

Riverside Energy Park

Applicant's response to London Borough of Bexley's Deadline 8 and Deadline 8A Submissions

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1 Applicant's Response to London Borough of Bexley's Deadline 8 and Deadline 8a Submissions

1.1 Introduction

- 1.1.1 London Borough of Bexley (LBB) submitted a response to the Examining Authority's request for 'Comments on any additional information/submissions received by the previous deadline' at Deadline 8 (REP8-033). This document provides the Applicant's response to LBBs Deadline 8 and Deadline 8a (**REP8a-023**) submissions.
- 1.1.2 The Applicant and LBB have now concluded discussions regarding the Proposed Development and a signed and agreed Statement of Common Ground (SOCG) between the parties has been submitted alongside this document at Deadline 8b (**Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**).
- 1.1.3 The Applicant has therefore responded to LBB's Deadline 8 submission by way of cross referencing to the final **draft Development Consent Order (dDCO) (3.1, Rev 5)**, submitted at Deadline 8b, and the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**.
- 1.1.4 LBB also submitted a **Written summary of oral submissions put at the Draft Development Consent Order (DCO) Hearing (ISH3)** on 19 September 2019 at Deadline 8 (**REP8-034**). The Applicant has not responded separately to each matter summarised within that document as these matters have been superseded or addressed by the revised **dDCO (3.1, Rev 5)**, submitted at Deadline 8b, the **Applicant's Response to London Borough of Bexley's comments on the draft Development Consent Order from Deadline 7 (8.02.90, REP8a-018)** and the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)** submitted alongside this document at Deadline 8b.

1.2 London Borough of Bexley Deadline 8a Submission

- 1.2.1 The Applicant welcomes the positive comments from LBB and can confirm that the amendments have been incorporated into the following documents (where applicable) and were submitted at Deadline 8a:
- ES Appendix L to B.1 Outline Construction Traffic Management Plan (**REP8a-010**);
 - Outline Operational Worker Travel Plan (**REP8a-012**); and

- Draft DCO, in particular, further amendments to Schedule 2 requirements 2, 13, 14, 16, 19, 24, 25 and 31 (**3.1, Rev 5**).

1.2.2 As stated in the LBB Deadline 8a Submission, the Applicant and LBB have made significant progress on a number of matters and a signed Statement of Common Ground is submitted alongside this document at Deadline 8b (**Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**). Furthermore, a draft Section 106 Agreement which covers matters relating to ambient air quality monitoring and decommissioning is also submitted at Deadline 8b (**S.106 Agreement (Final draft, not signed) 8.02.93**).

1.3 8.02.66 Applicant's Response to LBB Deadline 5 Submission

Air Quality Matters

Cap on Waste Throughput

- 1.3.1 At the Issue Specific Hearing on the DCO on 19 September 2019 the Applicant committed to including separate maximum waste throughput levels for both the proposed Energy Recovery Facility (ERF) and the proposed Anaerobic Digestion facility.
- 1.3.2 This change is included in **Requirement 32** of the **dDCO (3.1, Rev 5)** submitted at Deadline 8b. The Applicant understands that the points raised at **Paragraphs 2.1-2.6** do not apply with the inclusion of this Requirement.
- 1.3.3 The Applicant notes that LBB welcomes this inclusion and the wording of **Requirement 32** has since been agreed in **Paragraph 2.1.9** and **2.12.3** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**.

Construction Dust

- 1.3.4 The Applicant notes the comments made by LBB in relation to control of construction dust. This is dealt with in detail in **Section 1.5** below.

Waste Matters

- 1.3.5 As requested by LBB, the Applicant has included separate maximum waste caps in **Requirement 32** of the **dDCO (3.1, Rev 5)**, submitted at Deadline 8b, for the tonnage of waste to be processed at both the ERF and Anaerobic Digestion elements of REP. This has been agreed by LBB in **Paragraph 2.1.9** and **2.12.3** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**. The Applicant understands that the points raised at **Paragraphs 2.8-2.11** do not apply with the inclusion of this Requirement.
- 1.3.6 LBB confirms that, on the basis of the tonnage caps being included in the dDCO, there is no need for **Requirements 15** and **16** of the **dDCO (3.1, Rev 5)**, submitted at Deadline 8b. The Applicant has therefore removed

Requirement 15 (Emissions Limits – Work No. 1A) which is reflected in the **dDCO (3.1, Rev 5)**, submitted at Deadline 8b. However, **Requirement 16** (now **Requirement 15**) (Emission limits – Work Number 1B) has been retained and amended to reflect the commitment to further mitigate by way of abatement technology applied to the Anaerobic Digestion facility (see the **Applicant's Response to London Borough of Bexley's comments on the draft Development Consent Order from Deadline 7 (8.02.90, REP8a-018)**). As set out in the Applicant's **Written summary of oral submissions from Issue Specific Hearing 3 (ISH3) on the draft Development Consent Order (DCO) (8.02.77, REP8-018)**, **Requirement 16** (now **15**) is retained to ensure that NOx levels from the Anaerobic Digestion facility align with those set out in the **Anaerobic Digestion Facility Emissions Mitigation Note (8.02.42, REP7-010)** which are reduced below permitted limits in the Medium Combustion Plant Directive. However, the existing Requirement 15 (now removed) is not required since NOx levels assessed for the ERF in the Environmental Statement (ES) are the same as the maximum that will be applied in law by the Waste Incineration BREF through the Environmental Permitting (England and Wales) Regulations 2016.

- 1.3.7 The LBB confirms that, on the basis of the inclusion of the tonnage cap, it has no further concerns relating to the drafting of **Requirement 25** (Phasing of construction and commissioning of Work No. 1) (now **Requirement 23** in the **dDCO (3.1, Rev 5)** submitted at Deadline 8b)).
- 1.3.8 Amendments relating to waste composition audits in respect of **Requirement 16** of the **dDCO (3.1, Rev 5)**, submitted at Deadline 8b, are confirmed as agreed in **Paragraph 2.1.5-2.1.6** and **2.12.3** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**. **Paragraph 2.1.5** of the SOCG confirms LBB's agreement that the controls in the aforementioned Requirement will ensure that only residual waste is treated in the ERF, in accordance with the waste hierarchy. **Requirement 16(c)** includes establishing a baseline for recyclable and reusable waste removed from residual waste and specific targets for improving the percentage of such removed reusable and recyclable waste. The Applicant understands that the points raised at **Paragraph 2.14** do not apply with the inclusion of this Requirement.
- 1.3.9 The Applicant has amended **Requirement 25** of the **dDCO (3.1, Rev 5)**, submitted at Deadline 8b, in relation to Anaerobic Digestion reviews and maximising the opportunities to export compost material. This wording is agreed in **Paragraphs 2.1.7 – 2.1.8** and **2.12.3** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**.
- 1.3.10 **Paragraph 2.1.11** and **2.12.3** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)** confirms that the parties are agreed on the wording of **Requirement 24** in the **dDCO (3.1, Rev 5)**, submitted at Deadline 8b, in respect of Combined Heat and Power reviews.

Biodiversity Matters

1.3.11 The Applicant has updated the **Outline Biodiversity and Landscape Mitigation Strategy (OBLMS) (7.6, REP8-013)** submitted at Deadline 8 to commit to a priority order, as requested by LBB, for the selection of offset delivery sites as set out below:

“...the Environment Bank on behalf of the Applicant is committed to prioritising sites for offset delivery, as follows:

- *sites within the London Borough of Bexley (LBB) will be prioritised, provided suitable and sufficient land is available;*
- *from the list of LBB sites identified, those owned by the LBB and which are able to provide the compensation will be reviewed;*
- *if there are no suitable LBB owned sites, sites within LBB that are not owned by LBB will be reviewed and those sites closest to the REP site and able to provide the offset will be prioritised; and*
- *if no sites within LBB are able to provide the offset, sites outside the LBB will be reviewed”.*

1.3.12 Whilst the Applicant welcomes LBB's acknowledgment, at its **Paragraph 2.19**, that it is prepared to consider a small proportion of such offset land being outside of, but adjacent to the Borough, the Applicant is confident that an in-borough solution can be delivered (subject to suitable and sufficient land remaining available).

1.3.13 **Requirement 5** of the **dDCO (3.1, Rev 5)**, submitted at Deadline at 8b, has been amended to include specific reference to *“risk factors including temporal lag”*. **Section 2.7** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)** sets out the agreement between the parties on all terrestrial biodiversity and offset matters, including the mitigation secured in the **OBLMS** and the approach/timing of the biodiversity offset. **Paragraph 2.12.3** confirms agreement on the wording of **Requirement 5**, whilst **Paragraph 2.7.29** confirms that *“with the provision of the biodiversity off-setting in the Borough, including for the 10% net gain, there would not be a significant adverse effect in terms of biodiversity as a result of the Proposed Development”*.

Transport Matters

1.3.14 As stated in item 7 of the **Applicant's response to London Borough of Bexley's comments on the draft Development Consent Order from Deadline 7 (8.02.90, REP8a-018)**, the Applicant has confirmed the extent of bottom ash storage that would be available within the existing facility. Following the Issue Specific Hearing on the dDCO held on 19 September 2019, LBB has agreed the Applicant's position as stated in Paragraph 3.4 of

London Borough of Bexley's Written Summary of Oral Submissions put at Draft DCO Hearing (REP8-034).

1.3.15 At Deadline 8, the Applicant submitted a **Supplementary Temporary Jetty Outage Note (8.02.86, REP8-027)** which demonstrates that there would be no significant effect on capacity of the strategic road network in the event of a jetty outage with both the Proposed Development and RRRF operating. At **Paragraph 2.2.1 of the Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**, LBB agree that the assessments (including the original and Supplementary Jetty Outage Notes, 8.02.31 and 8.02.86 respectively) use *"suitable parameters in relation to the potential transport impacts arising from construction, operation and decommissioning of the Proposed Development as well as impacts that may arise in the event of a jetty outage."* Furthermore, **Paragraph 2.2.21 of the Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**, confirms that, including the original and Supplementary Jetty Outage Notes, *"the assessment of Transport effects during operation associated with the Proposed Development are considered appropriate"*. The Applicant therefore understands that the points raised at **Paragraphs 2.24-25** do not apply following submission of the **Supplementary Temporary Jetty Outage Note (8.02.86, REP8-027)** at Deadline 8.

1.3.16 **Section 2.2 of the Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)** sets out the agreement between both parties regarding the assessment of transport effects during construction, operation and during an exceptional jetty outage. The parties have agreed the final wording of **Requirement 14 and 31 of the dDCO (3.1, Rev 5)**, submitted at Deadline 8b, incorporating a number of agreed amendments, including in respect of:

- Separate waste caps for the ERF and Anaerobic Digestion facility by road;
- 100% of incinerator bottom ash produced by the operation of Work No. 1A must be transported from it by river to a riparian facility, save in the event of a jetty outage;
- A Delivery and Servicing Plan (DSP) to be produced; and
- A reduction in total permissible two way Heavy Commercial Vehicle movements for waste delivery from 90 (90 in/ 90 out) to 75 (75 in/ 75 out) per day.

1.3.17 All of the above are set out in the **Applicant's response to London Borough of Bexley's comments on the draft Development Consent Order from Deadline 7 (8.02.90, REP8a-018)**.

1.3.18 The approach to junction appraisals is agreed, as per **Paragraph 2.2.20 of the Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**, and is included in the updated **Outline**

Construction Traffic Management Plan (CTMP) (REP8a-010) submitted at Deadline 8a.

Noise Matters

1.3.19 As stated in in the **Applicant's response to London Borough of Bexley's comments on the draft Development Consent Order from Deadline 7 (8.02.90, REP8a-018)**, the Applicant and the LBB have agreed the following wording "*...not exceeding 5dB below the background LA90*" in respect of **Requirement 19** of the **dDCO (3.1, Rev 5)**, submitted at Deadline 8b. This agreement is confirmed in **Section 2.4** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**. Therefore, the issues raised in **Paragraphs 2.30-2.32** have been resolved.

1.3.20 The Applicant welcomes confirmation from LBB that the amendment to the **Outline Code of Construction Practice (CoCP) (7.5, REP8a-014)**, resolves matters in relation to potential night-time construction noise along the Electrical Connection route.

1.4 8.02.67 Applicant's Response to GLA Deadline 5 and 6 Submission

2.23 Appendix C: Emissions limits

1.4.1 The inclusion of waste throughput caps resolves LBB's concerns in respect of emissions limits and **Section 2.12** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)** confirms agreement to the **dDCO (3.1, Rev 5)**, submitted at Deadline 8b, in this regard.

1.5 8.02.70 Applicant's Response to Air Quality Matters

Control of dust during construction

1.5.1 The Applicant updated **Paragraph 4.3.3** of the **Outline CoCP (7.5, Rev 5)** at Deadline 8a to include "*...all relevant mitigation measures for low risk sites...*", to which agreement from LBB is confirmed in **Paragraph 2.3.20** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**.

Assessment of Significance and Professional Judgement

1.5.2 The LBB repeat the considerations under the IAQM guidance and their assessment of each in relation to nickel, namely:

- that the magnitude of impacts is minor;
- that approximately 800 properties might be affected;
- that there is no reason to expect an increase in future levels of exposure to nickel;

- that the study used a validated model and process emissions can be controlled and monitored, such that emissions are likely to be lower than the levels assumed in the assessment. It is considered that the assumptions used to carry out the study are robust;
- that nickel is not a substance regulated under the Local Air Quality Management obligations; and
- that the overall concentration of nickel is forecast to be less than 25% of the air quality standard, and it is therefore considered that there is a minimal risk of exceeding the air quality standard at the properties under consideration.

1.5.3 In light of the LBB's considerations above, they confirm that they welcome the information provided by the Applicant and that they do not propose to pursue the matter further. Subsequently, through further discussion, agreement on this matter has been reached. **Section 2.3 of the Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)** sets out the agreement reached between the parties in relation to all air quality matters, which includes the assessment of nickel, and confirms that the assessment methodology and likely effects are agreed as appropriate. The LBB therefore agree, in light of the clarifications above, with the Applicant's assessment that the effects from nickel would be Not Significant.

Environmental Permit Emission Limits

1.5.4 The LBB confirms that it considers the Environmental Permit emission limits are not a key area of concern. Notwithstanding this, LBB's previous concern is resolved through the inclusion of separate tonnage restrictions on the volume of waste which can be treated through the ERF and Anaerobic Digestion facility at REP (secured in **Requirement 32 of the dDCO (3.1, Rev 5)**), submitted at Deadline 8b. As set out above, the Applicant's **Written summary of oral submissions from Issue Specific Hearing 3 (ISH3) on the draft Development Consent Order (DCO) (8.02.77, REP8-018)** confirmed that **Requirement 16 (now 15)** is retained to ensure that NOx levels from the Anaerobic Digestion facility align with those set out in the **Anaerobic Digestion Facility Emissions Mitigation Note (8.02.42, REP7-010)** which are reduced below permitted limits in the Medium Combustion Plant Directive. However, existing **Requirement 15** is not required since NOx levels assessed for the ERF in the ES are the same as the maximum that will be applied in law by the Waste Incineration BREF through the Environmental Permitting (England and Wales) Regulations 2016. It is noted that the Applicant's choice of SCR (Selective Catalytic Reduction) technology for the ERF will ensure that NOx levels are significantly below those assessed in the ES and which also comprise the BREF limit.

Short-term impacts of nitrogen dioxide and sulphur dioxide

- 1.5.5 LBB confirms it has concluded that short-term impacts of nitrogen dioxide levels would be insignificant and sulphur dioxide levels were addressed at an earlier stage. The Applicant welcomes this confirmation.

Contribution to Monitoring

- 1.5.6 The Applicant and LBB have reached agreement on securing a contribution to ambient air quality monitoring via a section 106 (s106) agreement. A copy of the **S.106 Agreement (Final draft, not signed) (8.02.93)** has been submitted alongside this document at Deadline 8b. **Paragraph 2.3.24** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)** confirms that the summary of residual effects and monitoring is considered appropriate, on the basis that the Applicant and LBB enter into a s106 agreement that provides for a contribution of funds for ambient air quality monitoring in Bexley.

Appendix A Peer Review of 'The Applicants response to Air Quality Matters'

- 1.5.7 In respect of the Peer Review, Mr Branchflower has had no involvement or oversight of the preparation of the assessments that were undertaken by PBA under the supervision of Mr Harker of Ramboll UK. Both the author of the assessment (Mr Harker) and the peer reviewer (Mr Branchflower) are respected members of the IAQM Committee. The Applicant does not accept there could be any question of their professionalism or impartiality on technical matters and that the Peer Review by Mr Branchflower should be given full weight. Furthermore, **Section 2.3** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)** confirms LBB's agreement that the parameters, methodology, assessment of effects and mitigation in respect of air quality are appropriate.

8.02.46 (REV1) AD Facility Emissions Mitigation Note (with Tracked Changes)

- 1.5.8 As set out above, the Applicant's **Written summary of oral submissions from Issue Specific Hearing 3 (ISH3) on the draft Development Consent Order (DCO) (8.02.77, REP8-018)** confirmed that **Requirement 16** (now **15**) is retained to ensure that NOx levels from the Anaerobic Digestion facility align with those set out in the **Anaerobic Digestion Facility Emissions Mitigation Note (8.02.42, REP7-010)** which are reduced below permitted limits in the Medium Combustion Plant Directive. These levels ensure that the effect of NOx emissions to the Crossness Local Nature Reserve are Negligible. On the basis of the inclusion of the above Requirement and the information provided to LBB, **Section 2.3** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)** confirms LBB's agreement that the parameters, methodology, assessment of effects and mitigation in respect of air quality are appropriate. Therefore, further

submissions are not required in light of the **Anaerobic Digestion Facility Emissions Mitigation Note (8.02.42, REP7-010)**.

1.6 7.6 Outline Biodiversity and Landscape Mitigation Strategy (OBLMS) (Rev 3) With Tracked Changes

1.6.1 As set out in **Paragraph 1.2.12** above, **Requirement 5** of the **dDCO (3.1, Rev 5)**, submitted at Deadline 8b, has been amended to include specific reference to "*risk factors including temporal lag*". **Section 2.7** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)** sets out the agreement between the parties on all terrestrial biodiversity and offset matters, including the mitigation secured in the **OBLMS (7.6, REP8-013)** and the approach/timing of the biodiversity offset. **Paragraph 2.12.3** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)** provides confirmation that the wording of **Requirement 5** is now agreed, whilst **Paragraph 2.7.29** confirms that "*with the provision of the biodiversity off-setting in the Borough, including for the 10% net gain, there would not be a significant adverse effect in terms of biodiversity as a result of the Proposed Development*".

1.7 8.02.71 Environment Bank Site Selection for Biodiversity Offsetting Report

1.7.1 **Paragraphs 2.7.20-2.7.29** of the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)** set out the agreed position between the Applicant and LBB. This confirms LBB's agreement that:

- the DEFRA offsetting metric is the appropriate mechanism for calculating the required biodiversity compensation;
- the Applicant will continue its site selection process and seek to secure one or more sites within the Borough before the end of 2019;
- LBB is willing to enter into the necessary legal agreements; and
- with the provision of the biodiversity off-setting in the Borough, including for the 10% net gain, there would not be a significant adverse effect in terms of biodiversity as a result of the Proposed Development.

1.7.2 Therefore, the points raised in **Paragraphs 7.1-7.2** have been resolved by the position reached in the **Statement of Common Ground between the Applicant and the London Borough of Bexley (8.01.14)**.

1.8 Further Comments from The East London Waste Authority at Deadline 5

1.8.1 The Applicant notes that LBB references the submissions made by the East London Waste Authority (ELWA) regarding riparian infrastructure. The Applicant provided a response to ELWA's Responses to any further information requested by the Examining Authority (**REP7-026**) in the

Riverside Energy Park

Applicant's Response to London Borough of Bexley's Deadline 8 and Deadline 8a Submissions

Applicant's Response to East London Waste Authority Deadline 7 Submission (8.02.79, REP8-020) submitted at Deadline 8.