

Riverside Energy Park

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

VOLUME NUMBER:

08

PLANNING INSPECTORATE REFERENCE NUMBER:

EN010093

DOCUMENT REFERENCE:

8.02.84

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 London Borough of Bexley's Deadline 7A Submission.....	2
1.1	Introduction.....	2
1.2	Biodiversity Matters	2
1.3	Conclusion.....	4

Appendices

Appendix A	Guidance on application of risk factors within the biodiversity metric	5
------------	------------------------------------------------------------------------------	---

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

1.1 Introduction

1.1.1 The Examining Authority (ExA) issued a Rule 17 letter on 30th August 2019 requesting further information be provided by the Applicant and a number of Interest Parties including the London Borough of Bexley (LBB).

1.1.2 LBB submitted a response to the further information request in the Rule 17 letter at Deadline 7a (**REP7a-006**), relating to Biodiversity matters. This document provides the Applicant's response to LBB's Deadline 7a submission.

1.2 Biodiversity Matters

1.2.1 LBB were specifically asked to comment on "*whether in the absence of further certainty on biodiversity off-setting provided during the course of the Examination it considers that there would be a significant adverse effect in terms of biodiversity and if so whether this would be outweighed by the benefits of the proposed development*".

1.2.2 The Applicant was also requested to provide further information in the Rule 17 letter, which it did so in the **Applicant's response to the ExA's Rule 17 Letter on 30 August 2019** submitted at Deadline 7a (**REP7a-003**).

1.2.3 In its response the Applicant set out, and made clear for the ExA, that the mechanism through which the compensation is secured (through **Requirement 5** of the DCO), together with the evidence submitted by the Applicant, provides certainty in the delivery of appropriate compensation (together with a minimum of 10% net gain) for biodiversity such that a conclusion of no significant effects on habitats can be made (as stated in the Environmental Statement (ES)).

1.2.4 LBB set out at paragraph 2.1 of its Deadline 7a submission (**REP7a-006**) its concerns remaining at Deadline 7 with regards to biodiversity matters. The Applicant has responded to each of these points in **The Applicant's Response to London Borough of Bexley's Deadline 7 Submission (8.02.80)** submitted alongside this document at Deadline 8.

1.2.5 The Applicant agrees with and welcomes LBB's confirmation that the meeting held on 9th September 2019 was positive. The Applicant notes the comments made by LBB in relation to DCO **Requirement 5** of Schedule 2 to the **dDCO (Rev 3 REP5-003)**.

1.2.6 Consequently, the Applicant re-confirms that it has committed to making amendments to the **Outline Biodiversity and Landscape Mitigation**

Strategy (OBLMS) which are reflected in Revision 4 submitted at Deadline 8. These updates include the following:

- An acknowledgement of LBB's preferred site selection criteria;
- A commitment that the Applicant will provide offset compensation solely within the LBB provided suitable and sufficient land is made available; and
- A commitment that the Applicant will carry on working closely with LBB on the site selection process (having identified 15 potential sites, the majority of which are in LBB), including working towards the provision of a legal commitment between the Applicant and LBB as soon as practicable to provide the offset compensation within LBB (provided suitable and sufficient land remains available).

1.2.7 In addition, LBB has proposed changes to **Requirement 5** of Schedule 2 to the **dDCO (REP7a-003)** in its Deadline 7a response. **Requirement 5** requires the Applicant to submit to the relevant planning authority for approval the final Biodiversity Landscape and Mitigation Strategy. LBB's proposed amendments cover:

- securing a minimum of 10% biodiversity net gain;
- evidence that prioritisation of sites for off-set delivery within the LBB has been followed; and
- that the biodiversity metric value takes into account temporal risk.

1.2.8 The Applicant has updated **Requirement 5** to include these points, which will be included in the **dDCO (3.1, Rev 4)** to be submitted at Deadline 8a.

1.2.9 **Requirement 5** of Schedule 2 to the **dDCO (3.1, Rev 4)** to be submitted at Deadline 8a prevents the Applicant from commencing construction of any part of the Proposed Development until the final Biodiversity Landscape and Mitigation Strategy has been approved by LBB. This ultimately provides the "lock", ensuring delivery of the site or sites that will host the biodiversity compensation, and net gain. The Applicant has already made progress in delivering on this Requirement, by identifying 14 sites in its **Environment Bank Site Selection for Biodiversity Offsetting Report (REP7-019)** that could provide the compensation (with a 15th site being identified in the meeting with LBB on the 9th September 2019). The Applicant understands that LBB are now content with both the progress of the site selection process and the drafting of **Requirement 5** as set out above.

1.2.10 It is welcomed by the Applicant that LBB acknowledge that the addition of the above points to the OBLMS and the updates to the Requirement would alleviate LBB's concerns regarding the development creating net biodiversity losses in the borough.

- 1.2.11 LBB's comments in paragraphs 2.8 and 2.9 of its Deadline 7a submission revolve around concerns that the offset assessment might not account for temporal risk factors. Temporal risk relates to the time lag between biodiversity impact occurring, to compensation land reaching its target condition. The biodiversity metric process accounts for risk factors, including temporal risk, within its calculations by addressing the time lag from the time of impact on the habitat to the time that the target value is attained at the offset, allowing for temporary diminished biodiversity value during the intervening period.
- 1.2.12 The Applicant confirms that the temporal factors, which are always accounted for in the calculations for the biodiversity offsets proposals, will account for the temporal delay between the time of impact at the development site to the attainment of target condition of each offset habitat parcel. Further information on temporal factors and a worked example are included in **Appendix A** to this response. The Applicant confirms that Table 1 and other relevant sections of the **OBLMS** are updated in Revision 4 of that document, submitted at Deadline 8 (**7.6, Rev 4**), to provide further clarity on the temporal factors.
- 1.2.13 On the basis of the above amendments to the OBLMS and the dDCO, the Applicant understands that LBB's position is such that there would be no significant adverse effects on biodiversity as LBB would consider that any significant adverse impact would be "appropriately mitigated".

1.3 Conclusion

- 1.3.1 The Applicant notes the closing comments made by LBB at paragraphs 3.1 – 3.2 of its Deadline 7a submission (**REP7a-006**), in particular that it highlights that the significant adverse impact at the local level would be appropriately mitigated if the proposed changes to **Requirement 5** of the **dDCO** and accompanying changes to the OBLMS were incorporated, together with continued progression towards a legal commitment between the Applicant and LBB as soon as practicable to provide the offset compensation within LBB.
- 1.3.2 The Applicant can confirm that **Requirement 5** of the **dDCO** has been updated to incorporate the points requested by LBB, which will be reflected in Revision 4 to be submitted at Deadline 8a.
- 1.3.3 It should be noted that LBB and the Applicant are nearing finalisation of a Statement of Common Ground (SOCG) between the parties, which the Applicant aims to submit 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.

Appendix A Guidance on application of risk factors within the biodiversity metric

A.1.1 The Defra biodiversity metric (2012¹), as standard, accounts for delivery risk of habitat creation and restoration both onsite at the development and offsite at a biodiversity offset. 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, dependant on the scale of risk. By reducing the potential unit value of compensation this effectively increases the total area of compensation land that will be required (equating to additional funds in the final offset package).

A.1.2 Risk factors take 2 forms:

- Difficulty in restoration/creation – Addresses the difficulty in creating or restoring each habitat, to account for the fact that not all areas of land may attain the desired habitat target value, despite appropriate site assessment and management plan design, monitoring and management adaptation. See **Table A1** below for Difficulty factors.
- Time to target condition – Addresses the time lag from the time of impact on the habitat to the time that the target value is attained at the offset, allowing for temporary diminished biodiversity value during the intervening period. Estimated time to target condition is rounded up to the relevant temporal category. See **Table A2** below for Time to target factors. The Time to target factor is applied based on 5 year increments, meaning that even if a lag of only 1 year is anticipated, a 5 year temporal factor is applied.

A.1.3 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.

Table A1. Factors for different categories of delivery difficulty risk

Difficulty creation/restoration	of	Factor
Low		1.0
Medium		1.5
High		3.0
Very high		10.0

¹ <https://www.gov.uk/government/publications/technical-paper-the-metric-for-the-biodiversity-offsetting-pilot-in-england>

Table A2. Factors for different categories of delivery temporal risk

Years to target condition	Factor
5	1.2
10	1.4
15	1.7
20	2.0
25	2.4
30	2.8
32+	3.0

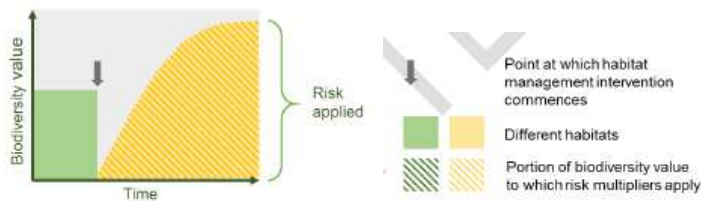
Risk factor application: worked example

A.1.4 Here follow 2 examples of how habitat risk is applied. These illustrate how the calculation works within the metric and its effect on the biodiversity offset value generated.

A.1.5 Risk factors are applied in different ways dependant on the scenario of restoration or creation.

Habitat creation

Creation of habitat at a development site, for example, will result in habitat loss prior to habitat creation. Therefore, the risk is applied to the whole of the target value of the habitat.



Biodiversity compensation score = (Target value / Risk factors) – Base value

=

$$\frac{(Area \times Target \ distinctiveness \times Target \ condition)}{(Difficulty \ Risk \ factor \times Time \ lag \ Risk \ factor)} - (Area \times Base \ distinctiveness \times Base \ condition)$$

For example: 1ha site

Base habitat scores: Low distinctiveness (2), Poor condition (1).

Target scores: Medium distinctiveness (4), Good condition (3)

Risk factors: Low difficulty (1.0), 10 years to target condition (1.4)

Target value / Risk Factors =

$$\frac{(1 \times 4 \times 3)}{(1.0 \times 1.4)}$$

= 12 / 1.4 = 8.57 biodiversity units

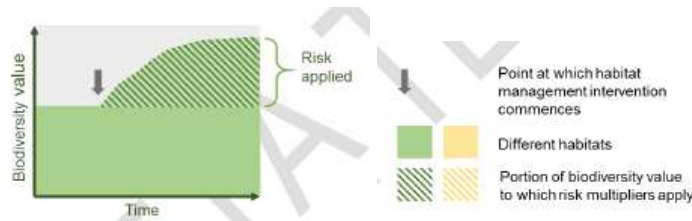
Base value = 1 x 2 x 1 = 2 biodiversity units

Therefore compensation value = 8.57 – 2 = 6.57 biodiversity units

Without the application of risk factors, which in this example comes entirely from the Time lag Risk factor, this habitat would have scored 10, being 12 (Target) -2 (Base). Therefore, in this example, the application of the Time lag (temporal) risk factor means that the offset site contribution is reduced to 65.7% of what it would otherwise have been. Therefore the wider biodiversity contribution would be increased.

Habitat restoration

Restoration of an existing habitat causes no loss of existing habitat value and therefore the risk is only applied to the uplift.



Biodiversity compensation score = (Target value – Base value) / Risk factors

$$\frac{(Area \times Target \ distinctiveness \times Target \ condition) - (Area \times Base \ distinctiveness \times Base \ condition)}{(Difficulty \ Risk \ factor \times Time \ lag \ Risk \ factor)}$$

For example: 1ha site

Base habitat value: Medium distinctiveness (4), Poor condition (1).

Target value: Medium distinctiveness (4), Good condition (3)

Risk factors: Low difficulty (1.5), 10 years to target condition (1.4)

Target value = 1 x 4 x 3 = 12

Base value = 1 x 4 x 1 = 4

Risk Factors = 1.5 x 1.4 = 2.1

(Target value – Base value) / Risk factors =

$$\frac{12 - 4}{2.1}$$

= Compensation value of 3.81 biodiversity units

A.1.6 Without the application of risk factors, this habitat would have scored 8, being 12 (Target) – 4 (Base). Therefore, in this example, the application of the Difficulty and Time lag (temporal) risk factors means that the offset site contribution is reduced to 67% of what it would otherwise have been. Therefore the wider biodiversity contribution would be increased.