



# APPLICANT'S RESPONSE TO INTERESTED PARTIES' DEADLINE 2 SUBMISSIONS: 9.17

DECARBONISATION

## Cory Decarbonisation Project

PINS Reference: EN010128

**JANUARY 2025**

Volume A

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## EXECUTIVE SUMMARY

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Nine Interested Parties have made written submissions at Deadline 2 of the Examination for the Cory Decarbonisation Project (the Proposed Scheme).

Cory Environmental Holdings Limited (the 'Applicant') has reviewed each of these submissions and responds to those which it considers require a substantive response in this document. The submissions received from the Interested Parties are focused on various topics, and the Applicant has responded on a per party basis accordingly:

- London Borough of Bexley (LBB)
- Natural England
- Port of London Authority (PLA)
- Daniel Bell
- Save Crossness Nature Reserve (SCNR)

## 1. INTRODUCTION

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### 1.1. PURPOSE OF THIS DOCUMENT

1.1.1. This Report provides a response to the issues raised in the submissions of Interested Parties at Deadline 2 (13 December 2024).

### 1.2. STRUCTURE OF THE APPLICANT'S RESPONSE

1.2.1. Section 2 of this document presents the Applicant's response to the submissions received from the following Interested Parties at Deadline 2:

- London Borough of Bexley (LBB)
- Natural England
- Port of London Authority (PLA)
- Daniel Bell
- Save Crossness Nature Reserve (SCNR)

1.2.2. Within Section 2, the Applicant has responded to the submissions received by each of the above Interested Parties in a separate table for each Party.

1.2.3. In respect of the MMO's submission, the Applicant notes that it has already provided a policy accordence tracker for the South East Inshore Marine Plan with its submission, at table 1-2 of the **Policy Accordence Tracker (as updated alongside this submission)**.

1.2.4. The Applicant has responded to Bexley Civic Society in its Deadline 3 Cover Letter.

1.2.5. The Applicant has not provided a response to the submission made by Thames Water Utilities Limited as no response is required.

1.2.6. Finally, the Applicant welcomes the submission of Reality Income Limited in providing clarity on the intentions for the Iron Mountain unit, and considers that no response is required by it to the contents of the representation. In this context, and by contrast, the Applicant would also note that since Deadline 2, the Annual Company Accounts for both Munster Joinery (U.K.) Ltd and Landsul Limited have been published and are in the public domain on Companies House. The accounts published by Munster Joinery (U.K.) Ltd state clearly on page 22 that '*the company has no employees. It uses the services of human resource companies to fulfil its labour needs*', and the accounts published by Landsul Limited state the same on page 7.

1.2.7. **Table 3-5 of the Terrestrial Site Assessment Report (APP-125)** considers that development of the Carbon Capture Facility in South Zone 1 (the location chosen for the Facility) '*could result in the loss of 50 direct employment roles.*' As the Annual Accounts for Munster Joinery confirm there are no permanent employees at the premises, it is clear that the (temporary) job opportunities presented by the business could be satisfied by human resource companies at an alternative location. The

Applicant's conclusion that the use of South Zone 1 has a lesser effect than any of the East Zone options, in terms of impact on existing businesses/third party landowners, is corroborated.

## 2. RESPONSES TO MATTERS RAISED IN DEADLINE 2 SUBMISSIONS

### 2.1 LONDON BOROUGH OF BEXLEY (LBB) (REP2-024)

Table 2-1 Applicant's response to matters raised at Deadline 2

Table ref	Summary of issue raised	Applicant's response
<b>Air Quality</b>		
2.1.1	Whether the change in dredging duration could affect local air quality through additional marine vessel emissions	It is unlikely that the change in the duration of dredging works will change the results of the air quality assessment presented in <b>Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)</b> . The impact to air quality from marine vessels, and in particular during the construction/dredging phase, is a small component of the total impact of the Proposed Scheme.
2.1.2	If there would be a change in air quality impacts from any dredging through HGV movements resulting from transport and storage of dredged aggregates.	The dredged arisings will be managed in accordance with relevant legislation and will be disposed of offsite (via vessel and only if dredged arisings are deemed suitable for this disposal method and conform with the permits for disposal sites). The removal of the dredged arisings will be undertaken by an appropriately licenced waste carrier. As such, the waste material from the capital dredging will be loaded onto barges and transported via marine vessels (tugs and barges) that have been modelled in the air quality assessment <b>Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)</b> . It is not proposed that HGV will be used to transport the waste material from dredging as the transport of this material will primarily be via the River Thames.
<b>Marine Biodiversity</b>		
2.1.3	Clarify how changes affect the area and location of the dredge pocket and the accuracy of the current dataset within this area? Further assessment of benthic fauna and sediment type may be required.	The changes to the extent and depth of the dredge area are considered by the Applicant to be minor and the existing dataset provides sufficient characterisation of the habitats present within the survey area. This specific change has been assessed in the <b>Change Request Report (AS-048)</b> which concluded that the findings of, and the assessment presented in, <b>Chapter 8: Marine Biodiversity (Volume 1) of the Environmental Statement (APP-057)</b> remain valid.
2.1.4	Clarify how the change in dredging operation would affect the duration of impacts upon marine biodiversity receptors, particularly seasonal fish migrations and sensitive life stages?	The changes to the dredging operation (i.e. dredge area and depth) are considered by the Applicant to be minor and the proposed mitigation measures (dredging method and avoidance of sensitive fish migratory periods) appropriate. The proposed mitigation measures have been developed in consultation with the Environment Agency and the Marine Management Organisation (supported by CEFAS (Centre for Environment, Fisheries and Aquaculture Science)) to minimise impacts to sensitive fish receptors. The mitigation measures are included within the <b>Outline Code of Construction Practice (REP2-008)</b> for the construction phase and the <b>Mitigation Schedule (REP1-010)</b> for the operational phase, secured via the <b>Draft DCO (updated alongside this submission)</b> .

Table ref	Summary of issue raised	Applicant's response
		<p>With the dredging duration expected to remain the same for both capital (six months) and maintenance dredging (seven days), there is no anticipated change to the magnitude of impacts during the construction and operation phases arising from increased dredging volumes and depths.</p> <p>The changes in dredging operation have been assessed in the <b>Change Request Report (AS-048)</b> which concluded that the findings of, and the assessment presented in, <b>Chapter 8: Marine Biodiversity (Volume 1) of the Environmental Statement (APP-057)</b> remain valid.</p>
<b>Water Framework Directive (WFD)</b>		
2.1.5	How would the change in the dredging operation and jetty piling affect the potential impacts upon WFD quality elements, particularly biological quality elements and Chemical/Physico-Chemical Quality Elements?	<p><b>Appendix 11-1: Water Framework Directive Assessment of the Environmental Statement (Volume 3) (APP-106)</b> incorporates an assessment of potential effects to water quality from sediment releases associated with capital dredging (construction phase) and maintenance dredging (operation phase).</p> <p>The assessment was based upon grab samples of surface sediments collected as part of a coordinated assessment of physical, chemical and benthic biological baseline conditions. This assessment is currently being revisited upon receipt of the results of further sediment sampling undertaken in December 2024 following consultation with the relevant stakeholders (MMO, PLA and Cefas). This agreed methodology remains compliant with the OSPAR Guidelines<sup>1</sup> which remains applicable for a dredge volume of between 100,000-500,000 m<sup>3</sup>. The sample depths remain representative of the change to the dredge depth profile.</p> <p>As outlined in <b>Change Request Report (AS-048)</b> the Change will incorporate a small increase (by approximately 10% of the assessed volume) in the dredged arisings during operation. Given the volume increase is relatively minor, this is not expected to result in any significant change to the initial assessment outcome, based on the results of the surface sediment sampling. Any adverse effects attributed to increased suspended sediments would be modest and remain temporary and localised in the context of the wider water body. This outcome will be further corroborated upon receipt of the results of the December 2024 sediment sampling at the depth discussed above, which is expected to be shared within a Technical Note to be submitted into the Examination in March 2025.</p> <p>Regarding biological elements and habitats, the increase in length of the sheet piled wall during the construction phase will result in a small additional loss of subtidal habitat. This is negligible in the context of the total area of the subtidal habitat within the Thames Middle Transitional Water Framework Directive (WFD) Water Body. With the mitigation measures adhered to (for example, no impact piling will occur at night) and that piling activities will not be continuous (limited to 30 minutes per day for percussive piling) a window for</p>

<sup>1</sup> OSPAR Commission (2024). 'OSPAR Guidelines for the Management of Dredged Material'. Available at [redacted]

Table ref	Summary of issue raised	Applicant's response
		<p>upstream fish migration will be available, as incorporated within the <b>Outline Code of Construction Practice (REP2-008)</b>, the increase in length of the sheet piled wall does not result in any changes to the assessment as the increase in length is minimal and it is all contained within the subtidal zone. With the dredging durations expected to remain the same (six months) there is no change to the scale of impacts during the operation phase arising from increased dredging volumes and depths. The increase in vessel sizes enables a reduction in the number of vessel movements required to transport the CO<sub>2</sub>, with consequent reduction in operational impacts such as ship strike on marine mammals and the potential spread of invasive non-native species.</p>
<b>Climate Resilience</b>		
<p><b>2.1.6</b></p>	<p>Would changes in dredging volume further amplify riverbank erosion? Deepening dredging and lengthening jetty pilings may accelerate erosion along the dredged channel undermining nearby land stability. Dredging reduces the natural sediment buffer, which can heighten sensitivity to rising sea levels and storm surges.</p>	<p>The original assessment (reported in <b>Appendix 11-4: Coastal Modelling Studies (Volume 3)</b> of the <b>Environmental Statement (APP-109)</b>) showed that the change to sediment erosion/accretion patterns, as a result of the Proposed Scheme, results in accretion between the jetty structures (the existing Middleton Jetty and the Proposed Jetty) and the riverbank. Sensitivity testing was subsequently carried out to assess the potential impacts associated with changes to the dredging operation, see <b>Appendix A</b> of the <b>Applicant's Response To Interested Parties' Deadline 1 Submissions (REP2-019)</b>. This sensitivity assessment concluded that the potential dredging changes do not affect the conclusions of the assessment presented in <b>Appendix 11-4: Coastal Modelling Studies (Volume 3)</b> of the <b>Environmental Statement (APP-109)</b>. Therefore, proposed dredging changes are not anticipated to affect riverbank erosion.</p>
<p><b>2.1.7</b></p>	<p>Please clarify how future sea level rise and storm surges would be incorporated into the enlarged jetty piling design. Enlarged jetty pilings often mean expanded infrastructure, which can increase the surface area exposed to storm surges, wave action and other climate-related impacts. This exposure heightens the risk of damage to the port or nearby infrastructure during severe weather.</p>	<p>The level of the Proposed Jetty components was defined considering extreme water levels which are based on the TE2100 Thames Estuary study completed by HR Wallingford, 2008 provided by the Environment Agency as a Product 4 request and from the EA Coastal Flood Boundary (2018) uplifted using IPCC 2018 RCP 8.5 Marine Prediction.</p> <p>The Proposed Jetty's structural components have been designed to withstand a combination of design loads such as permanent loads, variable loads (i.e. operational loads, mooring loads and berthing loads), traffic loads and environmental loads (winds, currents, waves, rain, thermal). The loads described above have been put together into a load combination, to obtain the design forces required for structural design. The environmental loads are considered negligible at the site due its location along the banks of the Thames in comparison to the other variable loads. The DCO also requires that the detailed design process takes account of the climate variables assessed in the ES.</p>



## 2.2 NATURAL ENGLAND (REP2-027)

Table 2-2 Applicant's response to matters raised at Deadline 2

Table ref	Summary of matter raised	Applicant's response
<b>Overarching Advice</b>		
2.2.1	<p>We have advised that the terminology and methodology used to assess the air quality impacts of the scheme on statutory sites differs from Natural England's guidance. We have advised that a common understanding of the terms used is required in order to ensure clarity of assessment conclusions.</p>	<p>A detailed explanation of the terms used in the air quality assessment and the assessment rationale was provided to Natural England on 11<sup>th</sup> September 2024, as Appendix A: Terminology of the Minutes from the meeting held on 25<sup>th</sup> July 2024.</p> <p>The meeting held with Natural England on 13<sup>th</sup> January 2025 was beneficial for both parties in reaching a clearer understanding of outstanding matters which remained under discussion at Deadline 2. Specifically, the terminology and methodology used by the Applicant was discussed, with reference to Appendix A: Terminology of the Minutes from the meeting held on 25<sup>th</sup> July 2024, which allowed Natural England to better understand the methodology, terminology and approach to assessment of impacts. Natural England also clarified that it was their guidance relating to the assessment road traffic impacts for habitats regulations assessments (NEA001) that they were referring to in the previous submission. An updated <b>Natural England Statement of Common Ground (Revision C)</b> has been prepared following the meeting. As depicted in the Statement of Common Ground, the Applicant understands that Natural England are undertaking a further review of the submissions made to date and will be providing a written response in due course. The Applicant is committed to providing further explanations, if required, to support with Natural England's further review.</p>
2.2.2	<p>We advise that for the purpose of assessment, it is emissions from the proposed scheme which are relevant. These emissions are the result of Carbon Capture Technology being added into Riverside One and Two (when built). The assessment update currently focuses on the reduction from the existing situation but does not specify the Process Contribution clearly. The residual emissions could still have an environmental impact or harm/adversely impact nearby sites. This is complicated by the fact that Riverside Two is not yet built and the modelling relies upon the use of novel technology.</p>	<p>The air quality assessment presented in <b>Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)</b> considers all aspects of the impact of the addition of the carbon capture technology being added to Riverside 1 and Riverside 2. The impact of the pollutants introduced by the Carbon Capture Facility, such as amines and their degradation products, relates directly to the process contribution to ground level concentrations. For currently emitted pollutants, such as nitrogen oxides, sulphur dioxide etc, the carbon capture process does not affect the mass of pollutants released to air but does affect the dispersion of these pollutants through impacts on the volume and temperature of the plume gases, and Stack(s) location and height. For these pollutants, the impact of the introduction of the Carbon Capture Facility relates to the change in pollutant distribution after dispersion. In addition, there are pollutants, such as ammonia, that are currently related to the combustion process itself, but which will, in the future be related to the degradation of amines within the Carbon Capture Facility. For these pollutants, the air quality impact of the Proposed Scheme takes account of both the changed mass emissions of the pollutant (which, in the case of ammonia, is a decrease in emissions) and changed dispersion conditions.</p> <p>To quantify the full impacts of the Proposed Scheme on air quality, total pollutant concentrations and deposition levels are set out in the assessment (including new</p>

Table ref	Summary of matter raised	Applicant's response
		pollutants and/or existing pollutants) presented in <b>Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)</b> , together with the impact of the Proposed Scheme which is the difference in future concentrations/deposition between the with and without Carbon Capture Facility scenarios.
<b>Emissions Limit Value</b>		
2.2.3	We note that this new information includes the addition of the Emission Limit Value (ELV) provided by the supplier, to the decarbonisation process, which indicates that the process will result in a reduction in ammonia emissions when compared with that presented in Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054). Therefore, reductions in the amount of nitrogen deposition from the project are also predicted. We advise that it is not appropriate to include ELVs in this assessment as mitigation. It is assumed that an amendment to the Environmental Permit will be sought to ensure the revised ELVs are applied to the plant. We advise that you consult the Environment Agency regarding this matter.	<p>It is the Applicant's position that committing to a reduction in the permitted mass emissions of a pollutant, e.g. ammonia, is mitigation and that it is appropriate to include the modelled impact of this reduction within the air quality assessment (presented in <b>Appendix B of the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b>).</p> <p>It is re-emphasised that the reduction in mass emissions of ammonia is a feature of the design of the Carbon Capture Facility. Existing emissions of ammonia from Riverside 1 and Riverside 2 relate directly to the combustion of waste. These ammonia emissions are removed from the flue gases in the Carbon Capture Facility as part of the gas conditioning prior to the introduction of amine solvent and removal of carbon dioxide. Ammonia emissions post-carbon capture relate to the degradation and loss of amine solvent. However, it is possible, via the post carbon capture solvent recovery process, to reduce the mass emissions of ammonia in comparison to the without carbon capture scenario. Since the net reduction of emissions of ammonia is a direct result of the emissions and process controls of the Carbon Capture Facility (and within the control of the technology providers), it is appropriate to consider this as 'mitigation'.</p> <p>Ensuring the efficacy of the mitigation will likely be considered in the Environmental Permit but in any event the Applicant has committed to it through the DCO.</p>
<b>Inner Thames Marshes SSSI</b>		
2.2.4	Natural England continues to advise that where the 1% significance threshold is breached, a site-specific assessment of the designated interest features of the site, at relevant locations, is required in order to fully assess the ecological impact of the project on protected sites (as outlined in Natural England's NEA001 guidance). In the absence of this assessment the project will not be able to conclude no harm or no likely significant effect to these features.	<p>It is the Applicant's position that the significance threshold should be applied to the net impact of the Proposed Scheme, i.e. the Carbon Capture Facility, on ground level pollutant concentrations. As set out in response 2.1.2, this covers the introduction of new pollutants and alterations of the impacts of existing pollutants.</p> <p>The Applicant fully acknowledges that the significance of any effects arising from this impact must consider the impact within the context of the total emissions of pollutants from the Site (Riverside 1 and Riverside 2) and the contribution of background pollutant concentrations/deposition.</p> <p>The quantification of total pollutant concentrations/deposition and the impact of the Proposed Scheme is an integral part of the air quality assessment (presented in <b>Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)</b>).</p> <p>As the Applicant's position, with the implementation of the additional ELV, is that the effects of the Proposed Scheme are well below the 1% significant threshold, a site specific assessment of the SSSI is not required.</p>

Table ref	Summary of matter raised	Applicant's response
2.2.5	<p>The removal of the “baseline” (no carbon capture) does not clearly show how the proposed scheme would directly affect the SSSI. The project will continue to produce emissions which have been modelled to fall within the Inner Thames Marshes SSSI and breach the 1% threshold. Furthermore, we have advised that sensitive ecological features (vascular plants) are located in this area which are sensitive to NDep and ammonia (critical level of 3µg/m<sup>3</sup>).</p>	<p>The Applicant agrees that the Riverside Campus with the Proposed Scheme in place will produce emissions that will fall within the Inner Thames Marshes Site of Special Scientific Interest (SSSI) and has provided information on the maximum contribution of the Proposed Scheme as a whole over the SSSI.</p> <p>However, the continued operation of Riverside 1 and the future operation of Riverside 2 are not the subject of the DCO application and do not constitute the Proposed Scheme. Their overall impacts were most recently evaluated in the DCO application for Riverside 2 (granted April 2020) and both Riverside 1 and 2 have Environmental Permits in place.</p> <p>What is important for this application is that the impact of the Carbon Capture Facility (the Proposed Scheme) on the emissions that will arise from the Riverside Campus is appropriately quantified and evaluated. It is the Applicant's position that this requirement is satisfied by the assessment methodology i.e. the impact of the Carbon Capture Facility is quantified (and presented as the impact of the Proposed Scheme), but that this impact is evaluated in the context of a quantified total predicted environmental concentrations/deposition that includes the total emissions from Riverside 1 and Riverside 2 (including combustion-related and carbon capture-related emissions).</p>
2.2.6	<p>When presenting the assessment, it is of key importance to clarify that the emissions predicted from the project alone should be the “proposed scheme” emissions. Proposed reductions in background emissions as a result of the addition of carbon capture can be taken into account in the assessment – however, that reduction alone cannot be used as justification that the residual emissions would not harm the protected site.</p>	<p>The Applicant agrees that it is important to clarify that the emissions predicted from the development alone should be the “Proposed Scheme” emissions, and all ‘impacts’ presented within the air quality assessment relate to the Proposed Scheme (and not Riverside 1 or Riverside 2). As noted above, the combustion of waste and associated air emissions are not part of the “Proposed Scheme” for which the DCO is sought. The Operation of Riverside 1 and Riverside 2 will occur in the future, whether or not the DCO for the Proposed Scheme is granted.</p> <p>To illustrate the Applicant's position and its alignment with Natural England guidance, we would compare the approach to that commonly adopted in the assessment of, for example, a road improvement scheme such as a road dualling. The screening of impacts from the dualling would consider the ‘change’ in traffic between the future scenarios with and without the improvement (typically termed Do Something (DS) and Do Minimum (DM) scenarios and comparable to the with and without carbon capture scenarios for this DCO application). The impact of the Proposed Scheme would be the ‘change’ in pollutant concentrations between these scenarios, not the impact of all traffic within the Do Something scenario in comparison to a scenario in which there was no road present (i.e. the scheme impact = DS – DM concentrations, equivalent to the change between the with and without carbon capture scenarios in this assessment).</p> <p>However, as provided within the air quality assessment presented in <b>Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)</b> for the Proposed Scheme, the impact would be evaluated in the context of the total predicted roadside concentrations in the DS scenario i.e. whether total concentrations/deposition exceed the critical level or load is material to the assessment of the significance of effects. This is</p>

Table ref	Summary of matter raised	Applicant's response
		<p>directly equivalent to the approach taken in the air quality assessment for the Proposed Scheme i.e. the impact of the addition of the Carbon Capture Facility to the Site is evaluated in the context of the total predicted concentration.</p> <p>The approach adopted by the Applicant in assessing the impact of the Proposed Scheme as the impact of the addition of the Carbon Capture Facility to the Site is identical to the approach taken in recent applications, including:</p> <ul style="list-style-type: none"> <li>• Drax Bioenergy with Carbon Capture and Storage (BECCS) DCO, where carbon capture was being added to an existing biomass power plant;</li> <li>• Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility DCO, for the extension of capacity at an existing facility; and</li> <li>• Great Yarmouth Power Station Application for Section 36 Variation, to enable the station to operate at its maximum generation capacity.</li> </ul> <p>During the meeting with Natural England on 13<sup>th</sup> January 2025, the approach and terminology was explained to Natural England, and this is reflected in the <b>Natural England Statement of Common Ground (Revision C)</b>.</p>
<p><b>2.2.7</b></p>	<p>This does not in itself mean the proposed scheme is unacceptable or that harm would occur to the designated features. But the assessment requires consideration of the features themselves, and how air quality changes could impact on the designated features, which remains outstanding.</p> <p>An example is as follows: Anas crecca (Eurasian teal) is recorded on APIS as having a critical load associated with saltmarsh. The assessment is required to address whether any botanical changes to the broad saltmarsh community would adversely affect this feature. The existing background pollutant levels, trends in pollutants, the location on site of the designated features etc. should all be considered (as outlined in Natural England's NEA001 guidance).</p>	<p>The Applicant agrees with these statements and reiterates that both the Proposed Scheme impacts, and the total pollutant concentrations/deposition levels are provided in the assessment presented in <b>Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054), Appendix 5-3 - Detailed Model Pollutant Results of the Environmental Statement (Volume 3) (APP-079)</b> and the Ammonia Emissions Limits Technical Note, included as <b>Appendix B to the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b>. Furthermore, the impacts on the features themselves are assessed in the <b>Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056)</b>.</p> <p>The Applicant had a positive meeting with Natural England on the 13<sup>th</sup> January 2025. During the meeting an explanation was provided to Natural England on the matters under discussion, including the above, which allowed Natural England to better understand the methodology, terminology and approach to assessment of impacts. An updated <b>Natural England Statement of Common Ground (Revision C)</b> has been prepared following the meeting.</p>
<p><b>Further Advice</b></p>		
<p><b>2.2.8</b></p>	<p>We would welcome additional clarification regarding the calculations presented in Table 2 of the Technical Update. It is not clear how these values have been calculated and we reiterate that the use of ELV is not appropriate here. In addition, there appear to be a number of errors in the values calculated in each of the tables.</p> <p>For example, it appears the calculation from data shown in Table A2 of the Technical note (Maximum Impact on Nitrogen Deposition as a percentage of site-specific critical loads) is</p>	<p>The Applicant welcomes the opportunity to provide clarification regarding calculations presented in <b>Table 2 of Appendix B to the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b>.</p>



Table ref	Summary of matter raised	Applicant's response
	<p>based on the “proposed scheme” minus the “baseline”, resulting in an “impact” – which is then converted to a % of the critical load (10kgN/ha/yr). For example – for Inner Thames Marshes SSSI the “2018 Max PC” is shown in Table A2 as being -0.02kgN/ha/yr, but it is unclear how this figure is reached from the proposed scheme (0.73kgN/ha/yr) minus the baseline (0.86kgN/ha/yr) – which would result in an “impact” of -0.13kgN/ha/yr.</p>	<p>Notwithstanding the Applicant's position that emission limits are appropriately included within the assessment, the Applicant reiterates that there are no errors in the values calculated and presented.</p> <p>The key clarification required to provide additional explanation of the data provided is the fact that data presented in <b>Table A2</b> (presented in <b>Appendix B of the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b>) are not necessarily coincident in space. Natural England has, in its calculation, implicitly assumed that the maximum deposition with the Proposed Scheme, the maximum deposition without the Proposed Scheme and the maximum impact all occur at the same location. This is an incorrect assumption. Given the change in stack location and dispersion characteristics with the Proposed Scheme (Carbon Capture Facility), these maxima all occur at separate locations across Inner Thames Marshes SSSI. Therefore, it is simply not possible to use the data presented in <b>Table A2</b> as Natural England has assumed. In the explanatory appendix (referred to in response 2.1.1 above), the Applicant demonstrated that to provide data which can be applied as per Natural England's assumptions, the with carbon capture deposition, the baseline (without carbon capture) deposition and the impact have to be presented at the same location.</p> <p>The Applicant had a positive meeting with Natural England on the 13<sup>th</sup> January 2025. During the meeting the Applicant explained the data presented in <b>Table A2</b> in <b>Appendix B of the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b> and why this is considered sufficient for a robust assessment of air quality impacts to be made, since both worst case Process Contributions and Impacts are provided. As depicted in the <b>Natural England Statement of Common Ground (Revision C)</b>, the Applicant understands that Natural England are undertaking a further review of the submissions made to date and will be providing a written response in due course. The Applicant is committed to providing further explanations, if required, to support with Natural England's further review.</p>
2.2.9	<p>We reiterate that for the purpose of assessment, it is emissions from the proposed scheme which will be relevant, and not any reduction from the existing situation.</p>	<p>The Applicant reiterates that it disagrees with Natural England's position on this occasion. Reverting to the analogy of the road improvement scheme, if the improvement resulted in reduced impacts from road traffic, the scheme would, as per Design Manual for Roads and Bridges guidance LA105, be considered to have a beneficial impact irrespective of whether there was an ongoing impact from traffic on the road that exceeded 1% of the critical level/load. What is important for the purpose of the DCO application is the change/impact resulting from the Proposed Scheme itself, not Riverside 1 and Riverside 2.</p>
2.2.10	<p>The key outstanding matters are:</p> <p>a) that the emissions from the proposed scheme need to be clarified and provided not as a reduction from the existing situation, but independently; and</p> <p>b) where the 1% threshold is breached with the introduction the project (i.e. there is a “perceptible” amount of pollution reaching the protected site), the assessment should</p>	<p>The Applicant is happy to provide clarification as to the data presented in the air quality assessment (presented in <b>Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)</b> and <b>Appendix B of the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b>), which includes the total predicted concentrations/deposition in the baseline scenario (without carbon capture), with the</p>

Table ref	Summary of matter raised	Applicant's response
	<p>determine whether the predicted emissions would result in harm to the designated features of the site.</p>	<p>Proposed Scheme (with carbon capture), and the impact (change) between these two scenarios.</p> <p>The Applicant agrees that where the 1% threshold is breached 'with the introduction of the project' that the assessment should determine whether the emissions would result in harm to a designated feature. However, that is now not the position for the Proposed Scheme.</p> <p>It is, however, the Applicant's position that the change with the 'introduction of the project' is defined as the change in pollutant concentration between the with and without carbon capture scenarios, irrespective of the total predicted concentration. The assessment of harm must though, and manifestly does within the air quality assessment, take into account the total pollutant concentration/deposition.</p>
<p>2.2.11</p>	<p>It would also be helpful to quantify any predicted retardation of the recovery of affected habitats within the SSSI. The report states that the scheme will not slow recovery, but this is not evidenced or quantified.</p>	<p>The revised modelling work shown in the <b>Ammonia Emissions Limits Technical Note (Appendix B of the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019))</b>, now shows that for all aerial pollutants none will be above the 1% threshold and thus effects will be negligible and not significant (including nitrogen deposition, described previously in <b>Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056)</b> as above the 1% threshold). As habitats within SSSIs will not be affected by the Proposed Scheme, their recovery will also not be affected.</p>
<p>2.2.12</p>	<p>We wish to reiterate that citing high existing background levels from alternative sources as justification for concluding no likely significant effect from a specific plan or project is not valid. As small increase in a site already over critical load may have a significant impact.</p>	<p>Modelling presented in <b>Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056)</b> showed that of the five pollutants modelled, only Nitrogen Deposition (NDep) would exceed the 1% critical level/load threshold. Further design work since the application, and further modelling of changes the emissions resulting from the Proposed Scheme now shows NDep will not exceed the 1% threshold. Therefore, effects of changes in air quality are now predicted to be negligible.</p>

## 2.3 PORT OF LONDON AUTHORITY (PLA) (REP2-026)

Table 2-3 Applicant's response to matters raised at Deadline 2

Table ref	Summary of issue raised	Applicant's response
<b>Book of Reference</b>		
2.3.1	Following Compulsory Acquisition Hearing 1 ("CAH1") the PLA provided details to the Applicant of the changes required to the Book of Reference ("BoR"). These changes are set out in Section 9 of the PLA's Written Representations [REP1-039]. At deadline 1 only plots 1- 101, 1-103 and 1-113a have been removed from the PLA's ownership in the BoR [REP1-006]. The following plots which are located above mean high water and are therefore not on the PLA's land, are still incorrectly showing the PLA as owner: 1-095, 1-117a and 2-002. The PLA reiterates that it is not the owner of these plots and the BoR needs to be updated accordingly.	The Applicant has removed reference to the PLA in plots 1-095, 1-117A, and 2-002 in the Book of Reference submitted at Deadline 2 ( <b>REP2-006</b> ).
2.3.2	In addition, clarification and updates are required to the following plots: <ul style="list-style-type: none"> <li>• 1-107 - 187 sq.m of trestle carrying disused jetty over the river (River Thames) (Norman Road)</li> <li>• 1-110 – 100 sq.m of dolphin and bollards</li> <li>• 1-111 – 2,191 sq.m of jetty and bollards</li> <li>• 1-116 – 660 sq.m of jetty carrying access over road over the river and bed</li> <li>• 1-118 – 101 sq.m of dolphin and bollards</li> <li>• 2-003 – 100 sq.m of river, bed and banks thereof (River Thames) and disused pier (Norman Road)</li> <li>• 2-005 – 5,759 sq.m of travelling crane and jetty carrying across road over river and bed</li> </ul>	The Applicant has included a further qualifier in the Book of Reference submitted at Deadline 2 ( <b>REP2-006</b> ) to clarify the extent of the PLA's interests in these plots, specifically such that they relate to the River Thames and riverbed to Mean High Water only. Please also refer to the Schedule of Changes to the Book of Reference submitted at Deadline 2 for further details ( <b>REP2-014</b> ).
2.3.3	The clarification and updates need to make it clear where the PLA owns the bed of the river and where others own land – for example, at plot 2-005 the PLA only owns the riverbed to mean high water, it does not own the land above mean high water including the road which also forms part of plot 2-005.	Please refer to the Applicant's response to the matters raised by the PLA at paragraph 2.3.2 of its Deadline 2 Submission.
2.3.4	It should also be made clear that the PLA does not own the works that are located in/on/under/over the riverbed – for example, at plot 1-110 the description of the land is 100 square metres of dolphin and bollards and the PLA is shown as owner. Whilst the PLA owns the riverbed within which the dolphin and bollards have been placed, it does not own the dolphin or bollards themselves.	Please refer to the Applicant's response to the matters raised by the PLA at paragraph 2.3.2 of its Deadline 2 Submission.

Table ref	Summary of issue raised	Applicant's response
2.3.5	Finally, it should be made clear on what basis the plot areas have been calculated – for example plot 1-116 appears to be the approach to the jetty (not including the jetty head which is plot 2- 005). The description of land refers to 660m2 of jetty. Scaling the jetty approach from the PLA's GIS system, the plot would appear to be twice the size of that stated in the BoR.	The Applicant has confirmed the size of the plots, and no changes are required for a revised BoR [REP2-006]. Additionally, the applicant has issued a shapefile to PLA of all the plots and their sizes to help confirm this.

<b>River Transport</b>
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2.3.6	<p>It is also stated in relation to River Transport – “Responses from Interested Parties are awaited to the Applicant’s Responses to Relevant Representations (AS-043) on this point.” The PLA responded in detail in section 8 of its Written Representations [REP1-039] setting out the further information and clarification the Applicant should provide on use of the river. In addition, the PLA would question why the Applicant set out in its Responses to Relevant Representations [AS-043] that Victoria Deep Water Terminal in Greenwich is the only viable option for handling construction material when there are a number of safeguarded wharves in both Greenwich and Bexley which could be potentially be used to source materials, in addition to those in Dartford and Gravesham. There are wharves that handle aggregates (and produce ready mixed concrete and asphalt), steel, forest products and project cargoes associated with the Thames Tideway Tunnel project.</p>	<p>The Applicant notes from the outset of answering this question that:</p> <ul style="list-style-type: none"> <li>• no likely significant effects have been assessed as occurring from the land-side transport impacts of the Proposed Scheme;</li> <li>• for any proposal to use river transport that does not involve jetties in the immediate vicinity of the Proposed Scheme, this will necessitate HGV journeys using the same Study Area that has already been assessed in the ES, as well as additional roads in the London area. As such, there would be limited benefit in environmental or planning terms in using an alternative river transport option;</li> <li>• as discussed in its previous submissions, the Applicant is a riverside and marine logistics business, and so will seek to use riverside infrastructure where this is possible; and</li> <li>• this project is not akin to other NSIP that have taken place/are due to take place in the river, such as the Thames Tideway Tunnel, Silvertown Tunnel or Lower Thames Crossing. Those projects, which have had firm river transport commitments, have involved/will involve the large-scale transport of construction and aggregate material over an extended period, on both an import and export basis. The Proposed Scheme will involve a limited period, import of specialist material, for a new industrial facility. Indeed, the closest comparable NSIP to the Proposed Scheme on the River Thames, Tilbury2, which was a port expansion project, including extensions to jetties, did not include a river transport commitment above and beyond what the Applicant has committed to in the Outline CoCP.</li> <li>• As such, any consideration of river transport needs to be seen in the context of the very limited benefit that would arise.</li> </ul> <p>In considering the suitability of jetties/berths in that context, the Applicant has initially considered the suitability of jetties and wharves available immediately adjacent to the Proposed Site and has concluded that none are suitable for handling of construction materials and plant/equipment as presented below:</p> <ul style="list-style-type: none"> <li>• Middleton Jetty: It is not possible for Middleton Jetty to be used for construction transport for terrestrial elements as the movements required would cause unacceptable disruption to the operation of Riverside 1 and Riverside 2;</li> </ul>
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Table ref	Summary of issue raised	Applicant's response
		<ul style="list-style-type: none"> <li>• Proposed Jetty: It would also not be possible to use the Proposed Jetty itself to first take on construction material – not only would this delay delivery of the Proposed Scheme, but it would also be unlikely to be physically possible due proposed usage compatibility as it has been designed to handle bulk liquids rather than heavy construction materials and abnormal indivisible loads;</li> <li>• Re-use of Belvedere Power Station Jetty (BPSJ): The Applicant considers that the BPSJ is not suitable for the following significant reasons:             <ul style="list-style-type: none"> <li>- Existing condition of the structure would require significant rehabilitation works.</li> <li>- The jetty is connected to land via a pedestrian only access trestle, which is elevated over the Thames Path and accessed by a set of stairs at either end. The landside end of this trestle is located on land owned by a third party with limited access for construction vehicles.</li> <li>- Usage of the BPSJ would impact development of the Proposed Jetty (i.e. construction of access trestle).</li> </ul> </li> <li>• Thames Water Jetty: the jetty is part of Thames Water's undertaking, so unlikely to be acceptable to them for its use. Even if it was operationally acceptable, traffic movements between that jetty and the Order limits, would either have to involve extensive HGV movements through the Thames Water STW and then through the middle of Crossness LNR, or along the Thames Path, neither of which are considered to be appropriate courses of action in policy or environmental terms.</li> </ul> <p>As such, any alternative river transport option requires looking 'off-site'. Its conclusion that the Victoria Deep Terminal may be the only feasible option is based upon the analysis recorded in the Technical Note appended at <b>Appendix D</b> of the <b>Applicant's Response to Examining Authority's First Written Questions: 9.18</b>. This Technical Note presents an appraisal of the jetties and wharves ('structures') along the River Thames that may have the potential to be utilised for the handling and transporting of construction materials (i.e. dry bulk such as sand and breakbulk such as piles and precast units) and plant/equipment such as Abnormal Indivisible Load (AIL) to the Site for the construction of the Proposed Scheme.</p> <p>It is to be noted that at this stage, the Applicant has carried out a high-level desktop review exercise. Further assessment of river transport opportunities will be carried out with the Contractor during detailed design when further information on material/equipment breakdown and proposed contractor supply chain/construction logistics are defined.</p> <p>The Study Area for the appraisal is between Victoria Deep Wharf on the western side of the Greenwich Peninsula, as the westernmost extent of the Study Area, and the Dartford Crossing, as the easternmost extent of the Study Area. The easternmost extent of the Study Area has been selected as any structure eastward of the Dartford Crossing would mean construction material traffic would need to route through Junction 1a of the A282/A206 (which is a sensitive junction to increased Heavy Good Vehicle (HGV) movements during peak travel periods).</p>

Table ref	Summary of issue raised	Applicant's response
		<p>The assessment has identified 5 existing structures suitable for handling materials: Victoria Deep Water Terminal; Angerstiens Wharf; Murphy's Wharf; Pioneer Wharf and Conways Jetty and concluded the following:</p> <ul style="list-style-type: none"> <li>• Victoria Deep Water Terminal has been identified as the only terminal capable of handling all construction materials (dry bulk and break bulk) and plant/equipment to support the Proposed Scheme.</li> <li>• All other four terminals can only handle construction material in dry bulk form.</li> <li>• For the Greenwich terminals (Victoria Deep Water Terminal, Angerstiens Wharf and Murphy's Wharf), some of the route to the Proposed Scheme site (A206 through Woolwich) is not part of the London Lorry Control Scheme (LLCS) permitted routes, which would limit out of hours deliveries and therefore are not a viable option.</li> <li>• Bexley terminals (Pioneer Wharf and Conways Jetty) could be a possibility but will be limited to a limited type of construction material. Suitability and availability cannot be ensured at this stage but and further assessment will be carried out by EPC contractor during detailed design stage as discussed above.</li> </ul> <p>The assessment considers that Angerstiens Wharf, Murphy's Wharf, Pioneer Wharf and Conways Jetty are only suitable for handling a limited type of construction material and are therefore not suitable to be relied upon for the construction of the Proposed Scheme. While Victoria Deep Water Terminal has the potential for handling various type of construction material and equipment, the route is some distance away to the Proposed Scheme with sections of the route not within the London Lorry Control Scheme permitted routes. This therefore minimises the benefits of utilising the wharf as part of the 'last mile delivery' solution.</p> <p>In conclusion, all shortlisted structures identified do not present immediate benefits and are not considered appropriate to be relied upon to support the construction of the Proposed Scheme for AIL and construction materials, such that their usage should be said to be required.</p> <p>The Applicant and the PLA continue to discuss this matter and the wording of the CoCP in relation to it.</p>

**Dredging Approach**

<p><b>2.3.7</b></p>	<p>Given the Applicant's response to the PLA's Relevant Representation [Ref 7.1.11 of AS-043] does not rule out other forms of dredging other than backhoe dredging from occurring – with the Outline CoCP [AS-028] stating in relation to capital dredging (emphasis added) "it will be undertaken using backhoe dredging, unless otherwise agreed", the PLA considers that it should be clarified whether dispersive dredging is being considered and if it is, it should be assessed within the application documents now. The wording "unless otherwise agreed" should be removed from the Outline CoCP.</p>	<p>The Applicant is not currently considering other forms of dredging except backhoe dredging. Any change from this would require the agreement of the Environment Agency, MMO and PLA, pursuant to the DML/Protective Provisions. Those bodies would not authorise such a change if they considered that this would lead to effects materially worse than those reported in the Environmental Statement.</p>
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2.4 DANIEL BELL (REP2-033)

Table 2-4 Applicant's response to matters raised at Deadline 2

Table ref	Summary of issue raised	Applicant's response
<b>Health Impacts</b>		
2.4.1	Mr Bell raised concerns about the health impacts of the Proposed Scheme, given the sensitivities of the local area, and examples from other projects.	<p>The air quality assessment undertaken in <b>Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)</b> concluded that the Full Proposed Scheme Impact (i.e. the operation of the Carbon Capture Facility and marine vessels movements) will not lead to a significant effect to human health.</p> <p>During the operation phase of the Proposed Scheme, the effects are described as Negligible (Not Significant) for all pollutants except SO<sub>2</sub>, nitrosamines, nitramines and aldehydes for which effects are Slight Adverse (Not Significant), as described in <b>Table 5-49 of Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)</b>.</p> <p>Additionally, a Human Health Risk Assessment has been undertaken within <b>Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)</b> which found that there is a Negligible (Not Significant) risk of human health impacts from direct and indirect exposure to pollutants such as dioxins, furans and metals.</p>

## 2.5 SAVE CROSSNESS NATURE RESERVE (REP2-031)

Table 2-5 Applicant's response to matters raised at Deadline 2

Table ref	Summary of issue raised	Applicant's response
<b>Required footprint</b>		
2.5.1	2. It remains unclear from the Applicant's documents what the Applicant believes to be the minimum necessary footprint for the Carbon Capture Facility. The Applicant's TSAR Process Overview <sup>1</sup> states "Option 2 (Compact) could be accommodated within a range of site size (some 6.3ha to over 8ha) dependent upon various factors". It remains unclear exactly what those 'factors' are.	<b>Paragraph 1.2.12 of Appendix B: Terrestrial Site Assessment Process Overview (REP1-026)</b> references the site size range in relation to various factors, which are explained in that paragraph recognising that the areas of flexibility indicated could ' <i>potentially to be used for any (or all) of LVIA, water environment, ecological and operational drainage functions. These are a limited part of the overall CCF area that will be developed during detailed design and are an appropriate and necessary part of the Proposed Scheme</i> '.
2.5.2	3. We maintain that a smaller footprint could be achieved, and endorse the detailed alternative designs prepared on behalf of Landsul and Munster Joinery.	The <b>Applicant's Response to Landsul and Munster Joinery's Deadline 1 Submission (REP-021)</b> has demonstrated that the alternative designs promoted by Landsul and Munster Joinery are not credible.
2.5.3	4. The Applicant's Flue Gas Ductwork Note <sup>2</sup> still fails to explain the discrepancy in the Applicant's submissions, namely that the TSAR originally stated that the flue gas ductwork could be located on the existing Riverside Campus, but later submissions stated this was not possible.	In response to SCNR's Written Representations, the Applicant has confirmed that the first bullet under OP5 in Table 3-2 ' <i>is an error. The correct description of the Flue Gas Ductwork to the East Zone is given in the following bullets.</i> ' See second row, under title 'Planning Designations and Loss of Land' on <b>page 128</b> of the Applicant's <b>Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b> .
<b>Alternative sites</b>		
2.5.4	5. We endorse the alternative designs prepared on behalf of Landsul and Munster Joinery, which show that delivery in the East Zone (specifically North Zone 1) is possible.	The <b>Applicant's Response to Landsul and Munster Joinery's Deadline 1 Submission (REP-021)</b> has demonstrated that the alternative designs promoted by Landsul and Munster Joinery are not credible.  The submitted Applicant documents, not least the <b>TSAR (APP-125)</b> the <b>TSAR Addendum (AS-044)</b> and its <b>accompanying plan (AS-062)</b> and <b>Appendix D to the Written Summary of the Applicant's Submission at ISH1 (REP1-026)</b> demonstrate why the East Zone, including North Zone 1, are not reasonable alternatives.  The Deadline 2 submission made by Realty Income Ltd (REP2-030) confirms that the land occupied by Iron Mountain is not available.
2.5.5	6. We add that a relocation of FP4 along the southern and eastern edges of North Zone 1 (as shown in red in Figure 1 below) would allow for a more efficiently designed site in East Zone (North Zone 1). While we do not consider this change necessary, it would make it even more feasible to avoid impact to third parties, allow for a contiguous site, and also facilitate access to and from Norman Road. It would also minimise impact on users of FP4, as detailed below.	The relocation of FP4 as suggested by SCNR is not a reasonable alternative.  SCNR relies upon North Zone 1, which was demonstrated in the <b>TSAR Addendum (AS-044)</b> to perform poorly against the Optioneering Principles and consequently fail to meet the Principles and Objectives of the Proposed Scheme. It has been dismissed as a reasonable alternative.  As confirmed on page 125 of the <b>Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b> (the final paragraph of the second row under title 'Applicant's



Table ref	Summary of issue raised	Applicant's response
		<p>approach to East Zone') even if the Compressed/Compact Layout could be delivered on a site of 6.3ha; it would still require the Iron Mountain plot and one other, with all the challenges that have been set out in the <b>TSAR (APP-125)</b>, the <b>TSAR Addendum (AS-044)</b> and <b>Appendix D of the Written Summary of the Applicant's Oral Submission at ISH1 (REP1-025)</b>.</p> <p>Development of the Carbon Capture Facility in the East Zone would require either Iron Mountain and Lidl land plots or Iron Mountain and ASDA land plots.</p> <p>In either outcome, neither of which are reasonable alternatives for reasons set out in the above-named documents including those in addition to the impact on FP4, the relocation of FP4 as suggested by SCNR would run through the development. This is neither a practicable outcome nor a reasonable alternative.</p>
2.5.6	<p>7. It may also be possible to split delivery of the Carbon Capture Facility across the East Zone (North Zone 1), Borax North and Borax South. This approach should only be considered as a fallback to delivery in East Zone (North Zone 1), as it would entail some harm to Crossness Nature Reserve (albeit significantly less than the Proposed Scheme). The Applicant has previously confirmed that delivery of two separate Carbon Capture Plants (one for Riverside 1 and one for Riverside 2) would be possible<sup>3</sup>. This proposed layout would seemingly work well with such an approach.</p>	<p>Paragraph 2.2.5 of the Planning Statement simply sets out the two options being considered: one or two plant configurations. It makes no reference to those facilities being developed at different locations and as set out above, this is not a reasonable alternative.</p> <p>Locating two carbon capture plants at different sites would result in the requirement for significant interconnecting pipework between the two areas and the duplication of facilities and infrastructure. There would be more pipework (for steam, condensate, cooling water and CO<sub>2</sub>) and cabling required across Norman Road and equipment (such as chemical storage tanks, solvent storage tanks, etc.) would need to be duplicated.</p> <p>In addition, separate access and security arrangements would be required for the two sites, so that control and operation would become more challenging, and the visual impact and land requirements of the facilities would be extended across a wider area.</p> <p>Consequently, there would also be an increase in the overall footprint requirement. Developing the Carbon Capture Facility as two, discrete plant on separate sites is neither a practicable outcome nor a reasonable alternative.</p>
2.5.7	<p>8. These examples would overcome the Applicant's purported issues around delivery in the East Zone (impact on multiple businesses and issues around FP4), while still avoiding the significant harm to Crossness Nature Reserve arising under the Proposed Scheme. The Applicant has failed to consider either of them, demonstrating further that the Applicant has not properly considered alternatives, and has not followed the mitigation hierarchy.</p>	<p>As demonstrated by the Applicant in the rows above, the examples proposed by SCNR do not address the identified issues, which have been carefully considered in the Application documents. Reasonable alternatives have been considered appropriately, not least as set out in the <b>TSAR (APP-125)</b> the <b>TSAR Addendum (AS-044)</b> and its <b>accompanying plan (AS-062)</b> and <b>Appendix D to the Written Summary of the Applicant's Submission at ISH1 (REP1-026)</b> and as set out at the <b>first row of Table 2-3-4 of the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b> the mitigation hierarchy has been robustly applied.</p> <p>Although the Proposed Scheme involves habitat loss within Crossness LNR, significant harm is avoided through compensatory habitat enhancement, principally improvement of the condition of Floodplain Grazing Marsh in Norman Road Field and the West Paddock, and creation of new wetland habitat in Norman Road Field in the form of new ditches with aquatic planting. In addition, displacement of the water vole population into enhanced ditches will mitigate for potentially significant harm on this ecological feature.</p>

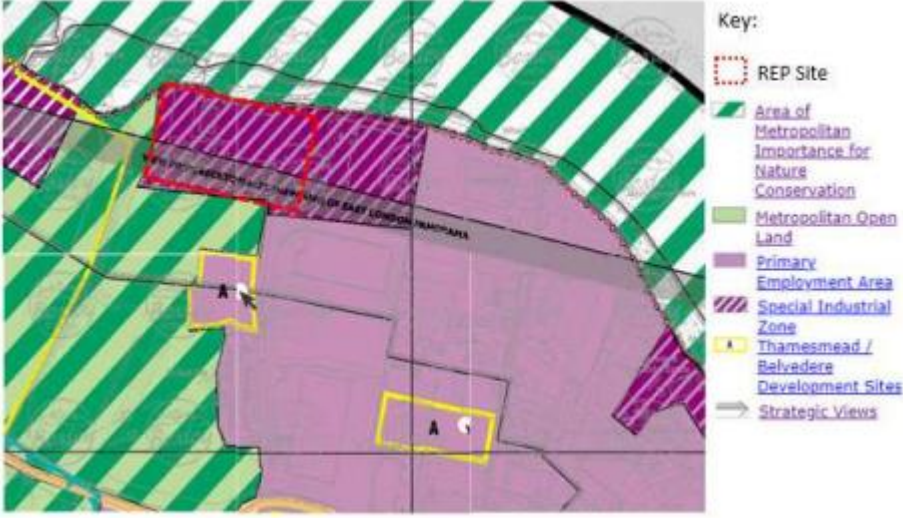
Table ref	Summary of issue raised	Applicant's response
Thamesmead Golf Course		
2.5.8	<p>9. The Applicant states that the Proposed Scheme is the “only way” that ecological improvements to Thamesmead Golf Course can be delivered in the near future, since Peabody’s delivery strategy is currently without a funding mechanism. This conclusion does follow from the current lack of funding. There are multiple alternative avenues to secure funding. Members of the Save Crossness Nature Reserve team have secured millions of pounds towards ecological projects in the local area and can therefore attest to the availability of funding.</p> <p>12. The Applicant’s position also overlooks Peabody’s in-house capabilities. Peabody owns vast amounts of greenspace, with dedicated teams responsible for its enhancement and management. .</p> <p>13. All of the above suggests alternative funding is available that would avoid the destruction of valuable land and ecology on Crossness Nature Reserve. Therefore, the Applicant’s role in delivery of the Thamesmead Golf Course works is overstated. Accordingly, it should not be considered legitimate mitigation for the significant biodiversity harm arising from the Proposed Scheme.</p>	<p>The Applicant acknowledges that there are other external funding mechanisms available to Peabody for works across their estates, and that the Trust has internal resource (albeit the Applicant is not familiar with the extent of this).</p> <p>The opportunity to use the former Thamesmead Golf Course (TGC) for biodiversity net gain (BNG) enables this benefit of the Proposed Scheme to be delivered locally to the project, and consequently, to provide some level of certainty that Peabody’s initiative Pathway to the Thames can be delivered in the near future, to the benefit of local communities. As a housing association, Peabody’s primary focus is on providing affordable housing for communities and although it aspires to creating ecological improvements to its wider estate, funding such aspirations is often challenging without a partner organisation. Thus, improvements to TGC have yet to be realised. However, the Proposed Scheme’s proposal to fund ecological enhancements will see them become a reality when they would otherwise remain unimplemented; this is particularly relevant to funding the relatively expensive initial work to landscape and plant TGC.</p> <p>The opportunity for the Applicant to deliver the proposed BNG at the former Thamesmead Golf Course would enable Peabody to reduce its demand on other funding mechanisms, to the benefit of other schemes that would otherwise be competing for those funds.</p> <p>The Applicant also notes that the relationship between the proposals at TGC and the impacts of the Proposed Scheme are being conflated. The TGC proposals substantially relate to the provision of compensatory for Open Mosaic Habitat that does not form part of the Crossness LNR and ensuring that a 10% BNG is achieved. Whether it is the TGC that is delivered or an Alternative Off-Site Delivery Mechanism, either will seek to deliver on those requirements, as required by the DCO.</p> <p>It is the case that if the Proposed Scheme is consented, the impacts to the Crossness LNR arising from the Proposed Scheme would happen, irrespective of whether the TGC proposals are delivered. They are one way for the Applicant to deliver its compensation and BNG (but note, not mitigation) requirements.</p> <p>The Applicant and SCNR disagree in regard to the extent of harm caused to the Crossness LNR and Erith Marshes SINC. Not least, the Applicant has demonstrated through <b>Chapter 7: Terrestrial Biodiversity (APP-056), Chapter 10: TVIA (APP-059) and Chapter 14: Population, Health and Land Use (APP-063)</b> of the ES and <b>Chapters 6 to 10 of the Planning Statement (APP-040)</b>, that impact on valuable land and ecology of the Crossness LNR has been comprehensively considered within the Application documents</p>

Table ref	Summary of issue raised	Applicant's response
<b>Gannon Land</b>		
<b>2.5.13</b>	<p>14. The Applicant has confirmed that, as part of the Riverside 2 development, it has committed to restoring the Gannon land parcel (which we believe to be roughly 1 hectare) as Open Mosaic Habitat (OMH). The Proposed Scheme is to be built on this land, meaning this benefit from Riverside 2 will be lost. The Applicant only proposes compensation in biodiversity net gain terms through the provision of OMH at Thamesmead Golf Course.</p>	<p>Open Mosaic Habitat was removed from the Gannon land parcel by the Riverside Energy Park Development Consent Order (Riverside 2), to allow for construction laydown, with provision for it to be restored on completion of the Riverside 2 construction phase. No Open Mosaic Habitat is currently present on the Gannon land parcel for this reason, as Riverside 2 is under construction.</p> <p>The Applicant proposes to restore the Open Mosaic Habitat to a different location, Thamesmead Golf Course, rather than the Gannon land parcel to allow the Proposed Scheme to be constructed without affecting the overall goal of restoration of Open Mosaic Habitat. The Applicant considers this is a more favourable position that secures the long-term future of this habitat type; in the absence of the Proposed Scheme, the Gannon land parcel is allocated as Strategic Industrial Land (SIL), which would likely lead to its eventual development.</p>
<b>2.5.14</b>	<p>15. However, the Applicant has failed to account whatsoever for the separate harms of loss of open space and green infrastructure. Delivery of OMH on Thamesmead Golf Course fails to mitigate this harm, since that land is already open space and green infrastructure. Furthermore, given the Gannon land is connected to Norman Road Field (in turn connected to Crossness Nature Reserve), it is possible this land would go on to achieve MOL and even SINC designation, which again is not accounted for. We believe it is likely that, once OMH, the Gannon land would have been removed from the SIL allocation, and so the Applicant's reliance on partially developing the Proposed Scheme on SIL land should be seen in this context. This is yet another example of how the Applicant has failed to properly assess the full extent of the harm and correctly apply the mitigation hierarchy.</p>	<p>The Applicant's full response in regard to SCNR's complaint of loss of open space is provided at <b>page 121</b> of the <b>Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b>, under title 'Planning Designations and Land Loss – Open Space and Green Infrastructure'.</p> <p>In short, the Applicant has appropriately considered the impact on open space, using an approach that aligns with NPS EN-1 and focussing on that land that is actually accessible by the public (the Accessible Open Land). Further, the Applicant confirms that there is no statutory obligation to provide replacement land for the Non-Accessible Open Land that is lost, as it does not constitute special category land for the purposes of the Planning Act 2008. The Applicant also notes that it has, in its TVIA, considered impacts relating to the Non-Accessible Open Land, with the conclusions of that TVIA then considered in the Planning Statement as part of the planning balance.</p> <p>The Applicant has demonstrated through <b>Chapter 7: Terrestrial Biodiversity (APP-056)</b>, <b>Chapter 10: TVIA (APP-059)</b> and <b>Chapter 14: Population, Health and Land Use (APP-063)</b> of the ES and <b>Chapters 6 to 10</b> of the <b>Planning Statement (APP-040)</b>, that impact on green infrastructure has been comprehensively considered within the Application documents with appropriate mitigation proposed.</p> <p>The Applicant's proposals at Thamesmead Golf Course achieve Biodiversity Net Gain and so constitute an improvement to the existing green infrastructure at that location, in line with the BNG regime.</p> <p>SCNR's suggestion that the Gannon Land may achieve MOL or even SINC designation is pure speculation. The Gannon Land was allocated as Primary Employment Area in the Bexley Unitary Development Plan, as shown in the extract below, and has been identified as OMH for some time; it is referenced as such in the application documents submitted (in 2018) for the Riverside Energy Park Order, which is why provision for it needs to be made.</p>



Table ref	Summary of issue raised	Applicant's response
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 <p>The Bexley Local Plan was adopted in April 2023 (less than two years ago) continuing the promotion of development at the Gannon Land by allocating it a Strategic Industrial Location. The Applicant notes that a review of SINC designations, including the Erith Marshes boundary, formed part of the evidence base for the current Local Plan and LBB would have been cognisant of the presence of OMH and its intended replacement at the Gannon Land. Neither the MOL nor SINC designations were extended across the Gannon Land in the (recently adopted) Bexley Local Plan.</p>
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**Public access**

<p>2.5.15</p>	<p>16. We take particular issue to the proposed PRow in the north-west corner of the Site, creating a second route between FP2 and FP3. This route is redundant given the existing route to the west that serves the same purpose. It will lead to completely unnecessary fragmentation of and harm to habitat, while offering no meaningful benefit.</p>	<p>Addition of this small (&lt;80m in length) additional path will improve public access to the Crossness LNR with negligible effect on the neutral grassland that is currently present. The Applicant does not accept that addition of a new path constitutes habitat fragmentation, it would not be a barrier to movement of birds (which can fly over it), reptiles (which may use it as a basking spot) or other animals that may be found in this area.</p> <p>The indicative locations of new and altered Public Rights of Way (PRow) are presented within the <b>Outline Landscape, Biodiversity, Access and Recreation Delivery Strategy (as updated alongside this submission)</b>, however confirmation of the exact routes will be determined as part of the detailed design process, pursuant to Requirement 12 of the <b>Draft DCO (as updated alongside this submission)</b> and alongside the discharge of the full Landscape, Biodiversity, Access and Recreation Delivery Strategy(s). As part of this process, consideration to ecological features, including ground nesting bird habitat and ditches used by water voles, and other ecologically sensitive areas, will be given, with measures needing to be to the satisfaction of the London Borough of Bexley.</p>
<p>2.5.16</p>	<p>17. The Applicant's Written Summary of Oral Submissions at ISH1 confirms that the exact routes and detailed design of the new and altered PRows are not yet determined. Until this information is prepared, the full extent of the potential ecological harm, and the level of mitigation required, cannot be properly</p>	<p>At page 65 of the <b>Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b> in response to the SCNR and under title 'Additional Harm – Public Access', the Applicant explains that <i>'confirmation of the exact routes will be determined as part of the detailed design process, pursuant to Requirement 12 of the draft DCO (as updated alongside</i></p>



Table ref	Summary of issue raised	Applicant's response
	<p>assessed. We request that the Applicant provides this information before Deadline 3.</p> <p>18. The Applicant proposes protection of ecologically sensitive areas through signs encouraging visitors not to stray from the paths and instructing dog walkers to keep dogs on a lead. Of course, there is no guarantee that this guidance will be followed. There would be a high residual risk of harm to vulnerable and valuable species and habitats; therefore, this alone is insufficient mitigation.</p>	<p><i>this submission) and alongside the discharge of the full LaBARDS.</i> The routes of any new or altered PROW will not be available during the Examination.</p> <p>That same response also advises that <i>'As part of this process, consideration to ecological features, including ground nesting bird habitat and ditches used by water voles, and other ecologically sensitive areas, will be given, with measures needing to be to the satisfaction of LBB.'</i> Further, water vole are recognised to be <i>'able to exist in publicly accessible areas as they occupy the banks of ditches and wetland features generally avoided by visitors; in addition, water voles live in burrows that act as refuges.'</i> The Applicant disagrees that there would be residual risk of harm to ecological features.</p> <p>The Applicant also notes that several Objectives of the existing Crossness Nature Reserve Management Plan (2016-2020) would have a similar outcome. For example:</p> <p>Objective 2: Encourage use and enable community engagement</p> <p>Objective P2.2 Develop Crossness as a regionally important site, providing easy, safe and enjoyable access for all members of the community.</p> <p>Objective P4.4 Work with partners to encourage access.</p> <p>The Applicant has updated the Outline LaBARDS at Deadline 3 to reflect the above.</p>
2.5.17	<p>19. The Applicant has also failed to consider how the relocation of grazing land for the grazier will create potential health and safety risks affecting public access (considered further below).</p>	<p>The Proposed Scheme does not include the relocation of grazing land. The outcome of the Outline LaBARDS would be to improve the habitat condition and overall biodiversity value of Floodplain Grazing Marsh, and secure appropriate long-term management, including for graziers.</p>
<b>Footpath 4 (FP4)</b>		
2.5.19.	<p>20. The Applicant continues to overstate the harm to FP4 if the Carbon Capture Facility were delivered in the East Zone. The Applicant's East Zone Connectivity Note only confirms that all the problems listed are either resolvable, or ultimately do not create a significant amount of harm, especially when compared to the loss of Crossness Nature Reserve Land under the Proposed Scheme. The potential effect on the linear green and blue infrastructure along Norman Road is obviously far less significant than the actual loss of the more valuable Crossness Nature Reserve land.</p> <p>21. The impacts on users of FP4 are overstated. It is common to have vehicle crossings on public footpaths – in fact, FP1 even crosses a busy dual carriageway (the A2016 Eastern Way).</p>	<p>The Applicant agrees that FP1 crosses the busy A2016 Eastern Way and notes that this is far from an ideal situation.</p> <p>However, as set out at <b>page 127</b> of the <b>Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b> in response to the SCNR and under title 'Analysis of Project Objectives in the East Zone' the <i>'Applicant does have concerns about the permanent effects that would likely impact FP4 if the Carbon Capture Facility were to be developed at the East Zone (as set out at <b>Appendix D to the Written Summary of the Applicant's Oral Submission at ISH1 (REP1-025)</b>. However, and as is explained in that Appendix, this is not the only concern with this location, which are discussed further in response to the SCNR's analysis.'</i></p> <p>The effect of the limited loss of the Crossness LNR is assessed in <b>Chapter 7: Terrestrial Biodiversity (APP-056)</b> of the ES and considered in the planning balance in the <b>Planning Statement (APP-040)</b>. Paragraphs 9.4.3 and 9.4.4 of the Planning Statement confirm:</p> <p><i>'9.4.3 There are just two key areas of planning policy with which the Proposed Scheme does not fully comply: MOL; and open space and green infrastructure. These are shown to be not</i></p>

Table ref	Summary of issue raised	Applicant's response
		<p><i>material outcomes in planning terms as very special circumstances are demonstrated, as are overall benefits that substantially outweigh the harm.</i></p> <p><i>9.4.4 Across the EIA and planning considerations, the beneficial effects can be summarised as: extensive; generally long lasting, if not permanent, felt throughout the operation phase; and widely apply at all levels, from local to global.'</i></p> <p>The Applicant confirms it has considered the important and relevant effects appropriately and that the East Zone is not a reasonable alternative to deliver the Project Objectives.</p> <p>The Applicant would also highlight paragraph 4.3.23 of NPS EN-1, in the context of the points made in Appendices D and E to <b>the Written Summary of the Applicant's Oral Submission at ISH1 (REP1-025)</b>:</p> <p><i>4.3.23 The Secretary of State should be guided in considering alternative proposals by whether there is a realistic prospect of the alternative delivering the same infrastructure capacity (including energy security, climate change, and other environmental benefits) in the same timescale as the proposed development.</i></p>
2.5.21	<p>22. The fact that a small part of FP4 would “feel significantly more industrial in character” is of minor concern, and to be expected when surrounded by SIL. Furthermore, as per Figure 1 above, these concerns could be improved through a rerouting of FP4 along the southern and eastern edges of the Carbon Capture Facility.</p>	<p>As set out at <b>page 127</b> of the <b>Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b> in response to the SCNR and under title 'Analysis of Project Objectives in the East Zone' the '<i>Applicant does have concerns about the permanent effects that would likely impact FP4 if the Carbon Capture Facility were to be developed at the East Zone (as set out at <b>Appendix D to the Written Summary of the Applicant's Oral Submission at ISH1 (REP1-025)</b>. However, and as is explained in that Appendix, this is not the only concern with this location, which are discussed further in response to the SCNR's analysis.'</i></p> <p>The Applicant has confirmed, at <b>reference 2.5.5</b> above, that the SCNR's proposed relocation of FP4 is neither practical nor does it lead to a reasonable alternative.</p>
<b>Relocation of graziers</b>		
2.5.22	<p>23. The Applicant's Equalities Considerations document sets out further detail regarding relocation of the grazier, Ms Anderson. However, the Applicant has failed to consider the knock-on effects this will have on the remaining Crossness Nature Reserve. The Applicant seeks to justify loss of the paddocks by ascribing them low value, due to lack of public access and purported low ecological value (an approach we dispute). But these conditions would be replicated on whatever land becomes the new grazing land. Therefore, in effect, it is the purportedly higher value (and potentially publicly accessible) land that is lost. This reveals a logical inconsistency in the Applicant's approach.</p>	<p>The Proposed Scheme does not include the relocation of grazing land – Ms Anderson will have slightly less, but improved, land to graze, whilst Mr Anderson will have an improved position. Crossness Local Nature Reserve is formed, primarily, of Floodplain Grazing Marsh that is maintained by the presence of livestock. The goal of the Outline LaBARDS is to improve the condition of remaining habitats within the Crossness Local Nature Reserve and Norman Road Field, with management of grazing being a key part of proposals to achieve this. Knock-on effects are not anticipated as grazing will be managed such that it will benefit habitats rather than harm them.</p> <p>SCNR recognises the high levels of soil poaching and other adverse effects resulting from the current density of stocking of the East Paddock (<b>Environmental Statement Appendix 7-1: Biodiversity Net Gain Report (APP-088)</b>) and suggests this would be replicated in Norman Road Field. However, the Applicant intends to introduce conservation-focussed habitat</p>

Table ref	Summary of issue raised	Applicant's response
Norman Road Field		
2.5.23	<p>24. We disagree with the Applicant's analysis of the planning position relating to Norman Road Field. We accept that (at least some of) the initial works required under the Ecological Master Plan were carried out under permission 08/01834/FUL. However, there is no evidence that the further long-term management that is also required under the Ecological Master Plan has been carried out. There is no evidence that Management Plans have been produced. The Applicant itself notes a "lack of longterm management of the interventions that had been undertaken"<sup>10</sup>. The 10 Consent only refers to the initial works and not the long-term management.</p>	<p>management to Norman Road Field (where currently no habitat management regime exists or is required to exist) through the Outline LaBARDS, with control of grazing a key part of this approach. Habitat loss in Norman Road Field would not occur as part of these management proposals.</p> <p>SCNR's footnote 10 refers to <b>page 31</b> of the <b>Written Summary of the Applicant's Oral Submissions at ISH1 (REP1-025)</b>. It is not correct to do so. There is nothing in that text directly linking it to the Veridion Park mitigation works undertaken in Norman Road Field; indeed, the preceding text is focussed on the Crossness LNR Management Plan, with the following paragraph referring to Norman Road Field.</p> <p>Whilst the Applicant and SCNR disagree on this matter, it seems there is agreement that the mitigation works required at Norman Road Field for the Veridion Park development have been undertaken. SCNR's representation acknowledges that the initial works have been carried out and its complaint, focussing on a failure to deliver long-term management, is made on the basis of a lack of management plans.</p> <p>Firstly, it is likely (or in the very least not unreasonable to assume) that the mitigation works in Norman Road Field were undertaken in 2009/2010; following the applicant's receipt of the LBB 2009 Letter, dated 4 June 2009. Indeed, the Crossness Nature Reserve Management Plan (2016-2020) states: <i>'Tilfen Land own and manage Norman Road Field (south-east of Crossness Nature Reserve). In 2010, this area underwent habitat creation (wader scrape and grazing marsh) as mitigation for development impacts elsewhere.'</i></p> <p>This is nearly fifteen years ago, and it is not unusual for documents such as management plans, to be lost over such a period of time. There is nothing to suggest they were not submitted and implemented as approved; they are simply not available.</p> <p>Paragraphs 1.2.8 to 1.2.11 of <b>Appendix F</b> to the <b>Written Summary of the Applicant's Oral Submissions at ISH1 (REP1-027)</b> introduces the two planning consents gained for the Veridion Park mitigation measures to be provided at Norman Road Field (referenced 07/08166/FULM (approved 12 October 2007) and 08/01834/FUL (approved 20 March 2008). Annex B to that Appendix provides the documents relevant to those decisions, including the Committee Report for 07/08166/FULM (08/01834/FUL was a delegated decision). Under title 'PROPOSAL' the Committee Report states:</p> <p><i>'The application is supported by a Planning Statement and copies of the East Thamesmead Business Park – Ecological Masterplan and East Thamesmead Business Park – Ecological Management Plan and a document entitled Viridion Business Park - 'Detailed methodology of the creation of a wetland and surrounding grassland at Norman Road (Area 5).'</i></p> <p>Clearly, LBB had received management plans as required.</p> <p>Further, the two consents relevant to the mitigation works undertaken in Norman Road Field themselves contain a condition (number 11) that requires <i>'submission and approval of a</i></p>



Table ref	Summary of issue raised	Applicant's response
		<p><i>management strategy by grazing</i> (see <b>paragraph 1.2.11 of Appendix F to the Written Summary of the Applicant's Oral Submissions at ISH1 (REP1-027)</b>). The LBB 2009 Letter confirms (twice) that details required by condition have been approved, which must include the management of those works.</p> <p>It is not disputed between the Parties that grazing has occurred, and continues, at Norman Road Field. The Ecological Master Plan limits the period of the management plans to ten years, this is the period of long-term management foreseen by the Ecological Master Plan. Consequently, the long-term management of the Veridion Park mitigation measures provided at Norman Road Field have both been implemented and subjected to the approved long-term management.</p> <p>Finally, the Applicant notes that it and LBB are agreed (see <b>LBB SoCG, Rev B (REP2-010)</b>) that <i>'there remains no mitigation commitments at Norman Road Field.'</i></p>
<p><b>2.5.24</b></p>	<p>25. The URS 'Ecological Enhancement and Protection Scheme' document provided by LBB is not relevant: it was not relied upon by LBB when discharging condition 18 of the 10 Consent. The LBB decision letter (Appendix 8 of our Deadline 1 Written Representation) instead relies on a separate document produced by AECOM the following year, which has not been produced. In any event, the URS document only confirms the initial Norman Road Field works were completed; it does not confirm long-term management<sup>11</sup>.</p>	<p>The Applicant has responded to paragraph 25 of the SCNR written representation above. Here, the Applicant addresses SCNR's footnote 11, which is concerned with condition 18 of (the Applicant assumes as it is not stated planning permission reference 02/03373/OUTEA), which states:</p> <p><i>'No development approved by this permission shall be commenced until a detailed scheme, incorporating the recommendations included in the Ecological Master Plan, to protect and enhance the ecological value of the site has been approved by and implemented to the satisfaction of the Local Planning Authority. Any scheme or details prepared and submitted pursuant to this condition shall be consistent with the mitigation measures described in the Environmental Statement and Ecological Master Plan and will not be approved if it may have effects significantly different to those considered in the Environmental Statement.'</i> (emphasis added)</p> <p>The Applicant reads condition 18 as principally applying to the site of Veridion Park, which is physically separated from Norman Road Field, not least by the A2016 Eastern Way. The mitigation measures for Norman Road Field, and the management strategy relevant to those measures, is addressed through the consents that apply to Norman Road Field.</p> <p>Even if the Applicant is wrong on this point, it is demonstrated, and agreed with LBB, that both the mitigation measures and the required long-term management of Norman Road Field have been implemented. There is no dispute with SCNR that those works are not consistent with the mitigation measures described in the Ecological Master Plan. Indeed, the extract from the Committee Report for 07/08166/FULM given in the row above, confirms that LBB received the required management plans and must have considered them acceptable to go on to approve the applications made with reference to them. Consequently, condition 18 (should it be considered to be relevant to Norman Road Field) has been satisfied.</p>

Table ref	Summary of issue raised	Applicant's response
2.5.25	26. The Applicant incorrectly states that the ten-year period referred to in the Ecological Master Plan runs from the date of the initial works; the wording clearly states that it is the Management Plans themselves that run for ten years. Given the lack of management, that requirement is still live and enforceable.	There is nothing in the Ecological Master Plan that provides any definition for long-term management other than the stated period of ten years applied to the Management Plans, which were intended to address ' <i>management of the habitat in the long-term</i> '.
<b>Management of Crossness Nature Reserve (including comments on draft Deeds of Obligations)</b>		
2.5.26	27. The Applicant's approach now relies on Deeds of Obligations pursuant to section 111 of the Local Government Act 1972. The draft Deed of Obligations (B) only sets out terms relating to the Members' Area and manager of Crossness Nature Reserve employed by TWUL (with Deed of Obligations (A) relating to Thamesmead Golf Course). We assume therefore that a separate s106 agreement is intended in relation to broader planning obligations, but this has not been provided. It is unclear why this is the case, and how the Applicant intends for the land to be bound by the obligations pursuant to these Deeds of Obligations. We request that the Applicant gives a full explanation, including a draft of any additional s106 agreement, as soon as possible.	<p>Management of the expanded Crossness LNR through the lifetime of the Proposed Scheme is secured via Requirement 12 of the draft DCO.</p> <p>The Deed of Obligation (B) deals with three things:</p> <ul style="list-style-type: none"> <li>• seeking to enable the Crossness LNR TWUL Land (as defined in that deed) to form part of the overall management regime created by the LaBARDS. As stated at ISH1, if TWUL do not agree to this then the LaBARDS and draft DCO can be updated accordingly;</li> <li>• providing clarity that a Crossness LNR Manager position will continue to be employed by TWUL. If TWUL do not agree to this, the staff management of the Crossness LNR would be discussed with LBB in signing off the LaBARDS; and</li> <li>• ensuring that there is no 'gap' in the planning position in light of the commitments in the 1994 Agreement, if the Proposed Scheme is decommissioned before 2093. Ultimately if Deed of Obligation (B) is not able to be agreed with TWUL, the Applicant would be able to provide a Unilateral Undertaking solely on this issue.</li> </ul>
2.5.27	28. The Applicant's claim that compulsory acquisition is "necessary" is incorrect. Third parties could be required to manage the land through positive s106 obligations (either by varying existing agreements or entering into a new one). The Applicant tacitly accepts this in its proposal to place positive obligations on TWUL to ensure the Members' Area (which will stay under TWUL ownership) is "managed in the same way as the rest of the land".  This demonstrates that the same level of management can be achieved without acquisition.	<p>The Applicant has explained in its <b>Written Summary of Oral Submissions at CAH1 (REP1-028)</b>, its response to <b>Save Crossness LNR's Written Representation (REP2-019)</b>, and its response to First Written Question (FWQ) 1.5.0.8 submitted at Deadline 3 why it is not possible simply to amend the existing section 106 agreements to ensure that the LaBARDS is delivered.</p> <p>The Member's Area/Crossness LNR TWUL Land is in a different position. That land sits behind the TWUL fenceline for the Crossness Sewage Treatment Works and thus will be managed by TWUL as part of its overall operation of the plant. It is therefore entirely appropriate for TWUL to decide if it wants to undertake that management in a cojoined way with the rest of the Nature Reserve (via the Deed of Obligations), or if it wants to manage the land separately. The Applicant's case does not rely on that land being included in the final LaBARDS.</p>
2.5.28	29. The fact that the Applicant is liable for compliance with the DCO is irrelevant: whether or not the Applicant acquires the land, TWUL will continue to manage it, and the Applicant's method of ensuring TWUL's compliance will be through enforcement of the contract between the two parties. The Applicant's draft Deed of Obligations already allows for direct enforceability in this way. The same level of control and ability to enforce (and risk) arises through either route.	<p>The Applicant is unclear what is meant by 'the contract between the two parties' in a scenario where CA powers are used.</p> <p>The LaBARDS imposes obligations on <u>the Applicant</u> to manage the expanded Crossness LNR, including the Island Lagoon Fields. It is therefore an obligation on the Applicant to manage the land in accordance with the approved LaBARDS. Absent some form of voluntary agreement with TWUL to do this on the Applicant's behalf, the Applicant needs to be able to ensure it can comply with its obligations.</p>

Table ref	Summary of issue raised	Applicant's response
		<p>The draft Deed of Obligation relates only to the Member's Area/Crossness LNR TWUL land and does not work as is suggested. It only provides for TWUL to voluntarily agree that it will manage the retained land in accordance with the LaBARDS – if it decides it does not want to do so, the draft Deed of Obligation will not be entered into in those terms.</p>
2.5.29	<p>30. The claim that “there is nothing in property terms preventing TWUL from wishing to develop that land for development in the future” is deeply misleading. TWUL is prevented from developing the land under its existing s106 agreement, and under its statutory obligations. Furthermore, the strong planning designations of Crossness Nature Reserve protect it from redevelopment. The Proposed Scheme does not materially add to that level of protection. In any event, it would be absurd to justify development on (and extensive loss of) Crossness Nature Reserve in order to protect the remainder from further development.</p>	<p>There is currently nothing in property terms preventing TWUL in bringing forward planning on that land if, for example, it needed to extend the Crossness Sewage Treatment Works. In such circumstances, it would be able to bring forward relevant mitigation/compensation proposals to ensure it would not breach its statutory duties, as well as varying the 1994 Agreement, if required. Imposing a restrictive covenant would change TWUL's ability to do this.</p> <p>In any event, the Applicant recognises that this is a purely hypothetical exercise – the point it is making is that in considering the applicability of the approach to DCO powers, the Applicant and the decision maker needs to consider the fact that it is a loss of <u>land</u> for TWUL 'full stop', where its current use is only one consideration.</p>
2.5.30	<p>31. The Applicant's assertion that “imposing new planning obligations on a third party... would essentially be akin to a positive covenant in property terms”, is misguided. It is common practice and entirely legitimate for s106 agreements (whether varied or new) to impose new, positive planning obligations on third parties. The limitations on the use of positive covenants do not apply to planning obligations. It would be the third parties' free choice to enter into these new obligations. The alternative – being forced to lose the land entirely – is surely more coercive. In any event, this argument contradicts the Applicant's own approach, since the Applicant is already proposing to impose new obligations on TWUL under the draft Deed of Obligations.</p>	<p>The Applicant recognises that it is possible for planning obligations to impose positive obligations on parties, and that is essentially its point – additional obligations would be being imposed on land that, but for the DCO, would otherwise not be. As explained in its <b>Written Summary of Oral Submissions at CAH1 (REP1-028)</b>, however, that in and of itself is not sufficient to ensure that there is no breach of the LaBARDS – restrictive covenants would also need to be imposed. The combination of these two approaches would bind TWUL's and Tilfen Land Limited's (in respect of the Norman Road Field) hands in what they could do with the land moving forward. Please also note the response to FWQ 1.5.0.8, submitted at Deadline 3, in respect of the section 106 position.</p> <p>As noted in response to 2.5.26, the approach to the Member's Area is not contradictory. As explained in the <b>Written Summary of Oral Submissions at CAH1 (REP1-025)</b>, the Applicant considers that it would be appropriate for that area to be managed as part of one consolidated expanded Crossness LNR. However, it also recognises that TWUL may not want to do this, and so it is leaving it open for TWUL to decide if it wishes to (with its costs covered) – it is not imposing this on TWUL, as it is TWUL's decision to sign up to the Deed of Obligation, or not. That is different to imposing a variation to an existing Deed of Obligation through the DCO.</p>
2.5.31	<p>32. The Applicant's notion of “de facto” acquisition is irrelevant to the statutory test of acquisition being required. The Applicant also greatly overstates what TWUL can currently do with the land, given the various limitations listed above. In reality, TWUL would hardly be more limited than it currently is.</p>	<p>The Applicant has clearly set out its position on 'de-facto' in its <b>Written Summary of Oral Submissions at CAH1 (REP1-028)</b> and so does not repeat it here.</p> <p>The combination of restricting TWUL's ability to do what it wants with the land, alongside additional covenants through the LaABRDS would change TWUL's relationship with this land from the current position.</p>
<b>Environmental Permitting</b>		
2.5.32	<p>33. In the Written Summary of the Applicant's Oral Submissions at CAH1, the Applicant states that “the mechanism for achieving the [95%] capture rate is the</p>	



Table ref	Summary of issue raised	Applicant's response
	Environmental Permit” and refers to the EA guidance from March 2024 titled ‘Post combustion carbon dioxide capture: emerging techniques’. However, the guidance only states that operators “should aim to design” plants to achieve this rate of capture and considers capturing at least 95% to be BAT (i.e. best available technique).	Without seeking to repeat its CAH1 submissions, the Applicant’s fundamental position is that the Secretary of State is dictated by policy to consider that the permitting regime will control emissions. This includes carbon emissions.  As stated in NPS EN-1 paragraph 4.12.9: ‘ <i>In considering an application for development consent the Secretary of State should focus on whether the development itself is an acceptable use of the land or sea, and the impact of that use, <b>rather than the control of processes, emissions or discharges themselves.</b></i> ’ (emphasis added)
2.5.33	34. First, there is a difference between what the guidance encourages when designing a carbon capture system (i.e. merely aiming to design it with a view to achieving 95%) and achieving BAT (capturing at least 95% during normal operating conditions). It is possible that a system may be designed to achieve 95% but fall short of achieving this operationally.	The permitting regime continues to evolve as more becomes known about the most appropriate way to regulate carbon capture operations, but this is reflective of how permitting practice works – for all technologies that have evolved in the lifetime of the Environment Agency, the way that they are regulated has progressed. However, that regulation has developed in the fundamental context of seeking to ensure that the environment is protected (as established by the permitting core guidance referenced in the NPS) and the planning system assumes that the permitting system will operate effectively to achieve that aim.
2.5.34	35. Secondly, the guidance is caveated with the words “normal operating conditions”. The impact of this caveat is that, if there are not normal operating conditions, a less than 95% capture is permitted. Consequently, it is possible that the capture system may fail to achieve 95% capture in those circumstances too.	As such, whilst SCNR may have concerns about how that permitting regime may work in practice, ultimately it is that regime which Parliament has entrusted to ensure that carbon capture projects achieve the necessary environmental outcomes in respect of emissions.
2.5.35	36. Thirdly, whilst the 95% is expressed as being akin to a minimum required standard, it is not in practice. This is due to the reasons highlighted above and this is also evident from the fact that there are existing carbon capture facilities that do not achieve this rate and are allowed to continue operating. It could be the case, for example, that the site is found to achieve less than 95% and considered to be BAT compliant (despite the guidance saying that they consider at least 95% capture to be BAT). What is BAT at a particular site is dependent on quantitative and qualitative analysis of BAT. It could be the case that the quantitative and qualitative analysis shows it would be too costly to make the improvements that would be necessary to achieve the 95%. This would leave the site operating at a less than 95% capture rate.	It is therefore not appropriate for the DCO regime to seek to duplicate the controls which are appropriately addressed through the permitting regime, and it is appropriate for the assessment to be based on that rate being achieved.  It is also noted that the EA Guidance is clear that it is the guiding document for permit applications – it states that ‘ <i>When you apply for an environmental permit for this activity, you must tell your regulator whether you are going to follow this guidance. If not, you must propose an alternative approach which will provide the same or greater level of protection for the environment.</i> ’
2.5.36	37. Fourthly, in practice, if a carbon capture facility is found not to be BAT compliant, this will only be picked up during permit reviews by the Environment Agency. Additionally, assuming that the outcome of the BAT analysis is that improvements should be made to achieve the “at least” 95% capture rate, that may take a substantial amount of time to resolve. This is because, the site operator will be given a period of time to implement the improvements that are necessary to achieve BAT.	The EA will therefore consider the matters in the Guidance in considering if the Applicant is proposing BAT, once the permit application is made. In then applying BAT, it is noted that the permits that have been issued for carbon capture projects to date, provide for an on-going monitoring requirement in relation to carbon capture, not just waiting for periodic reviews. The capture rate secured by the permit will also be applied across an operating envelope that represents the normal operating range of Riverside 1 and Riverside 2 (including accounting for start-up and shut down), rather than at a single design point.
2.5.37	38. Consequently, it is incorrect to say that the Environmental Permit ensures that a 95% capture rate is achieved, and the Applicant has failed to provide other sufficient evidence to support its contention.	Finally, the Applicant also notes that it is commercially incentivised to maximise the benefits arising from the Carbon Capture Facility. The Proposed Scheme will entail a significant financial investment, and, as with other infrastructure it operates (R1, R2), the Applicant will seek to optimise efficiency of operations and operational availability to ensure that it achieves the maximum capture rate practicable. Achieving high rates of carbon capture will also be beneficial to our customers in decarbonising their waste and in turn minimising their exposure to the planned introduction of the Emissions Trading Scheme.







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