1.7.1 This matter was addressed the second Issue Specific Hearing (ISH) on the dDCO (held on 19th September 2019), where it was explained that the Applicant cannot accept LBB's request of narrowing down the land over which there may be an inconsistency between the existing RRRF plant and the Proposed Development to only the open mosaic habitat. This is because there is the potential for an inconsistency not only on the open mosaic habitat, but also on the RRRF ash container storage area, amenity landscaping area of RRRF and internal access roads.

1.7.2 Therefore, the land coloured brown on the REP and RRRF Application Boundaries Plan will remain the same and the definition in article 2 will not

change. However, the updated **dDCO (3.1, Rev 4)** to be submitted at Deadline 8a will clarify, in article 6(4), that any inconsistency is limited to the land coloured brown on the REP and RRRF Application Boundaries Plan and to three conditions on the RRRF planning permission, being RRRF condition 1 (approved plans), RRRF condition 22 (ecological protection and management plan) and RRRF condition 32 (scheme of restoration). RRRF Condition 32 will be incorporated into article 6(4) as clearly the scheme of restoration cannot apply to the area of inconsistency, which instead will be covered by the decommissioning plan for the Proposed Development. In addition, the Applicant has confirmed that it would accept LBB's request that no land be removed from the RRRF planning permission or the RRRF section 36 consent and as such paragraph 1 of Schedule 14 of the dDCO will be deleted.

1.7.3 The Applicant has clarified previously that **Requirement 14(4)** in the **dDCO (3.1, REP5-003)** requires that all incinerator bottom ash (IBA) is removed by river except in a jetty outage. The Applicant has also confirmed that the ash storage area at RRRF has never been used for that purpose and that sufficient storage exists within RRRF (and will also do so in the REP ERF) such that an area is not required. This is because the facility can provide more ash storage than is required before the jetty outage provision would apply (being 4 days). Such a jetty outage has never occurred at RRRF and the ash storage area has never been utilised. Although the LBB advise that they consider that an ash storage area will facilitate all bottom ash being transported by river, this is already the case for normal operation. The majority of waste ERFs do not have such an ash storage facility and use of the land within the REP site should be for the most efficient purposes to support waste energy recovery. Provision of an unused ash storage area would be an unnecessary and detrimental use of land required to support the efficient operation of REP. This matter was further discussed at the second ISH on the dDCO.

1.8 6.3 – ES Appendix L To B.1 Outline Construction Transport Management Plan (CTMP) (Rev 3) (With Tracked Changes)

1.8.1 The Applicant has addressed matters in respect of bus interaction at **Section 1.2** above. The Applicant has accepted the principle of LBB's request through the provision within the final CTMP(s) for the preparation of junction appraisals.

1.8.2 Notwithstanding the above, the Applicant considers that it would be disproportionate to seek local junction modelling for the reasons set out in **Section 1.2** above. Whilst it is agreed that 'proportionate' is not defined, the Applicant considers that the preparation of junction appraisals would provide parties with the opportunity for a reasonable discussion to take place around the relevance and appropriateness of junction modelling, once full details of the proposed traffic management layout are known. The reasonable interpretation of 'proportionate' would be in the hands of LBB as the approving authority under **Requirement 13 (1)** of the **dDCO (3.1, Rev 4)**, as to whether a more 'efficient' layout could or should be explored by the Applicant once the final cable alignment is known.

1.8.3 The detailed method of construction for the Electrical Connection will be set out within the final CTMPs which are secured by **Requirement 13** of the **dDCO (3.1, Rev 4)**. These details will include the final proposed location of the cable route and the programme for its construction and how that process will be managed to minimise the effects on the network, including local bus services. Due to the selection of the A2016/A206 dual-carriageway corridor, it is not anticipated that the street works will require temporary traffic signals unless agreed with LBB and TfL for local junction crossings. At the point where the construction details and programme are agreed within the final CTMPs, LBB and TfL will be able to inform the decisions regarding potential off-peak construction works, through the secured junction appraisals, which could further minimise the effects on the network.

1.9 7.5 Outline Code of Construction Practice (COCP) (Rev 3) (With Tracked Changes)

Air Quality Matters

1.9.1 As set out in **Section 1.2**, the Applicant agrees with LBB that the IAQM measures that are proposed must be relevant and therefore agrees to the proposed wording. The **Outline Code of Construction Practice (CoCP)** has therefore been updated accordingly at **Paragraph 4.3.2** for Deadline 8 (**7.5, Rev 4**).

1.9.2 The Applicant introduced the reference to the use of sheeting to prevent dust generation from stockpiles in response to a request from LBB to ensure that this matter is covered specifically in the dDCO. The Applicant does not consider it appropriate to state that dusty materials should be sheeted during use since this is not practical: materials that are being used, i.e. excavated or placed, cannot be sheeted while that activity is occurring. Dust generation onsite from such works will be adequately controlled through measures such as damping down during dry conditions. To explicitly reflect this, the Applicant has amended Paragraph 4.3.2 of the Outline CoCP to read “...*key measures include wheel washing, damping down of stockpiles (and other dust-generating works where practicable), during dry and windy conditions, and sheeting materials to prevent dust migration (as part of stockpile management and offsite transportation of dusty materials)*”.

1.9.3 The Applicant agrees with LBB's correction to Paragraph 4.9.4 of the **Outline CoCP** to refer to “measures” and this has been addressed accordingly in Revision 4 of the document submitted at Deadline 8.

Transport Matters

1.9.4 The Applicant has agreed in **Section 1.2** of this response that it will include provision for a DSP in the form explained above, as set out in **Requirement 31** of the **dDCO (3.1, Rev 4)**. However, the Applicant disagrees with the proposed wording, for the reasons set out in the **Applicant's response to comments on the draft Development Consent Order from Deadline 7, 7A and 8** (to be submitted at Deadline 8a) and has subsequently reached

agreement with LBB that a cap on non-waste movements in the DSP is not required.

- 1.9.5 The Applicant considers that use of an average figure within the assessment of likely effects on the network during the network peak period and under both the nominal and reasonable worst-case scenario operations at REP is an appropriate approximation. The analysis concludes, in **Chapter 6 Transport** of the **ES (6.1, REP2-018)**, that the effects under both scenarios would be Negligible which is Not Significant. Projected traffic flows are such that a peaked profile for vehicle movements, within the proposed cap as secured by Requirement 14 (2) of the dDCO, would not change the conclusion reported in the ES.

Noise Matters

- 1.9.6 The Applicant welcomes LBB's confirmation that the measures included in the **Outline CoCP (Rev 3)** are adequate to address their previous submissions in relation to night time noise effects.
- 1.9.7 The Applicant also notes LBB's confirmation that the measures included in the **Outline CoCP (Rev 3)**, as requested by LBB, are welcomed and understands that these matters are now resolved.
- 1.9.8 The Applicant would undertake monitoring of construction noise levels to confirm that levels conform to the assessment. This is set out explicitly through an update to **Section 2.9** of the **Outline CoCP (Rev 4)** as requested by LBB.

1.10 8.02.55 Pre-Commencement Plan

- 1.10.1 The Applicant notes that LBB welcome the restriction (through the Pre-Commencement Plan) of the areas for pre-commencement works to existing areas of hardstanding of negligible biodiversity importance. This resolves LBB's concerns in respect of this matter.

1.11 LB Havering's – Response to the Examination Authority's Further Written Questions

Impacts due to emissions of nickel

- 1.11.1 The number of properties and further information on the reasons behind the assessment of significance was provided in the **Applicants response to air quality matters submitted at Deadline 7 (8.02.70, REP7-018)**. For the reasons set out in Paragraphs 1.7.7 to 1.7.11 of that response, the impacts relating to nickel are not considered to be significant.

1.12 8.02.60 Applicant's Response to the Examination Authority's Second Written Questions

Waste Matters

1.12.1 LBB notes that the riparian WTS operated by the Applicant are subject to contractual arrangements with Local Councils and seeks clarification on 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. As set out above, the WTS are secured through differing contractual arrangements, including lease arrangements or long-term contracts with local authorities. In the unlikely event that access to a WTS is no longer available, alternative sites along the river will be sourced.

1.12.2 Whilst the central London wharves are currently focussed on serving local authority waste needs, there is a substantial need for treatment of Commercial and Industrial waste which can be accommodated within their consented throughputs. It should be noted that the Applicant also has 75,000 tpa of permitted capacity at Tilbury which is currently not operational. This need is as set out in the **LWSA (Annex A to The Project and its Benefits Report, 7.2, APP-103)**.

Biodiversity Matters

1.12.3 The Applicant's commitment to ensure that the offset sites are funded for 25 years is included in the **dDCO (3.1, Rev 4)** to be submitted at Deadline 8a and LBB's support for this clarification is welcomed. In respect of both LBB's comments and the Applicant's response on the offset metric generally, this is addressed in **Section 1.6** of this response.

Transport Matters

1.12.4 The Applicant has addressed matters relating to separate waste throughput caps and traffic movements by road during normal operation, or a jetty outage, in **Section 1.2** of this response.

1.13 Outline Biodiversity Landscape Mitigation Plan (OBLMS) (Rev 2) (with Tracked Changes)

1.13.1 With reference to paragraph 5.1.9 of the **Outline Biodiversity Landscape Mitigation Plan (OBLMS) (Rev 2) (with Tracked Changes)**, LBB express concern that it should be able to agree the final location of the offset provision and reiterate a desire to secure the offset sites within LBB.

1.13.2 The Applicant has explained progress with regards to the identification of potential sites for offsetting in the **Site Selection for Biodiversity Offsetting Report (8.02.71)**. The offset site search has identified ten potential offset sites within the LBB (including the new site identified by LBB during the 9 September 2019 meeting). Whilst the final location of the offset sites has yet to be determined, all preferred sites are within the administrative area of LBB,

thereby ensuring no net loss of biodiversity from the borough overall. In addition, all sites proposed in the **Site Selection for Biodiversity Offsetting Report (8.02.71)** have been selected as they provide physical connectivity to the network of strategic green wildlife corridors within the borough or support wider nature conservation objectives for priority sites, habitats and/or species within LBB.

- 1.13.3 Prior to the detailed design stage, further assessment of the preferred sites will be used to inform production of outline management plans and biodiversity enhancement calculations for each site, confirming the potential habitat and biodiversity target available at each location. These results will be submitted to LBB to inform the selection of the final offset package which will consider offset location, with respect to proximity to the development and habitat connectivity, and available habitats targets that offer like-for-like compensation for residual habitat impacts from the Proposed Development or enhancement of locally targeted priority habitats.
- 1.13.4 Following the detailed design stage, the impact and compensation requirement of the development will be reassessed and confirmed. Final surveys of the offset package will be undertaken, and the management plans and delivery agreements finalised.
- 1.13.5 For clarity, the above commitment has been added into the **Outline Biodiversity and Landscape Management Strategy (7.6, Rev 4)** which is submitted at **Deadline 8**. This commitment is also already secured through **Requirement 5 (1)** of the **dDCO (3.1, REP5-003)** which requires the final BLMS to be submitted to and approved by the relevant planning authority, and will include the results of the final biodiversity off-setting metric together with the offsetting value and nature of such offsetting.
- 1.13.6 With reference to Paragraphs 5.2.4 – 5.2.7 of the OBLMS, LBB express concern that the risk factors applied in the metric do not take account of the time-lag between habitat impacts and the attainment of equivalent habitat value within the offset land.
- 1.13.7 As set out in **Section 1.6** above, delivery risk and temporal factors are accounted for in the biodiversity metric calculations. The Applicant has provided two worked examples in its response to the LBB's Deadline 7a Submission (**REP7a-006**) which has also been submitted at Deadline 8. It should further be noted that **Requirement 5** of the **dDCO (3.1, Rev 4)** (to be submitted at Deadline 8a) will include specific mention of temporal lag.