Cory Decarbonisation Project

Planning Inspectorate Reference: EN010128

SAVE CROSSNESS NATURE RESERVE

Deadline 3: Comments on further information and submissions received at Deadline 2

Introduction

1. The further information provided by the Applicant does not assuage SNCR's concerns set out in previous submissions. The information provided by other parties at Deadline 2 echoes and supplements SCNR's concerns. Below SCNR provides responses to the new information received at Deadline 2, including the "Applicant's Response to Interested Parties' Deadline 1 Submissions Number: 9.12". For the avoidance of doubt, SCNR will not respond to every matter raised; where SCNR does not respond to a point, it is not accepting the Applicant's response. Instead, it is because SCNR does not consider it necessary to respond and instead seeks to rely on previous representations. SCNR will explicitly state if a matter is accepted within this response.

Design

2. The Applicant continues to fail to demonstrate that it has fully explored or tested alternative designs that would reduce the impact on Crossness Nature Reserve, in line with the mitigation hierarchy. For example:

    a. The Applicant states it has opted for a *"buried, rectangular water storage tank, rather than an above-ground cylindrical tank, in order to minimise visual impact at the southern end of the site"*. The Applicant does not dispute Landsul & Munster Joinery's suggestion that an above-ground tank would require a much smaller footprint of 1,134m^2 (compared to 2,000m^2). Therefore, it seems the Applicant has chosen to favour reduced visual impact above loss of Crossness Nature Reserve (and the further ecological harms that entails). EN-1 and the mitigation hierarchy clearly requires the Applicant to do the opposite. While it is important to mitigate visual impact to Crossness Nature Reserve, clearly the priority should be reducing loss of the land and ecological harm.

    b. Landsul & Munster Joinery proposed using 3 x 25m diameter spherical CO_2 storage tanks, which would use less space than the Applicant's proposed approach of 6 smaller spheres. The Applicant justifies this approach based on (1) the reduced CO_2 release in the event of catastrophic failure of a storage receptacle, and (2) distance from neighbouring receptors. However, they have neither provided detailed evidence of the risk of catastrophic failure, nor have they weighed the increased risk of catastrophic failure against potential benefits. If there is even a remote risk of catastrophic failure of storage (in either case), this significant harm needs to be considered as part of the broader question of whether the Proposed Scheme should be approved. The Applicant has also failed to provide any detailed evidence to support the claim that the Proposed Scheme could not be organised in a way such that the 3 spheres were the same distance from neighbouring receptors.

3. SCNR supports Landsul & Munster Joinery's view that the Thames Water Access Road effectively bifurcates the Proposed Scheme and makes it non-contiguous. At least, it

does so as much as FP4 would for delivery on the East Zone. Further, if FP4 could be relocated around the East Zone, this would in fact make the East Zone preferable on this metric.

4. The Applicant's response – that the Thames Water Access Road is *"used very infrequently by Thames Water and the EA"* – understates the importance of this road and the extent of its use. Firstly, use by the EA is more frequent than the Applicant suggests; it is used for access to the Great Breach Pumping station on a weekly and sometimes daily basis. Secondly, the Applicant has overlooked the use of the road by the grazier, Crossness Nature Reserve volunteers (including members of SCNR) and other members of the public – such uses often occurring several times a day. Therefore, the Applicant's conclusion – that the road does not bifurcate the site because of its infrequent use – is misplaced.

5. As a result of this misunderstanding, the Proposed Scheme contains a serious design flaw: the Applicant intends to cut off the Thames Water Access Road, only opening it up *"on the infrequent occasions when Thames Water or the Environment Agency need to use the road"*. This will prevent the use of the road currently required by the grazier and volunteers. This will undermine the graziers' grazing rights and will consequently have human rights impacts that have not been taken into account. It will also impact volunteers' ability to preserve Crossness Nature Reserve, creating a further risk of harm to its ecological value in the long-term. Volunteers are absolutely essential to ensuring the ongoing function of Crossness Nature Reserve, so this harm should not be underestimated.

6. Furthermore, SCNR notes that the ability to run community events on Crossness Nature Reserve has been greatly impacted due to the construction of Riverside 2. Such community events depend on vehicular access via the Thames Water Access Road, but the Applicant's current use of Norman Road and Borax Fields have made such access unmanageable. The Proposed Scheme would make this lack of access a permanent problem, meaning that the Proposed Scheme will have a significant, permanent impact on the ability to run community events at Crossness Nature Reserve. This will in turn impact various policy goals seeking to increase public access to nature. The Applicant has not appreciated this harm and not sought to mitigate it at all. Delivery on the East Zone would avoid this harm altogether.

7. The Applicant's amendment to the Design Code only ensures the back-up generators will be 25m from Crossness Nature Reserve *"where practicable, to minimise the impact of noise and emissions"*. This provides no guarantee this will be achieved, such that there is still the prospect of significant noise and emissions impact, and consequent ecological harm, if the back-up generator is delivered closer to Crossness Nature Reserve.

8. The Applicant states that the *"Proposed Scheme is intended to operate for at least 25 years"*. However, they have failed to demonstrate why the Proposed Scheme can be expected to run 5 years longer than the assumed plant lifetime in the Environment

Agency guidance of 20 years. In any event, this limited operation time tempers the benefits of the scheme, while the significant harms caused from the loss of Crossness Nature Reserve land will be permanent.

9. The Applicant continues to fail to provide detail on the proposed works to increase and enhance PROW routes. SCNR asks that this information is provided as soon as possible. Until this information is provided, it is not possible to fully assess the potential ecological harm caused from construction and human disturbance (noting again that the Applicant's proposed mitigation – signage – is insufficient).

Alternative locations and layouts

10. The Applicant still has not provided sufficient evidence to explain how the first two steps of the mitigation hierarchy have been met. For the reasons stated in previous submissions, the failure to sufficiently assess delivery in/near the East Zone (in accordance with EN-1 and planning policy), and the failure to sufficiently test reduced footprints in the South Zone, means that the Applicant has not sufficiently avoided or minimised ecological harm. This is an insurmountable issue with the Proposed Scheme. No level of mitigation or compensation can remedy these failings[1]; nor can any benefits, including carbon capture, remedy these failings[2]. The Applicant has not provided any new evidence to challenge this view, and instead relies on the original Application Documents.

11. SCNR disagrees that the Applicant's generic review of the East Zone as a whole constitutes a "proportionate" consideration of alternatives. A proportionate approach must include a specific, detailed assessment of the optimum site within the East Zone, being the north-western corner. Such an assessment should include consideration of relocating FP4 as suggested in SCNR's Deadline 2 submission. Accordingly, until such an assessment is carried out, SCNR believes the Applicant's approach fails to meet the requirement of EN-1 paragraph 4.3.22.

12. Paragraph 4.3.25 of EN-1 states that any alternatives not studied by the Applicant should be considered by the Secretary of State if they are considered *"important and relevant"* to the decision. SCNR firmly believes that the optimum site in the East Zone is an important and relevant alternative, distinct from the notion of the entire East Zone as a generic group of potential sites.

13. The paragraphs above should be read alongside paragraphs 5.4.42 and 5.4.43, which expressly state that the requirement to avoid biodiversity harm under the mitigation hierarchy includes consideration of reasonable alternatives with less harmful impacts.

14. The Applicant has sought to explain how the Optioneering Principles are *"far from redundant"*, by explaining that they *"are used to identify how each alternative would*

[1] As these are options of lower preference in the mitigation hierarchy that, as the Applicant puts it, *"should only be carried out once higher options have been exhausted"*.

[2] As these benefits do not relate to the ecological mitigation hierarchy.

deliver the Project Objectives and they do thus using the appropriate range of policy and practical considerations, whilst facilitating a site assessment process to be able to be undertaken". This fails to respond to the points raised in SCNR's Deadline 1 submission[3]. The best assessment of how alternatives would deliver the Project Objectives is of course an assessment of the Project Objectives themselves. SCNR has demonstrated in previous submissions how the East Zone satisfies each of the Project Objectives. Furthermore, the Optioneering Principles relate to points unrelated to the Project Objectives, and so cannot be said to be a legitimate test of delivery of the Project Objectives. The *"appropriate range of policy … considerations"* is of course the full range of policy set out in EN-1 and applicable planning policy, including their specific weightings, as considered by the Examining Authority. The Optioneering Principles (and their equal weighting) only serve to distort and undermine this process. The Applicant claims that the Optioneering Principles *"were based on legal and policy considerations"*, but the Applicant makes no attempt to demonstrate how. The Applicant continues to rely on the made-up notion of Accessible Open Land, and erroneously suggests this term appears in the *"protective policies in NPS EN-1"*. It is unclear what the Applicant means in its reference to *"practical considerations"* – to the extent these differ from EN-1, they can only be considered insofar as they meet the s104 test[4].

Compulsory acquisition, temporary possession and other land rights

15. In its Deadline 1 submission, SCNR noted the *Sharkey* case[5], which clarifies that for acquisition to be "required" it must be more than merely desirable or convenient. The Applicant continues to fail to explain how acquisition of the MEA is required. While the Applicant cannot *compel* TWUL to enter into a new s106 agreement, it seems likely TWUL would willingly agree to enter into such agreement, given TWUL's cooperation to date and the expectation it will enter into the Deed of Obligation and continue to manage Crossness Nature Reserve. The Applicant must at least pursue this route before turning to acquisition. It is only when this route has been tried, tested and failed that it could reasonably be said that there is a potential "need" for acquisition.

16. The Applicant refers to a possible *"enforcement gap (i.e. it could be enforced against by failures of another party)"*. SCNR has already explained that even with acquisition, the Applicant is dependent on TWUL carrying out management and so faces the same risk of enforcement resulting from TWUL's failures. The Applicant can be party to the s106 agreement to give it the ability to enforce the terms of the agreement (alternatively similar provisions could be agreed under a separate contract between the Applicant and TWUL). The level of certainty as to delivery of the mitigation remains the same.

[3] See paragraphs 10. 129, 136 and 153 – 160 in particular.
[4] See s.104(3) Planning Act 2008
[5] See paragraph 162

17. The Applicant suggests that delivery of the LaBARDS by s106 agreement would be contrary to the NPPG wording that suggests section 106 obligations should only be used *"where it is not possible to address unacceptable impacts through a planning condition"*. SCNR disagrees with this analysis. Firstly, an approach whereby TWUL continues to own the land and is bound by s106 obligations will not change the wording of the proposed DCO Requirements relating to the LaBARDS. Secondly, either approach will require some form of contractual obligation beyond the DCO Requirements, either as a s106 obligation or contractual obligation between TWUL and the Applicant. So, in practical terms, adherence to the guidance is the same in both cases. Thirdly, referring to NPPG wording as a *"general policy imperative"* is simply false – NPPG is guidance, not policy, and in no way creates an imperative. The Applicant's case on this point is wholly misconceived.

Statutory undertakers' land

18. The Applicant has not responded to the first point raised by SCNR on this issue: that Crossness Nature Reserve is statutory undertaker's land by virtue of its connection to the TWUL sludge incinerator facility. The delivery and continued management of Crossness Nature Reserve by TWUL was deemed necessary in order to render the sludge incinerator acceptable in planning terms, hence it being secured by s106 obligation. Given that the operation of the facility is considered part of TWUL's statutory undertaking, then TWUL's management of Crossness Nature Reserve must also be considered a necessary part of that undertaking. Accordingly, it constitutes statutory undertakers' land.

19. In relation to SCNR's second argument on this issue, the Applicant accepts that TWUL does have statutory duties to further nature conservation under s3 of the Water Industry Act 1991 and to have regard to conserving biodiversity under s40 of the Natural Environment and Rural Communities Act 2006; however, the Applicant argues these are *"general duties"* and *"do not bite on specific pieces of land"*. SCNR disagrees and believes that the Applicant's interpretation is fundamentally flawed. Firstly, the duties apply broadly to statutory undertakers when exercising their functions. Consequently, these duties are widely applicable and not as limited as the Applicant seems to suggest. Secondly, TWUL owns and manages Crossness Nature Reserve because of the ecological / conservation benefits it delivers. Thus, TWUL's ownership and management of Crossness Nature Reserve is inherently connected to these duties. Thirdly, these duties apply on all pieces of land that are connected with their functions, which would include Crossness Nature Reserve. The Applicant's interpretation of these duties would render the duties, in effect, meaningless as they wouldn't "bite" or "apply" anywhere. That is contrary to the statutory regime.

Special Category Land – public recreation

20. The Applicant continues to hold that land must be accessible to be considered as used for the purposes of public recreation. They claim this is true *"in statutory terms"* but fails to demonstrate how the statutory wording sets this out: SCNR sees no reason

why the wording *"used for the purposes of public recreation"* should be interpreted in such a narrow way. There are countless hypothetical examples where inaccessible land is used for the purposes of public recreation. For example, watching a football match is clearly public recreation, and the pitch itself would be considered land used for such recreation, despite the public not being able to go on it. Similarly, a sculpture park might have off-limits areas around the sculptures, but those areas would still be regarded as land used for public recreation. In both cases, as with the non-accessible parts of Crossness Nature Reserve, public recreation is derived from looking at these areas from the designated viewing area.

21. This means that the extent of Special Category Land to be lost is far greater than the Applicant has previously suggested. In relation to the land which the Applicant accepts as being Special Category Land, the Applicant believes that special parliamentary procedure can be avoided on the basis of section 131(4A) Planning Act 2008, on the grounds that there is no suitable land available in exchange, and it is strongly in the public interest for the development to begin sooner than is likely to be possible following special parliamentary procedure. SCNR disagrees with this proposition. It is precisely because of the unique nature of this land, and the fact there is no land available in exchange for it, that the special parliamentary procedure should be followed. There is public interest in retaining the land and in ensuring that, if it is to be lost, it is subject to the enhanced democratic scrutiny of special parliamentary procedure. The fact that the Special Category Land is larger than accounted for by the Applicant further emphasises this point. The Applicant's suggested approach is again completely contrary to the statutory scheme and would, in effect, devoid the special parliamentary procedure of its meaning and applicability.

Public interest

22. In trying to demonstrate a compelling case in the public interest (to satisfy the requirement s122(3) of the Planning Act 2008), the Applicant largely relies on the need for low carbon infrastructure and the mitigation of adverse landscape, amenity and environmental impacts, which the Applicant describes as *"limited harm"*.

23. However, there is not a compelling case in the public interest for the Proposed Scheme, given the same carbon capture benefits can be achieved on the East Zone while avoiding these various adverse impacts. Furthermore, the Applicant has failed to consider the full range of adverse impacts and appreciate the significance of the harms the scheme will cause if it were to proceed. Both undermine the Applicant's assertion that the scheme is in the public interest.

Water Quality

24. Sampling has been conducted on the "West Ditch", into which the Applicant discharges waste from Riverside 1 and Riverside 2. The West Ditch runs down the side of Crossness Nature Reserve, and so any pollution of the West Ditch will directly

affect the ecology within Crossness Nature Reserve[6]. The samples were sent to an accredited lab, who found 240.52 ng/l, including 47.73ng/l of POPS regulated under Stockholm Convention[7].

25. This sampling and the results are demonstrative of several issues: (a) the environmental and ecological impacts of operations are not fully evaluated; (b) the permitting regime does not always achieve the desired result; (c) there may be gaps and shortcomings in the management and monitoring of existing works, let alone new development; (d) the adequacy of the Environmental Impact Assessments (discussed more below), to name but a few. The potential harm from further pollutants from the Proposed Scheme, and the potential inadequacy of the proposed mitigation and permitting regime to limit this harm, must be assessed in light of this.

Biodiversity, ecology and natural environment

Level of harm and conflation of ecological mitigation and BNG

26. The Applicant claims that *"the level of [ecological/biodiversity] harm resulting from the Proposed Scheme is not unusual for a project of this scale and, importantly, it is readily mitigated and compensated, with the proposals set out in the Outline LaBARDS and [Appendix 7-1] providing for biodiversity net gain"*. This statement is incorrect on multiple accounts. Firstly, the level of ecological harm is **very much unusual** for a project of this scale – rarely is the direct loss of a significant amount of land with so many strong designations at stake: LNR, MOL, SINC, HPI (and home to various SPIs), OMH, open space and green infrastructure. The impact on flora and fauna from the loss of this designated land is obvious and substantial (discussed elsewhere). Secondly, the harm is not adequately mitigated, for the reasons set out in previous submissions. In any event, this statement overlooks the initial requirement under the mitigation hierarchy to avoid and minimise the harm. Thirdly, the reliance on biodiversity net gain as part of the mitigation/compensation reveals the Applicants erroneous conflation of ecological mitigation and biodiversity net gain.

27. This conflation of ecological mitigation and biodiversity net gain occurs again in response to paragraph 46 of SCNR's Deadline 1 submission. The Applicant states: *"although the Applicant recognises the ecological importance of habitats comprising Crossness LNR, they are not classified as irreplaceable with respect to Biodiversity Net Gain, as defined within the Schedule of The Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024"*. These regulations are irrelevant to the separate and more nuanced analysis of the ecological/biodiversity value of Crossness Nature Reserve and the harm caused by its loss.

28. Another example of this conflation is with the lost 1 ha of Gannon land. The Applicant relies entirely on biodiversity net gain provision in the BNG Opportunity Area / Thamesmead Golf Course to mitigate this loss. But this provision cannot count as

[7] SCNR understands the results will be included within the Deadline 3 submission from Ridgeway Users

both biodiversity net gain land *and* mitigation for loss of OMH land / open space / green infrastructure under the Proposed Scheme. Furthermore, as previously stated in relation to the lost Crossness Nature Reserve land, improvement to existing greenspace/habitat would not be sufficient to mitigate loss of land.

29. SCNR has already made submissions on how TWUL are far better placed to undertake the necessary long-term management and monitoring of the site. Those submissions will not be repeated here. However, as raised in the Examining Authority's questions, the Applicant has provided no substantive detail as to: (a) how the effectiveness of any management regimes or works will be monitored over time; (b) what mechanisms would be put in place to provide for remedial measures or alternative approaches in light of any monitoring results; (c) how would these be specified and enforced; (d) what arrangements would be put in place to ensure the long term ongoing management following decommissioning of the CCF; and (5) how these arrangements will be secured and monitored, and if necessary updated. SCNR is not aware of Cory having any track record of successfully managing a site for biodiversity. In the absence of such detail and realistic proposals on this issue, there can be no confidence in the Applicants ability to effectively manage this land.

Botany report and assessment of harm to vascular plants

30. SCNR welcomes the Applicant's recognition of the expertise and experience of the authors of SCNR's Botany Report. SCNR also welcomes the acceptance of the species list provided therein.

31. However, SCNR rejects the Applicant's statement that this *"more detailed and extensive description"* of species on-site *"does not change the position presented in relation to evaluation of Crossness LNR, Site habitats or notable plants (i.e. the botanical community) and the assessment of impacts on them within [ES Chapter 7]"*. The Applicant's evaluation can only be based on the information known to the evaluator at that time. The Applicant accepts that the surveyor failed to identify several notable plant species and consequently failed to consider the impacts on them. This failure means that the Applicant's evaluation has proceeded on an incorrect basis and is defective. As a result, the harm to vascular plants has been severely underestimated, and by extension the mitigation is inadequate, with some impacts not mitigated at all (i.e. the impact on species not identified). As Lord Leggatt put it in the seminal case of *R (Finch) v Surrey County Council* [2024] UKSC 20 at [21], "[y]*ou can only care about what you know about*".

32. Further, this level of data is insufficient to inform a robust Environmental Impact Assessment, particularly for an NSIP. The EIA Directive was designed to improve the quality of decision making and to ensure that environmental effects are taken into account. The aim of the Habitats Directive, as identified in Article 2, is to contribute to ensuring biodiversity through the conservation of natural habitats of wild fauna and flora. The shortcomings of the Botanical Survey mean that these legislative

requirements have not been satisfied and the aim to ensure biodiversity / conserve natural habitats has not been met.

33. The Secretary of State must act in accordance with the 'general biodiversity objective' to conserve and enhance biodiversity in England, section 40(A1) of the Natural Environment and Rural Communities Act 2006 and Environment Act 2021. In order to be satisfied that the general biodiversity objective is met, the Secretary of State must be satisfied that the Environmental Impact Assessment is sufficient and adequate. Due to the shortcomings and failures elucidated above, SCNR submit that the Secretary of State cannot make such a determination in relation to the Application.

34. The Applicant claims its own Botanical Survey was intended only for *"the identification of habitat types, primarily confirmation that Coastal Floodplain Grazing Marsh is dominant, and to allow their evaluation as well as of the botanical community as a whole"*. This is patently false: the Executive Summary of the Botanical Survey confirms that the purpose of the survey was, amongst other things, *"to identify any populations of rare or notable plants which may be present"*. Paragraph 1.1.4 also notes that the Preliminary Ecological Appraisal (PEA) recommended additional botanical surveys *"to gather additional information and identify the potential for notable plant species"*.

35. Furthermore, it must be remembered that the SCNR Botanical Survey is not conclusive, and there may well be other SPIs present. As stated in the survey itself: *"Due to time and funding constraints, this survey should not be considered a full habitat survey"*. Until a full survey commissioned by the Applicant has been undertaken, the full extent of the harm cannot be known.

36. The Applicant maintains that, despite the presence of two further SPIs, and the potential for even more to be present, the evaluation of County level importance is still appropriate and robust. However, the Applicant has failed to provide any evidence to support this. This conclusion must be resisted, for the reasons set out below.

37. Firstly, an SPI must in itself register as being of National importance: an SPI is, by definition, a *"species of principal importance in England"*[8]. This is reflected in CIEEM guidance. The Applicant's methodology in Chapter 7 of the Environmental Statement illegitimately tries to qualify this by requiring a "large" population to be present. The size of the population is not relevant to the importance of the species, but rather to the magnitude of change (and even then, is only one factor). In any event, Dr Spencer notes that there is in fact a significant population of Borrer's Salt Marsh on the Site, with thousands of plants present. He also notes that, while Divided Sedge is harder to identify when not flowering or fruiting (from September onwards), he thinks it is highly likely to have an extensive presence. The Applicant cannot comment on the size of the population present, as it was not even aware the species were present until

[8] Habitats and species of principal importance in England - GOV.UK

SCNR's Botany Report. It is clear that the potential loss of each SPI represents in its own right a major effect and significant harm.

38. Further, the Applicant's approach – considering all vascular plants as a single category – obscures the true extent of the harm. Beyond the significant harm relating to the SPIs, the potential loss of various other species identified by Dr Spencer and overlooked by the Applicant represents further, distinct harms. Several of these species are at national risk of extinction, and so qualify as being of County, and potentially National, importance.

39. All of this shows that the Applicant's conclusion is unfounded and flawed. On a correct analysis, there is not just a single major effect, but a collection of multiple effects, many major and some moderate. All of these constitute significant harms that were not known by the Applicant when it devised its mitigation. Accordingly, the proposed mitigation falls woefully short, and the environmental mitigation hierarchy has not been met.

Water voles

40. Similarly, it is not appropriate to reduce the importance of water voles to County (from National) because the population is *"not particularly large"* and *"would not qualify the site for SSSI designation"*. Water voles' protection under s9 of the Wildlife and Countryside Act and status as an SPI inherently make it a species of National importance. It is not legitimate to require SSSI designation and there is no basis to do so under CIEEM guidance (which the Applicant misleadingly purports to have based its methodology on). Nor is it relevant for population size to affect importance (as set out above). In any event, the Applicant's own analysis found that there was in fact a *"healthy population"* present. Furthermore, the Applicant's Water Vole Survey Report notes that an even larger population is likely to be usually present, given multiple ditches could not be recorded at the time of survey. Clearly therefore, a finding of County importance is flawed.

41. In terms of magnitude of impact, the Applicant has provided no new evidence and continues to rely on potential mitigation to be developed with Natural England. However, Natural England has *"significant concerns"* with the Applicant's initial proposals, and no draft protected species licence application has been made yet. The Environment Agency agreed with Natural England's comments, and has *"concerns with the proposed infilling of ditches with a presence/potential for Water voles… At present, the proposals represent a degradation of viable habitat for water voles and certain harm without displacement and mitigation"*.

42. The issues with the Applicant's approach, identified by Natural England and the Environment Agency in the above paragraph, demonstrate that the harm is far more significant than the Applicant suggests, and undermines the effect of the mitigation proposed. Furthermore, these issues typify the Applicant's broader approach to flora and fauna assessment and mitigation.

Breeding Birds

43. As set out above in relation to vascular plants and water voles, an SPI designation is in itself enough to signify National importance of a species. Similarly, specific legal protection and inclusion on the BoCC red list should signify National importance. Therefore, the Applicant's conclusion of County importance for breeding birds as a collective whole is not legitimate. As above, assessing all breeding birds collectively also fails to reveal the full extent of harm; each species must be considered in its own right. For the reasons set out in SCNR's Deadline 1 submission, the magnitude of effect is high (noting the typo at paragraph 58; the first sentence should read *'The Applicant's analysis of existing anthropogenic disturbance is flawed"*). Therefore, the effect is not just major, but a series of separate effects, many of which being major, resulting in multiple standalone significant harms.

Analysis of harm to other species

44. The Applicant has not provided sufficient new evidence to change SCNR's view on the analyses of importance, impact and resulting effect on various species as set out in SCNR's Deadline 1 submission. To emphasise again, it is inappropriate to assess categories of species as a whole – each species must be considered separately in order to fully understand the effect and resulting harm.

45. SCNR endorses the critique by TWUL, which highlights the limited nature of the surveys of reptiles, bats, breeding birds and wintering birds. These failings further demonstrate that the Applicant has not obtained sufficient data to conduct a sufficient Environmental Impact Assessment and assess the full extent of ecological harm.

46. SCNR notes the observation from Buglife that, regardless of any expansion of the LNR designation, or mitigation/enhancement to existing green space, *"the area of habitat actually available for use by invertebrates will have decreased"* and *"as this site is functionally linked to other sites within the IIA, the loss of habitat on this site is likely to have much wider impacts on invertebrate populations within the region"*. This is true not just for invertebrates, but for other animal species using the site. The Applicant's approach fails to appreciate this harm and does nothing to mitigate it.

47. SCNR welcomes the Applicant's acceptance that tree planting would be detrimental in Coastal Floodplain Grazing Marsh habitat. Given this was previously considered to be part of the package of mitigation offered by the Applicant, SCNR expects to see additional mitigation offered in its place. As of yet, the Applicant has not detailed what this additional mitigation might be.

48. The Applicant relies on the fact that some of the ditches to be lost under the Proposed Scheme are "*not permanently wetted"* or dry to reach a conclusion of limited harm to water voles, aquatic macroinvertebrates, freshwater fish and macrophytes. However, we note that the surveys for these species were all undertaken in June 2023. As the Water Vole Survey Report notes, *"the average mean temperature for June 2023 in the*

UK was the highest on record since 1884", resulting in multiple ditches being recorded as dry. Crucially, the report goes on to state that *"these ditches were not assumed to regularly dry out"*. It appears therefore that the Applicant is relying on skewed data that does not reflect the normal conditions of the ditches. This has led to an unreliable assessment of harm, and inadequate mitigation.

Norman Road Field

49. Regarding the pre-existing planning controls on Norman Road Field, the Applicant suggests it is *"not appropriate for SCNR to assert that Peabody has not complied with planning controls – there is no evidence to substantiate such a claim"*. The evidence SCNR relies on is as follows:

    a. There is no record that Management Plans were ever submitted to LBB – these were the key documents to set out the detailed prescriptions and specifications of the long-term ecological management of Norman Road Field;

    b. Members of SCNR who have been present on the Crossness Nature Reserve site for many years have no recollection of any active management occurring on Norman Road Field after the initial works; and

    c. The Applicant's own view that there has been a *"lack of long-term management of the interventions that had been undertaken"*.

50. The Applicant relies on the fact that the pre-existing planning controls have been complied with, and therefore it is for the Applicant to evidence that this is the case. So far, no such evidence has been provided (only evidence that some of the initial works set out under the Ecological Mater Plan itself were carried out).

Metropolitan Open Land

51. The Applicant's interpretation of MOL policy is flawed. The Bexley Local Plan does not actually state that *"a break within a built-up area"* is the primary function – it simply says this is a function of MOL. The London Plan, with which local plans must be in accordance, states MOL is *"strategic open land"*, and emphasises the particular function of *"protect[ing] and enhance[ing] the open environment"*. The loss of open environment is a clear failure to protect it.

52. The Applicant suggests that the other functions of MOL - improving quality of life; protecting areas of landscape, recreation, nature conservation and scientific interest – are *"enhanced"*. There is no basis for this bold claim. The mitigation proposed does not set out any measures or proposals for enhancement but simply seeks to minimize the harms that have been identified as much as possible. Minimising harm and enhancing are two very different matters and the Applicant in SCNR's submission neither sufficiently mitigates the harms, therefore impeding the functions of MOL, nor provides enhancement.

Open space

53. The Applicant describes the 'Accessible Open Land' in Crossness Nature Reserve as *"reasonably attractive, and with moderately valued views for the users of the space"*. SCNR strongly disagrees; the Applicant's assessment runs contrary to the incredibly strong designations and LBB's assessment of it being *"higher quality"* and *"higher value"*. Of course, the personal testimonies of SCNR and various other users of Crossness Nature Reserve provide much stronger authority, showing how strongly the views are valued by users. The Applicant's analysis lacks any authority or evidence. Clearly the value of such highly-designated space is high.

54. The Applicant suggests that *"the area is not considered to be particularly tranquil due to the proximity of industrial development, marine engineering and transport infrastructure"*. Again, SCNR strongly disagrees. Despite the Applicant's existing developments undermining visual amenity to some extent (with of course particularly high disturbance during Riverside 2 construction), the site maintains a strong sense of tranquillity. The Proposed Scheme will be much closer and taller than all other surrounding development and will have a much greater impact. The Applicant's argument on this point is effectively that the damage has already been done (largely by the Applicant itself); SCNR believes that everything must be done to preserve what remains.

55. The Applicant goes on to suggest the susceptibility to change is medium-high *"as the nature of the surroundings is a contributor but not a significant factor in the enjoyment of the activity undertaken by users"*. Here the Applicant undermines its previous analysis that the surrounding development limits the site's tranquillity. The Applicant can't have it both ways. Clearly the susceptibility to change from the Proposed Scheme is also high. Therefore the impact and consequent harm is far greater than the Applicant suggests.