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The Applicant and
The Environment Agency

CEHL Ref: CDP/PREEX/9
EA Ref: SL/2023/122661/05-L01

Our Ref: EN010128

Date: 31 January 2025

Dear Sir or Madam

The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) – Rule 17

Application by Cory Environmental Holdings Limited (CEHL) for an Order Granting Development Consent for the Cory Decarbonisation Project

Request for further information relating to the Water Framework Directive assessment, compliance and timescales

I am writing under Rule 17 of the Infrastructure Planning (Examination Procedure) Rules 2010 (as amended) to seek further information on the progress and anticipated timescales relating to the Water Framework Directive (WFD) Assessment.

The Environment Agency's (EA) Relevant Representation [[RR-065](#)] considered that the Applicant's WFD Assessment [[APP-106](#)] had not used relevant baseline data such that the EA could not agree with its conclusions, and the EA provided a suggested approach to a revised WFD Assessment. The EA's subsequent Written Representation [[REP1-035](#)] noted that the Applicant was undertaking a revised WFD Assessment for which they were awaiting results.

The EA's updated comments relating to the WFD in their letter of 17 January 2025 [[REP3-037](#)] reiterates that they do not consider the current WFD Assessment to be fit for purpose because they do not know currently what levels of contamination will be found in sediment, with samples planned to be taken in March 2025. Crucially the EA conclude that "at this stage, WFD compliance cannot logically be demonstrated". The Examining Authority (ExA) notes that the Statement of Common Ground between the Applicant and the EA has not progressed beyond a draft [[AS-037](#)], with the Statement of Commonality Rev D [[REP3-024](#)] noting that it was with EA for review and awaiting comments.

The Applicant has stated that it will complete additional sediment sampling and then develop a Technical Note, which will present the data findings and assessment to validate these against the recommendations of the submitted WFD Assessment. Further, that should the results necessitate additional mitigation measures, they would be developed with relevant stakeholders. The Applicant's Response to Relevant Representations [[AS-043](#)] advised that this work would be completed in the first half of the Examination, although their subsequent Response to Deadline 1 Submissions [[REP2-019](#)] reports that this is now expected by March 2025.

The Secretary of State (SoS) has a duty to secure compliance with the WFD through exercise of their relevant functions. The Planning Inspectorate's [Nationally Significant Infrastructure Projects: Advice on the Water Framework Directive](#) points out that the Examining Authority (ExA) must report on these effects and ensure the SoS has enough information to decide whether the development has implications for the UK's obligations under the WFD.

The ExA is also mindful that sufficient time will need to be allowed to submit the Technical Note and/or Assessment, along with any comments from the EA, into the Examination and to allow the ExA to examine the evidence and ask any necessary questions. Further, should the EA or ExA consider it necessary, to allow time for any further revisions to the Assessment and for comment, before the Examination closes.

Given the above and the fact that the Examination will close in early May, the ExA is keen to understand the following:

No	Question to:	Question
R17Q1.1	The Applicant	What are the specific dates that the additional sediment samples have been, or will be, taken?
R17Q1.2	The Applicant	If, as the EA indicate, sampling is not planned to be undertaken until March 2025, it has not been explicitly stated why samples cannot be taken earlier; please can the reason be explained?
R17Q1.3	The Applicant and the EA	Are these samples the only relevant data outstanding to inform a thorough WFD assessment?
R17Q1.4	The Applicant and the EA	The Applicant refers to the preparation of a Technical Note and the EA to a revised WFD Assessment. Is the intention for the Technical Note to inform a revised WFD Assessment? Please can the Applicant clarify the documentation in which the data and analysis will be presented? For the avoidance of doubt, please can the EA confirm what documentation they are expecting?
R17Q1.5	The Applicant	What is the specific timescale for analysing samples and presenting the findings and Technical Note/revised WFD Assessment to the EA?
R17Q1.6	The Applicant and the EA	What arrangements have been made between the Applicant and the EA to ensure the timely consideration of the Technical Note/revised WFD Assessment that is presented to the EA? Can the EA confirm how long its review is likely to take?
R17Q1.7	The Applicant and the EA	When is it anticipated that the Technical Note/ revised WFD Assessment, and the EA's commentary on its acceptability, would be submitted into the Examination?

R17Q1.8	The Applicant	Should the results of the sediment sampling necessitate additional mitigation measures, what are the anticipated timescales for the development of these in consultation with stakeholders and the anticipated submission of any revised documents?
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The ExA requests that the Applicant and the EA respond to the above points and provide any other pertinent comments that are relevant to this matter. A joint response on some or all of the above may be helpful if possible, although any areas of disagreement should be clearly indicated.

Please provide a response by 15 February 2025.

Yours faithfully

[Redacted signature]

Examining Authority

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