



**APPLICANT'S
RESPONSE TO
INTERESTED
PARTIES'
DEADLINE 3
SUBMISSIONS: 9.23**

DECARBONISATION

Cory Decarbonisation Project

PINS Reference: EN010128

FEBRUARY 2025

Revision A

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EXECUTIVE SUMMARY

Eleven Interested Parties have made written submissions at Deadline 3 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 that it considers require a substantive response in this document. The submissions received from the Interested Parties are focussed on various topics, and the Applicant has responded on a per party basis accordingly:

- London Borough of Bexley (LBB)
- Port of London Authority (PLA)
- Environment Agency (EA)
- Natural England (NE)
- Marine Management Organisation (MMO)
- Peabody Trust and Tilfen Land Limited
- Save Crossness Nature Reserve (SCNR)
- Ridgeway Users
- Thames Water Utilities Limited (TWUL)
- Alex Illsey
- Landsul Limited and Munster Joinery (UK) Limited

1. INTRODUCTION

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 3 (17 January 2025).

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 3:
- London Borough of Bexley ('LBB'); but not in respect of LBB's comments on the Draft Deeds of Obligation, which are dealt with in the Written Summary of the Applicant's Oral Submissions at ISH2
 - Port of London Authority ('PLA'). REP3-050 only, as the content of REP3-042 is repeated within the former.
 - Environment Agency ('EA').
 - Natural England ('NE').
 - Marine Management Organisation ('MMO').
 - Peabody Trust and Tilfen Land Limited.
 - Save Crossness Nature Reserve ('SCNR').
 - Ridgeway Users.
 - Thames Water Utilities Limited ('TWUL'). REP3-048 only, as REP3-043 does not require a response from the Applicant.
 - Alex Illsey.
 - Landsul Limited and Munster Joinery (UK) Limited, in respect of socio-economic matters only, as other matters are dealt with in the Written Summary of Oral Submissions at CAH2 also submitted at Deadline 4.
- 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 listed above.
- 1.2.3. No response is required, and is consequently not provided, to National Highways' Deadline 3 submission (REP3-051).
- 1.2.4. In light of the positive progress being made in discussions with WRWA, the Applicant has not responded to WRWA's Deadline 3 submission at this time, save to say that in principle, the Applicant considers that there is no reason why CCS cannot be practically and safely applied to Riverside 1 without affecting the operations of that facility. The Government's policy intentions in relation to both Net Zero and the ETS regime presume and encourage that CCS will be brought forward by the EfW sector to aid decarbonisation and the Applicant is responding to that intention.
- 1.2.5. The Applicant considers that WRWA's commercial, practical, and property concerns will be able to be dealt with through an Agreement between the parties as well as any amendments that may be agreed between the parties to the draft DCO. If good

progress is not made on Agreement negotiations, however, the Applicant reserves the right to respond to WRWA's Deadline 3 submission before the end of Examination.

2. RESPONSES TO MATTERS RAISED IN DEADLINE 3 SUBMISSIONS

2.1. LONDON BOROUGH OF BEXLEY

Table 2-1 Applicant's response to LBB's Response to the Examining Authority's First Written Questions

Table ref	Question	LBB Response	Applicant's response
2.1.1	<p>Q1.1.01 Would the changes proposed by the Applicant to the Design Principles and Design Code set out in their Response to Interested Parties Deadline 1 Submissions document [REP2-019] address the issue of location of short term generators relative to CLNR? Does the Applicant's Response to Interested Parties Deadline 1 Submissions document [REP2-019] address LBBC's comments on i) the potential emissions of chemicals used to capture CO2 emissions and ii) in respect of the consistency of the evaluation of the model results relating to the EA's nitrosamine guidance and acceptable level of risk?</p>	<p>With regard to the Applicants response to the location of short term generators in relation to CLNR, the Applicant has set out in their "Applicants' Response to Interested Parties Deadline 1 Submissions Number: 9.12 document that in an amended Design Code under CCF-Form and Layout that they will allow for a "minimum 25m offset between back-up generators and the Crossness Local Nature Reserve boundary, where practicable, to minimis (sic) the impact of noise and emissions."</p> <p>Whilst the Council is content that a distance of 25 metres could be achieved and it is accepted by the Council that generators may have to be moved around the site during the operational phase, it has not been defined what "where practicable" means and therefore the Council would like to seek clarity on this.</p> <p>With regard to the potential emissions of chemicals used to capture CO2 emissions, the Council raised at Relevant Representation stage that details regarding the potential emissions of chemicals used to capture CO2 emissions had not been provided. In their "Applicants' Response to Interested Parties Deadline 1 Submissions Number: 9.12" document the Applicant has stated that the detailed dispersion modelling assessment including sensitivity analysis of potential air quality impacts of the carbon capture plant were reported in Section 5.8 of Chapter 5 (Air Quality) of the Environmental Statement (Volume 1). The Applicant has investigated a potential reduction in impacts from ammonia emissions on ecological sites. Additional modelling has been undertaken post-submission of the Environmental Statement using a reduced emission limit value (ELV) of 10mg/Nm3 (at 11% O2, dry) for ammonia post-carbon capture. Details of this modelling has been provided in Appendix B of the "Applicants' Response to Interested Parties Deadline 1 Submissions Number: 9.12" document. The Council has reviewed the above modelling and considers that the details provided are acceptable provided that the reduced ELV is secured via the DCO. With regard to the EA's Nitrosamine guidance the Council had raised concern that the modelling undertaken by the Applicant was not consistent with the EA's Nitrosamine guidance. The Applicant has since responded by stating that there is a typographical error in Table 5-36 of Chapter 5 (Air Quality) of the Environmental Statement which has now been rectified. Provided that the Environment Agency are satisfied that the modelling follows their Nitrosamine guidance the Council is satisfied.</p>	<p>As set out in the LBB SoCG Rev D (as submitted alongside this response) LBB and the Applicant have discussed this amended Design Code and agreed that 'where practicable' has the ordinary English meaning, as 'where able to be done or put into action' and agreed the text is acceptable.</p> <p>The Applicant has also agreed with LBB that the EA is the appropriate regulator for air quality matters and consequently the Council would not disagree with the EA on matters in relation to emissions of chemicals used to capture CO2 emissions and that the nitrosamine modelling has been undertaken in accordance with the EA Nitrosamine Guidance.</p>

Table ref	Question	LBB Response	Applicant's response
2.1.2	Q1.3.1.1 How will the effectiveness of any management regimes or works implemented either on the Order Land or the Offsite Biodiversity Net Gain (BNG) Area be monitored over time and what mechanisms would be put in place to provide for remedial measures or alternative approaches in light of any monitoring results? How would these be specified and enforced?	<p>Prior to the commencement of development, the applicant would be expected to submit an Ecological Monitoring Strategy which would establish biodiversity baselines (at the time of submission) and explain how biodiversity would be reassessed in the subsequent years.</p> <p>The Ecological Monitoring Strategy should include detailed and structured proposals, which will be used to establish whether proposed mitigation, compensation and enhancement measures have been effective over a specified period. The strategy shall also be used to provide early warning of when contingencies and/or remedial measures will be 'triggered' in the event that ecological objectives are not being achieved. Implementation of the strategy over time will be informed by periodic 'Ecological Monitoring Reports'.</p> <p>The periodic 'Ecological Monitoring Reports', which are distinct from a monitoring strategy, shall be submitted and approved in writing by the Local Planning Authority, in accordance with the intervals set out in the Ecological Monitoring Strategy, and not less than once every 5 years. The Periodic Ecological Monitoring Reports shall provide the results of post-construction monitoring for a development project as a 'snap shot' at a particular period in time. Each Ecological Monitoring Report will include a description of the methods used as well as the detailed results of surveys, and interpretation/ assessment of the results including remedial measures or alternative approaches needed in light of any monitoring results.</p> <p>The monitoring reports shall highlight where there is a need to undertake review and update the 2.7.37 and Ecological Monitoring Strategy. In such instances, an updated LaBARDS and Ecological Monitoring Strategy should be submitted with the Ecological Monitoring Report for approval by the Local Planning Authority.</p> <p>Local planning authorities have responsibility for taking whatever enforcement action may be necessary.</p>	<p>The Applicant considers that the principle of what LBB is seeking to secure is already allowed for by the Outline LaBARDS and there is no requirement to produce separate documents. The LaBARDS (in a similar way to LEMPs that are referenced in the vast majority of DCOs) is the single document that will deal with ecological monitoring and mitigation, without the need for additional or separate documents.</p> <p>It is noted that the Outline LaBARDS (REP3-013) was updated at Deadline 3 on a number of matters including more comprehensive measures for management, maintenance and monitoring (see section 14 of that document). Amongst other things this now specifically includes criteria for defining effective management; a regime of management, maintenance and monitoring procedures; and scheduled review of the LaBARDS to be undertaken every three years for the lifetime of the Proposed Scheme. This version of the Outline LaBARDS is agreed by LBB in SoCG, Rev D (as submitted alongside this document).</p> <p>The Applicant expects to undertake a fresh baseline survey as part of preparing any full LaBARDS for submission to LBB. This is secured by Requirement 12(3)(g) of the draft DCO.</p>
2.1.3	Q1.3.1.2 Bearing in mind the potential timespan, should there be a provision requiring the LaBARDS to be reviewed and updated at relevant intervals, for the lifetime of the Proposed Development, and for any updated LaBARDS to be submitted to, and approved in writing by, LBBC within agreed timescales?	Please see answer to Q1.3.11. In terms of timescales, the Council would expect an updated LaBARDS at least once every 5 years.	The Applicant confirms that the Outline LaBARDS submitted at Deadline 3 (REP3-013) includes these provisions and is agreed with LBB.

Table ref	Question	LBB Response	Applicant's response
2.1.4	Q1.7.0.1 Could the MMO, NE and LBBC please confirm whether they are content that all other developments, plans and projects that have the potential to result in cumulative or in-combination effects together with the proposed development have been identified and appropriately assessed by the Applicant in the Environmental Statement [APP-118] and the HRA Report [APP-090] (including any relevant marine licensed projects)?	<p>Table 2.2 of the Environmental Statement: 6.3 Appendix 21-1: Inter-Project Effects Assessment sets out a long list of applications that the Council has either determined or are currently considering. The list of applications provided included applications which were made as far back as 2015, some of which may have been implemented.</p> <p>When producing the now adopted Bexley Local Plan (2023) the Council carried out an HRA of growth and an appropriate assessment (AA) was also carried out due to uncertainties around the in combination air quality and visitor pressure effects on Epping Forest. The Applicant has also undertaken due to potential Air Quality impacts of the CCP on Epping Forest in APP-090.</p> <p>Preparation of the Local Plan was informed by an Integrated Impact Assessment (IIA) and Habitats Regulations Assessment (HRA). The Bexley Local Plan IIA Post Adoption Statement (PDF) provides further details and links to the main reports https://www.bexley.gov.uk/sites/default/files/2023-06/bexley-local-plan-ia-postadoption-statement.pdf.</p> <p>The assessment concluded that most aspects of the Local Plan including site allocations, will have no significant effects on any European sites, alone or in combination due to the absence of effect pathways; and where effect pathways are present or where there are uncertainties over the scale of the effects (in combination air quality and visitor pressure effects), 'appropriate assessments' have demonstrated that the Local Plan will have no adverse effect on site integrity.</p> <p>Notwithstanding the above, the Council is concerned that the proposed development would delay the aspiration of the planned Riverside District Heat Network to which both Riverside 1 and the currently being constructed Riverside 2 are the heat source. Whilst the Council accepts that the Carbon Capture Facility would not prevent the District Heat Network from coming forward, it could delay any potential implementation due to the Carbon Capture Facility being constructed.</p>	<p>The Applicant understands that LBB would like to see the Riverside Heat Network implemented as quickly as possible and is working with appropriate partners to deliver this. Requirement 25 of the draft DCO ensures that this will continue as the Carbon Capture Facility is brought forward.</p> <p>A note on the heat demand from London and supply from Riverside has been prepared and is submitted in Appendix H - Heat Note of the Applicant's Written Summary of Oral Submissions at CAH2, submitted at this deadline, to address all matters relevant to the demand for, and supply of, heat and how this is relevant to the Proposed Scheme.</p>
2.1.5	Q1.11.0.1 LBBC in the LIR [REP1-034] seeks "more powers over how the process for re-routing footpaths would occur in order to make sure that the best possible routes for users are created". Please can LBBC clarify what power they seek and how it envisages the powers sought would be delivered?	<p>The Council seeks powers to review and approve the details of the re-routed and newly created footpaths before any works to footpaths are undertaken.</p> <p>Any review is intended to:</p> <ul style="list-style-type: none"> • Ensure that the proposed routes are appropriate and fit for purpose. 	<p>The Council will be able to consider all of these matters in determining whether or not to approve the LaBARDS. The powers in articles 15-17 are subject to the approval of that document.</p>

Table ref	Question	LBB Response	Applicant's response
		<ul style="list-style-type: none"> • Determine whether the newly created routes should be adopted as formal Public Rights of Way (PRoW) or maintained by the landowner as private footpaths. • If a newly created route is designated as a PRoW, enable the Council to assess and approve the construction details of any required structures, ensuring all associated costs are borne by the landowner rather than the Council. 	

2.2. PORT OF LONDON AUTHORITY

Table 2-2 Applicant's Response to Port of London Authority's Deadline 3 submissions

Table ref	Summary of issue raised	Applicant's response
2.2.1	3.2 A drafting amendment has been made to Schedule 2 Requirement 7 removing the PLA from the general consultation requirement in relation to the code of construction practice ("CoCP") and limiting the PLA's consultation to where the construction activities are in the river Thames. For the reasons set out in paragraph 5.1 below, the PLA considers that the original drafting should be reinstated, and the PLA should be consulted on the CoCP as a whole.	A drafting amendment was not made to the DCO to remove PLA from being consulted generally on the CoCP. The DCO only provided for PLA to be consulted in relation to where a CoCP submitted for approval deals with construction activities in the River Thames, and that continues to be the case. However, following further discussion with PLA, the parties have now agreed amendments to Requirement 7 (and associated wording in the CoCP) in respect of river transport matters, and this matter is therefore considered to be agreed.
2.2.2	4.4 The PLA remains unconvinced that the potential use of the jetty as a high tide roost has been assessed. The Applicant's comments focus on breeding birds. The PLA's comments relate to migratory and wintering birds that are designated features of the various Special Protection Areas ("SPAs") and Ramsar sites of the estuary. The Applicant has determined that there are no likely significant effects on the SPA/Ramsar sites because designated species of them are not found on site. In the PLA's experience, structures such as the disused jetty can be an important high tide roost for wintering birds. No assessment of the use of the Belvedere Power Station jetty has been carried out to determine what species may use it as such. If the Applicant has carried out these assessments/surveys they should be provided to the PLA.	The Belvedere Power Station Jetty (disused) was identified as a high tide roost in Appendix 7-10: Wintering Bird Survey Report of the Environmental Statement (Volume 1) (APP-097) . A second high tide roost site was identified on the wooden jetty and mudflat bank located on the opposite bank of the Thames, north of the Site. Birds also used the wooden posts and the reedbed habitat, however birds were only recorded to roost here occasionally and so the wooden posts and reedbed habitat is not classified as a high tide roost site. The Belvedere Power Station Jetty (disused) within the Site was used as a high tide roost by a peak of approximately 11 Shelduck, 2 Greylag Goose, 1 Lesser Black-backed Gull and 2 Oystercatcher. The detailed results of the wintering bird surveys are presented in Appendix 7-10: Wintering Bird Survey Report of the Environmental Statement (Volume 1) (APP-097) . These observations demonstrate that highly limited numbers of waterbirds use the Belvedere Power Station Jetty (disused), by comparison, important high tide roosts support hundreds or thousands of such birds, and therefore this roost represents those few individuals within the local water bird population that have become accustomed to and tolerate the levels of disturbance in the area surrounding the Proposed Scheme. Given these results and the distance to the nearest SPA/Ramsar within the Thames estuary (over 10km downstream), it is reasonable to conclude the Belvedere Power Station Jetty (disused) does not contribute to maintenance of the integrity of such sites, nor achievement of their conservation objectives, and therefore the Belvedere Power Station Jetty (disused) and the SPA/Ramsar sites are not functionally linked.
2.2.3	4.6 In relation to the Applicant's response regarding navigation, the Applicant has responded from the standpoint of what occurs on the river once a new jetty has been constructed and is in operation, but this is not the appropriate starting point. It is also of note that the byelaws are not in place to allow proposed developments to slow vessels down. The Applicant needs to consider and assess the implications of the proposed jetty and then design the jetty in line with the 'as low as reasonably practicable' ("ALARP") principle. The proposed jetty should not as a matter of course alter speed limits in the area and the jetty should be designed so that existing vessel speeds are not detrimentally impacted. The preliminary Navigational Risk Assessment ("pNRA") needs to secure the mitigations that are required in order to ensure that they are carried through into the detailed design stage. If it is found that the jetty cannot be constructed without impacting vessels speeds, then the scale of those impacts needs to be understood. The fundamental point of designing the jetty to ensure risks of breakout are mitigated and therefore the jetty does not impact on existing vessel speeds was discussed and accepted	4.6 The Applicant agrees that the meeting minutes of 21 August 2024 (entry 4.15 on page 351 of the pNRA) confirm that there is a responsibility on the Proposed Scheme to ensure risks of breakout are mitigated to ALARP through detailed design. However, the Applicant did not (and cannot) commit to the project being able to design the berth and mooring such that no vessels will be required to slow down. The scale of those impacts is currently being assessed following a meeting held with the PLA (28/01/2025) to discuss the data and possible approaches to providing the evidence base requested. This evidence will be submitted ahead of Deadline 5 (25 March 2025) giving enough time for the results of the further investigation to be discussed with the PLA. 4.7 The evidence will be shared with PLA ahead of Deadline 5 (25 March 2025) giving enough time for the results of the further investigation to be discussed with the PLA. 6.1 The Applicant agrees with the PLA's understanding of the risk control measures in the pNRA, i.e. Middleton Jetty movements will temporarily pause when Proposed Jetty movements are happening. Cory's Lighterage Team has confirmed that the impact to its operations are manageable and the required control measures will be discussed and agreed during detailed design stage. Cory is contracted by WRWA to provide waste management services and these will

Table ref	Summary of issue raised	Applicant's response
	<p>by the Applicant's marine consultant and is documented in the 21 August 2024 meeting minutes (see entry 4.15 on page 351 of the pNRA [AS-061]).</p> <p>4.7 The PLA and the Applicant are engaging on this point and discussions must continue including in relation to the Applicant's consideration of draught versus speed as well as relative passing position in the channel to berthed vessel (and possibly tidal state).</p> <p>6.1 The Applicant's response to Western Riverside Waste Authority's Deadline 1 submission are noted [REP2-020]. In particular, the comments around the use of Middleton jetty when vessels are arriving and departing the new jetty. The PLA had understood that the operations on Middleton jetty would cease for all arrivals/departures of vessels on the new jetty. This was certainly what was communicated to the PLA in pNRA meetings and is set out as a risk control in the pNRA – see additional risk control 4 on page 325 of the pNRA which states "Cory tug and barge operation in and around Middleton Jetty to cease during project vessel arrival / departure." This relates to the operational phase of the development. Clarification is required on whether this will now form a risk control given that Western Riverside appear to be unaware of this risk control.</p>	<p>not be affected by this control measure, as arrivals and departures will be able to be managed accordingly</p>
<p>2.2.4</p>	<p>4.9 The Applicant's response that construction traffic (road) impacts are negligible or inconsequential and therefore they do not need to consider river transport is not acceptable to the PLA. In line with The London Plan 2021 Policy 7.26: Increasing the use of the Blue Ribbon Network for freight, the PLA seeks that the use of the River for construction is maximised for bulk materials, particularly during demolition and construction and seeks to engage with the Applicant and through the DCO process to secure this primary objective of use of the river for construction purposes.</p> <p>4.10 The PLA notes that the contents of the Construction Traffic Management Plan are still being discussed and would request that the PLA also take part in these discussions</p> <p>4.11 It is noted that the Applicant states that it is unable to provide any further clarification or certainty regarding the issues raised by the PLA in its Deadline 1 submission relating to HGV and construction movements on the basis that such information requires a contractor to be appointed - "there are no specific details on construction logistics, as these will be developed with the EPC contractor at FEED stage." Despite this statement, the Applicant has provided some insight into the assumptions that have been made based on professional judgement inhouse knowledge of earthworks productivity rates and the HGV quantum for the main construction phase was based on in house knowledge and experience of construction and installation works for similar sized schemes. It is noted that these figures were also benchmarked against the HGV traffic movements anticipated for the adjacent Riverside 2 construction and public-domain data for other carbon capture projects, scaled to reflect the size and scale of the Cory Decarbonisation Project, and advice</p>	<p>The Applicant and the PLA have reached an agreed position in respect of river transport matters, reflected in updated wording in paragraph 1.2.3 of the Outline CoCP submitted at Deadline 4, and in Requirement 7 of the DCO, also submitted at Deadline 4.</p>

Table ref	Summary of issue raised	Applicant's response
	<p>from potential EPC contractors. The PLA accepts these assumptions in principle.</p> <p>5.1 The PLA welcomes the revision at paragraph 1.2.3 of the oCOCP which now requires the CoCP to be prepared in the consultation with the PLA. However as set out in paragraph 3.2 above, this is not reflected in dDCO Requirement 7 which only requires consultation with the PLA where the construction activities are in the river Thames. The PLA considers that the broader consultation (in relation to the CoCP as a whole) is appropriate to ensure that use of the river during construction is given full and proper consideration. In the absence of the PLA being consulted on the CoCP as a whole, the Applicant could rule out use of the river for all the construction and waste material required and generated by the land based aspects of the development and transport this material by road.</p> <p>5.2 What the PLA is requesting is neither novel nor unique and river use in relation to nationally significant infrastructure projects on the river Thames have to date removed tens of millions of road miles. Whilst appreciating the stage that this project is at, what is required is use of the river to not be ruled out at this stage and for full consideration to be given to it at the detailed design stage. Use of the River Thames for the transport of materials for all aspect of the scheme must be a primary objective for the Applicant. Currently the oCoCP would require the Applicant to only potentially consider specific elements of the works for transport by water and even then, there are no guarantees of that occurring. See for example paragraph 2.12.17 of the oCoCP: "For the construction of the Proposed Jetty (i.e. steel piles, precast concrete units and marine equipment such as fenders) transport of materials will primarily be via the River Thames wherever practicable." (emphasis added)</p> <p>5.3 In line with the London Plan 2021 Policy 7.26: Increasing the use of the Blue Ribbon Network for freight, the PLA seeks that the use of the River for construction is maximised for bulk materials, particularly during demolition and construction phases and seeks to engage with the Applicant and through the DCO application to secure this primary objective of use of the river for construction purposes.</p>	
2.2.5	5.5 The PLA notes paragraph 2.13 Emergency Planning and requests that the process for preparing the Emergency Plan is aligned with Requirement 10 of the dDCO where the PLA is a consultee in the preparation of the Emergency Preparedness and Response Plan in relation to Works 4.	The Outline Code of Construction Practice (as updated alongside this submission) and the Outline Emergency Preparedness and Response Plan (as updated alongside this submission) have been updated to account for these comments.
2.2.6	5.7 The PLA is not content with the amendments to the wording in paragraph 6.2.5 of the oCoCP. As set out in its response to Examining Authorities Written Question 1.10.05 the PLA notes that the Mitigation Schedule [REP1-011] includes removal dredging by backhoe as an embedded mitigation. The ES concludes that with this embedded mitigation there would be a moderate adverse (significant) impact to water quality and therefore additional controls	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, which is what the CoCP at paragraph 6.2.5 is referring to.

Table ref	Summary of issue raised	Applicant's response
	<p>are proposed including sediment sampling. Depending on the results of the sediment sampling further controls such as using a closed grab for dredging are then set out (see Environmental Statement Chapter 22 Summary of Effects pages 32-43 [APP-071]).</p> <p>5.9 Whilst the reference to the PLA and the cross reference to the protective provisions in paragraph 6.2.5 is helpful, the words "unless other agreed" introduces possible alternative 6 methodologies in the CoCP without the necessary assessment being carried out. This is of concern given the comments above and on this basis the CoCP as currently drafted does not address the PLA concerns.</p>	<p>In considering these matters, the PLA would be able to consider if the effects of such dredging would lead to effects not materially new or materially different to those reported in the ES. To the extent that such effects did arise, the Applicant would be required to bring forward a change to the draft DCO, to update the CoCP to allow for that other methodology (as it would not be possible to do so pursuant to Requirement 3(2)).</p>
<p>2.2.7</p>	<p>5.10 The oCoCP contains a number of design principles (like jetty alignment), which are absent from the Design Principles and Design Code document [AS-019]. The PLA considers that these design principles should be included within the design principles and design code document.</p>	<p>The measures set out in Section 17 of the Outline Code of Construction Practice (as updated alongside this submission) are secured via the pNRA and, post-consent, the operation of Requirement 19 of the Draft DCO (as updated alongside this submission), which will control the navigational risk measures during the construction and operational phase, including design matters. They do not need to be duplicated in the Design Principles and Design Code (REP3-007).</p>

2.3. ENVIRONMENT AGENCY

Table 2-3a Applicant's Response to Environment Agency's Responses to FWQs

Table ref	Question Number and Question to	Question	Consultee Comments	Applicant's Response
2.3a.1	Q1.3.1.5 The Applicant, NE and EA	Effects of lighting on Water Voles. Would the lighting strategy required by Requirement 11 in the dDCO be capable of mitigating effects of lighting on water voles? If so, please provide a full and detailed justification and if not, what alternative arrangements are proposed?	<p>The Outline Lighting Strategy (APP-123) has followed guidance from the Bat Conservation Trust. Assurances with regards to lighting 'timers' and shielding will help to mitigate for any significant disturbance. Therefore, suitable lighting strategy information has been provided to mitigate for Bats, Birds, possibly fish species and any Water Voles that will still be present within any remaining habitat on site.</p> <p>The main issue is with Bats and over lighting of the watercourse. As we understand, as number of ditch networks within the development boundary are proposed to be infilled triggering. Water Vole displacement and offsite mitigation.</p> <p>Please note we will require a similar strategy for lighting over the jetty with regards to impacts on fish species. We would recommend that during periods the jetty is not used (at night) that the majority of all non-essential lighting is turned off. Lighting overspill has the potential to affect fish movements.</p> <p>We note that the applicant has acknowledged this and stated that this will be considered as part of its overall considerations of the approach to the Belvedere Power Station Jetty (disused), in developing the 'jetty works environmental design scheme' required to be approved, in consultation with the Environment Agency, under Requirement 14.</p>	<p>The Applicant is in agreement with the response provided by the Environment Agency. Paragraph 2.2.1 to Paragraph 2.2.8 of the Outline Lighting Strategy (APP-123) provides appropriate mitigation measures for lighting effects on bats, fish and water voles, and includes provision for avoiding light spill and also that non-essential lighting is turned off when not needed.</p> <p>The lighting strategy for the Proposed Jetty will be secured pursuant to Requirement 11, not Requirement 14 of the Draft DCO (as updated alongside this submission), as the Requirement applies to every part of the authorised development, including the river works.</p>
2.3a.2	Q1.4.0.2 EA	Carbon cost of development platform vs disruption to CCF plant during flooding. Has the Applicant's Response to Interested Parties Deadline 1 Submissions document [REP2- 019] addressed the EA's observations [REP1-035] relating to the relative carbon costs of land raising and any equipment being temporarily out of action due to flooding caused by a breach in the flood defences?	<p>We note that the extent to which the carbon capture equipment could be out of action due to flooding caused by a breach of the Thames Tidal defences has not been determined. That exercise would logically include establishing which pieces of equipment would be vulnerable to flooding and the options for protecting them, including raising the key elements to a higher level.</p> <p>The applicant has previously told the Environment Agency that they have yet to determine the method of ground raising and that that is to be considered as part of the detailed design. Ground raising on marsh land presents technical challenges and it is noteworthy that the improvements to Norman Road for the first energy from waste power station included deep soil mixing to strengthen the subsoil to support the road. Significant engineering works may therefore be required to raise the development platform as proposed.</p> <p>At face value the contextual information provided by the applicant indicates that the ground raising equates to about 1 day of CO2 emissions from the two Energy from Waste power stations without the CCF.</p> <p>The Environment Agency welcomes the commitment by the applicant to review and seek to reduce the ground raising required.</p>	<p>The Applicant has undertaken further breach modelling as presented in Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035). This has been prepared in response to the Environment Agency's concerns regarding the worst case 'glass wall' approach for an elevated platform level and the potential for increased residual flood risk in the event of a breach of the River Thames flood defences. In particular, the Applicant has undertaken analysis to present results that are more reflective of likely development scenarios. Flood waters in the event of breach would be able to flow through the Development Platform, with only equipment or facilities sensitive to flood water inundation protected against the breach flood risk as presented in Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035). Some elements of the carbon capture equipment will therefore be subject to inundation of flood water in the event of a breach, although</p>

Table ref	Question Number and Question to	Question	Consultee Comments	Applicant's Response
			We believe that that exercise should be extended to determine the extent to which the carbon capture equipment will be out of action and the opportunities to protect the different equipment from damage during flooding.	<p>equipment that could pose pollution risk or risk to operational staff (namely welfare provision) will remain protected. The Carbon Capture Facility may therefore not be operational for a period of time during flood water inundation should a breach occur (and if remedial works are required) however, the existing Riverside 1 and Riverside 2 facilities for which the Proposed Scheme serves are also unlikely to remain operational should a breach occur meaning that the Carbon Capture Facility would not need to be operational itself. The need for significant engineering works to facilitate a large-scale raising of the Development Platform are consequently unlikely to be required. The final layout and protection required for each element of the Proposed Scheme will be developed during detailed design and in compliance with Design Principles and Design Code (REP3-007).</p> <p>As noted, the contextual assessment of GHG emissions for the worst case 'glass wall' approach provided in the Applicant's Response to Interested Parties Deadline 1 Submissions (REP2-019), that construction emissions for ground raising would be equivalent to up to one day of avoided emissions in total over the lifetime of the Proposed Scheme. Given the reduced platform levels indicated for the likely development scenarios presented in Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035), it is assumed that less material would be required for these scenarios compared to the worst case 'glass wall' approach, with a subsequent reduction expected for the associated construction GHG emissions. However, it is also noted in Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035), that lowering the platform level is expected to require additional pumping to enable outfalls to be achieved. Depending on the source of energy used for pumping (e.g. grid electricity or diesel fuel) there is potential for additional greenhouse gas emissions to be generated from pumping during flood events, although future decarbonisation of energy supplies is expected to minimise this impact.</p>
2.3a.3	Q1.8.3.10 The Applicant, NE and EA	R11 - Lighting strategy Would this requirement, either as proposed or suitably amended, be	R11 as proposed would satisfy the particular issue of sensitivity of water voles and the Environment Agency would like to be a statutory consultee on any strategy.	The Applicant confirms that Natural England are a statutory consultee on issues related to terrestrial biodiversity, including water voles. A Water Vole Method

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		capable of satisfying the particular issue of sensitivity of water voles as pointed out in EA's Written Representation, section 6 [RE1-035]? Should EA or NE be required consultees on any strategy?	<p>The removal of habitat and translocation of Water Voles means that any impact of the proposed lighting is reduced due to Water Vole populations being displaced.</p> <p>We note that no lighting is proposed in the Mitigation and Enhancement Area and that Requirement 11 already provides for a Lighting Strategy to be submitted and approved, in substantial accordance with the Outline Lighting Strategy (APP-123). More information is to be received regarding off site compensation for Water Vole habitat lost to the development. This is our primary ongoing concern. Ideally no habitat for a protected species should be degraded or destroyed. However, if this is unavoidable justification to address this will need to be provided along with robust offsite mitigation and onsite biodiversity enhancement.</p>	Statement detailing all habitat creation and enhancement for water voles was submitted to Natural England on the 17 th January 2025 to obtain a Letter of No Impediment (LONI). Natural England provided the LONI pursuant to a water vole licence for the Proposed Scheme on the 25 th February 2025 (Natural England Reference: DAS 457982). In summary, to mitigate for the removal of approximately 540m of drainage ditch, a total of approximately 1.3km of ditches will be dug within two receptor sites within the Mitigation and Enhancement Area of the Site. Additionally, existing ditches (totalling approximately 540m) within the Site will be enhanced for water vole.
2.3a.4	Q1.8.5.1 EA	Suitability of protective provisions Please can the EA clarify what changes to protective provisions they are seeking as mentioned in their written representation [REP1-035]?	The Environment Agency has produced a set of Standard Protected provision along with an Explanatory note which we will provide with this response.	The Applicant has reviewed the Protective Provisions provided and updated the draft DCO at Deadline 4 to account for those aspects it agrees with and provided comments to the EA on those that need further discussion.
2.3a.5	Q1.9.0.1 The applicant & EA	Flood Risk Bearing in mind the Applicant's Response to Interested Parties' Deadline 1 Submissions document [REP2- 019], please can the Applicant and EA advise what further progress has been made regarding the matters set out in the EA's written representation [REP1-035] and what matters remain outstanding?	<p>Limited further progress has been made on the outstanding Flood Risk issues.</p> <p>The Environment Agency remain concerned over what we see as excessive flexibility created by the wording of the Design Principles and the Design Code in terms of how close the ground raising and the works can extend towards the watercourses. The applicant's response restates their position but does not offer a change or any further comfort over the impacts the Environment Agency has highlighted in our previous comments.</p>	<p>The Applicant re-emphasises its commitment to the Design Principles and Design Code (REP3-007) that states the intention to allow for a minimum 5m offset, up to 8m or greater where practicable, from the top of bank on existing retained watercourses to allow for maintenance, to protect habitats and for the delivery of flood compensation. Requirement 4(3) of the Draft Development Consent Order (as updated alongside this submission) sets out how the authorised development must be designed and constructed in accordance with the Design Principles and Design Code (REP3-007) and a Statement of Compliance will also be prepared as part of discharging this requirement in order to support and enable the Environment Agency's and LLFA's scrutiny and assessment of design outcomes developed during the detailed design process.</p> <p>Following the discussion at ISH2, the Applicant discussed this matter with the Environment Agency on 13 February 2025, where there was a positive discussion as to potential next steps to resolving the Environment Agency's concerns on this matter. The Environment Agency is undertaking further detailed review of the modelling submitted in January 2025 to allow a further discussion and agreement of a mutually acceptable next step.</p>

Table ref	Question Number and Question to	Question	Consultee Comments	Applicant's Response
2.3a.6	Q1.9.0.1 The applicant & EA	Flood Risk Bearing in mind the Applicant's Response to Interested Parties' Deadline 1 Submissions document [REP2- 019], please can the Applicant and EA advise what further progress has been made regarding the matters set out in the EA's written representation [REP1-035] and what matters remain outstanding?	<p>Based on the document 'Appendix A: Coastal Processes Technical Note' received in December 2024, we are now satisfied that the sediment modelling and it's interaction around the proposed jetty and the possibly demolition of the existing Belvedere Power Station Jetty (disused) in respect of the scour and deposition of sediment on the intertidal mudflat is a reasonable assessment of change. The assessment shows that, any sedimentation will be on the subtidal or the very edge of the intertidal and won't affect the Great Breach outfall. We are no longer concerned about sedimentation in front of the Great Breach outfall as a result of the Cory Carbon Capture proposal. Resultantly, we are strongly in favour of the demolition of the Belvedere Power Station Jetty (disused) as a biodiversity enhancement/Biodiversity Net Gain improvement which is a sensible option to open up currently shaded intertidal mudflat. The previous modelling showed that jetty's demolition causing apparent siltation in front of the Great Beach outfall. This is not now the case.</p> <p>On 23/12/2024, the Environment Agency e-mailed the Applicant with issues that need to be resolved with their breach flood modelling and the FRA based on that. Those issues include incomplete, inconsistent and poorly represented structures within the modelling, missing files preventing the model being run and consistent timing of the breach occurring. Based on the modelling received we also disagree with the conclusion that the changes to flood risk in the floodplain are minimal. We await a substantive response from the Applicant.</p>	<p>The Applicant welcomes confirmation from the Environment Agency regarding the coastal processes assessment and deposition of sediment. This agreement has been captured in the Environment Agency SoCG (as updated alongside this submission). As described in paragraphs 2.2.83 to 2.2.89 of Chapter 2: Site and Proposed Scheme Description of the Environmental Statement (Volume 1) (APP-051), the position with regards to the retention or demolition of the Belvedere Power Station Jetty (disused) will be confirmed during the detailed design of the Proposed Scheme.</p> <p>The Applicant has reviewed and responded to the comments received from the Environment Agency on 23rd December 2024 regarding the review by the Environment Agency's Evidence & Risk Team of the Cory Thames Estuary Breach Model that informed Appendix 11-2: Flood Risk Assessment of the Environmental Statement (Volume 3) (AS-023). The Applicant's response is described in the Environment Agency SoCG (as updated alongside this submission).</p> <p>The Applicant has also undertaken further breach assessment as presented in Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035). This has been prepared in response to the Environment Agency's concerns regarding the potential for increased residual flood risk in the event of a breach of the River Thames flood defences. In particular, the Applicant has undertaken analysis to present results that are more reflective of likely development scenarios. The results indicate a significant reduction in residual flood risk following a breach of the River Thames flood defences. The Applicant discussed the issues and queries raised with the Environment Agency on 13th February 2025. The Environment Agency were encouraged with the updated results and significant reduction in changes to peak flood depths if a breach in the defences were to occur in the vicinity of the Proposed Scheme. The Environment Agency has requested to review the raw outputs of the modelling data by their Evidence & Risk Team before providing further comment, the Applicant provided the additional requested model files to the Environment Agency on the 19th February 2025, as described in the Environment Agency SoCG (as updated alongside this submission).</p>

Table ref	Question Number and Question to	Question	Consultee Comments	Applicant's Response
2.3a.7	Q1.9.0.1 The applicant & EA	Flood Risk Bearing in mind the Applicant's Response to Interested Parties' Deadline 1 Submissions document [REP2- 019], please can the Applicant and EA advise what further progress has been made regarding the matters set out in the EA's written representation [REP1-035] and what matters remain outstanding?	The other flood modelling has yet to be submitted by the Applicant.	The Applicant has completed its review and update of the Cory Marsh Dykes Model that informed the Appendix 11-2: Flood Risk Assessment of the Environmental Statement (Volume 3) (AS-023) and that is the subject of the Environment Agency's comment here. The results of this updated modelling are presented in Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035) . The model files and modelling report (titled 'Flood Risk Technical Note – Further Breach Modelling and Platform Scenarios Methodology, Revision A') were emailed directly to the Environment Agency on 29 th January 2025 for review by the Environment Agency's Evidence & Risk Team.
2.3a.8	Q1.9.0.1 The applicant & EA	Flood Risk Bearing in mind the Applicant's Response to Interested Parties' Deadline 1 Submissions document [REP2- 019], please can the Applicant and EA advise what further progress has been made regarding the matters set out in the EA's written representation [REP1-035] and what matters remain outstanding?	The Environment Agency are seeking to maximise the space around the Great Breach pumping station and the raising mains to the north that discharge to the Tidal Thames to allow for future maintenance and upgrade works. Whilst the protective provisions will provide a degree of control the intention is that the controls within a DCO should as far as possible not frustrate or significantly hinder the project once approved. We would therefore ask that the Applicant is more specific over the offsets that can be provided relative to the pumping station and the raising mains.	The Great Breach Pumping Station has been removed from the Order Limits, as described in the Change Request and Consultation Report No. 2 (AS-067) . No works are proposed that would directly affect the Great Breach Pumping Station, the open channels discharging to it or the rising mains and culvert discharging from it. Access to the Great Breach Pumping Station will be maintained during construction and operation of the Proposed Scheme, pursuant to the Protective Provisions. The closest permanent works to the Great Breach Pumping Station and rising mains are for the Flue Gas Supply Ductwork for Riverside 2 (Work No. 2B shown on the Works Plans (AS-069)) which is expected to be in excess of 16m from the Great Breach Pumping Station and rising mains and therefore not impede future maintenance or upgrade works. Should any permanent works take place within 16m of the Great Breach Pumping Station these will be subject to the Environment Agency's approval through the Protective Provisions. The Applicant considers that the current measures in the Protective Provisions (Schedule 12 of the Draft DCO (as updated alongside this submission)) are appropriate, and notes that they are generally reflective of the Environment Agency's preferred protective provisions submitted at Deadline 3, which the Applicant is discussing with the Environment Agency.

Table 2-3b Applicant's Response to Environment Agency's Other Deadline 3 submissions

Question Number	Consultee Comments	Applicant's Response
2.3b.9	<p>In the Applicant's Response to Interested Parties Deadline 1 Submissions, in Table 2-6-2 –Environment Agency the Applicant argues against the practicality of implementing mitigation measures for the flood risk impacts of the ground raising. We note the sentence on page 79, "Additional pumping would likely have relatively limited benefit to the reduction on peak flood levels (with the greatest benefit instead only recognised for the removal of flood waters over a longer duration once the peak of the breach has passed)". The Environment Agency commissioned Marsh Dykes 2020 Flood Modelling Study included model runs comparing the severity of breach flooding in these sub catchments with and without the pumping stations operating. A significant reduction in the peak extent and level of breach flooding was found with the pumping stations working. We therefore disagree with the Applicants assertion that additional pumping to the Tidal Thames have relatively little benefit.</p> <p>The Environment Agency's suggestion that improvements to the flood defences could be a mitigation measure is not about the remedial works to the existing structures that have been and will be undertaken. It is rather the approach of extending the defences to create a raised plateau of high ground with far lower vulnerability to failure due to its mass and geometry. The Environment Agency accept that existing development limits the scope to implement such improvements to the robustness of the Tidal Defences.</p> <p>The Environment Agency member of staff mentioned was part of the group who produced the wording requiring flood modelling for Land Use Planning to be presented as raw results without any modelling tolerance applied and we assert that the Applicants interpretation of the wording on GOV.UK is incorrect. We disagree that the requirement is impractical as other Applicants have complied.</p> <p>All off the outputs of the Applicant's breach flood modelling are questionable until a sound runnable model has been received and successfully QAed by the Environment Agency.</p> <p>It is appropriate to exclude floodwater from the raised development platform in the flood model including because upstand flood walls are proposed on the edges of the platform.</p> <p>The approach of modelling breaches in flood defences as instantaneously is adopted as standard practice to avoid the uncertainty and unmanageable complexity of analysing flood defences and seeking to establish how quickly a breach could develop. It is therefore not realistic to apply any other assumption than instantaneous breach development. Furthermore, the input parameters for breach flood modelling are by their nature quite arbitrary including that the breach width is assumed to be 20 metres wide.</p>	<p>The Applicant's justification for stating that additional pumping would likely have relatively limited benefit to the reduction on peak flood levels is that the greatest changes to peak flood levels occur in the vicinity of Norman Road, upstream of the pumping stations at Great Breach Dyke and Green Levels. It is therefore unlikely that additional pumping would have a notable effect on peak flood levels at this location. The Applicant has undertaken additional analysis of the potential effects of pumping at Great Breach Dyke Pumping Station on peak flood levels, including the potential effects should additional pumping be installed at this location. The findings were shared with the Environment Agency during a meeting between the Applicant and Environment Agency on the 13th February 2025. The results indicated negligible benefit to the change if height or duration of peak flood levels at the series of points selected for analysis, with discussion that the volume of water present in the initial flow of peak flood waters would far outweigh the volume of water that can be removed by the pumps. The Applicant does however recognise that additional pumping could have benefit to the duration of flood water inundation and flood levels over the course of flood water inundation as was discussed with the Environment Agency on the 13th February 2025, although the impact of the Proposed Scheme on these aspects is insignificant given the dissipation of flood waters throughout the large area of the flood cell.</p> <p>The Applicant notes the Environment Agency's confirmation that more substantial remedial works to the River Thames flood defences as suggested by the Environment Agency would not be feasible within the scope of the Proposed Scheme.</p> <p>The Applicant believes the Environment Agency's reference to the modelling tolerance refers to paragraph 8.3.62 of the Appendix 11-2: Flood Risk Assessment of the Environmental Statement (Volume 3) (AS-023) (hereafter referred to as the FRA (AS-023)) that states "<i>This indicated an increase in water level within the wider flood cell of approximately 14mm. This is 4mm above the 10mm threshold associated with model tolerance (i.e. the level at which uncertainty is applied to cover differences in the calculations and other aspects of hydraulic modelling)</i>". The Applicant acknowledges that model tolerance is better considered in terms of sensitivity testing, degree of calibration and uncertainty of model parameters, and that a standard tolerance of 10mm may not be the most appropriate approach. The 10mm tolerance was referenced in paragraph 8.3.62 of the FRA (AS-023) as this value is commonly used by industry peers in flood risk assessments prepared to support new development. However, the reference made to the 10mm tolerance in paragraph 8.3.62 of the FRA (AS-023) does not change the findings of the FRA (AS-023) and is not represented in the depth difference calculations or supporting figures of the FRA (AS-023); and is also not referred to in the further breach assessment completed to assess the alternative level and layout scenarios for the Development Platform as discussed in Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035). Furthermore, the Applicant advises that the previous reference made by the Applicant to depth difference bandings and the requirements of GOV.UK as part of the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019) was not referring to the model tolerance as discussed in paragraph 8.3.62 of the FRA (AS-023) (as discussed above) but was referring to the bandings included in Figure 8.8a and Figure 8.8b of the FRA (AS-023). The Applicant confirms that model tolerance has not been applied to any of the mapped outputs of the FRA (AS-023) or Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035), and the mapped outputs represent the raw results without any modelling tolerance applied.</p>

Question Number	Consultee Comments	Applicant's Response
		<p>The Applicant shared the Cory Thames Estuary Breach Model with the Environment Agency on the 13th September 2024 for review by the Environment Agency's Evidence & Risk Team, with further details provided on 31st October 2024 and 25th November 2024 to answer queries raised by the Environment Agency. Further comments were received from the Environment Agency on 23rd December 2024. The Applicant responded to these comments directly to the Environment Agency on 23rd January 2025. The Applicant also shared the Cory Marsh Dykes Model and further modelling of the Cory Thames Estuary Breach Model on 29th January 2025 for review by the Environment Agency's Evidence & Risk Team. The Applicant awaits confirmation from the Environment Agency's Evidence & Risk Team that the models are deemed acceptable.</p> <p>With reference to the statement regarding the exclusion of floodwater from the raised development platform, the Applicant agrees with the Environment Agency's statement and confirms flood waters were excluded in the worst case glass wall approach that was presented in the FRA (AS-023). The Applicant has subsequently undertaken further breach assessment as presented in Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035) in response to the Environment Agency's concerns regarding the potential for increased residual flood risk in the event of a breach of the River Thames flood defences. In particular, the Applicant has brought forward the review of the Development Platform in terms of its layout and level to present results that are more reflective of the developing design. Flood waters in the event of a breach of the River Thames flood defences may now flow through the Development Platform.</p> <p>The Applicant agrees with the Environment Agency's statement regarding the approach to breach assessment that assumes an instantaneous loss of a 20m length of the flood defence wall and confirms this approach has been adopted in the reported breach assessments (including modelling completed to inform the FRA (AS-023) and modelling completed to inform Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035)).</p>
2.3b.10	The Environment Agency are still unclear over the distinction that the Applicant is seeking to draw over their desire to partially disapply the Metropolis Management (Thames River Prevention of Floods) Amendment Act 1879). We would ask that the applicant illustrates their arguments with examples of what would be captured by their proposed partial disapplication and what would not.	Please see the Applicant's note on this point (and the other EA-related DCO disapplications) in its Written Summary of Oral Submissions at ISH2 submitted at Deadline 4.
2.3b.11	<p>In response to the Applicant requesting clarification, the Environment Agency can confirm that it is currently maintaining both Green Level and Great Breach Pumping Stations. The Environment Agency are the landowner for the former but not the later. The Environment Agency chooses to maintain flood risk assets according to need and available resources.</p> <p>The description of the Flue Gas Supply Ductwork within Section 11.3 of Appendix 11-2: Flood Risk Assessment of the Environmental Statement (Volume 3) (AS-023), acknowledges that that may be routed close to or on the tidal defence structures. It was technically challenging to construct elements of the Riverside 1 scheme that were approved encroaching into the back face of the earth flood embankment. Why can the ductwork not be constructed on a different alignment landward, even landward of the two</p>	<p>The Applicant notes the EA's confirmation regarding maintenance of the two pumping stations.</p> <p>The Applicant advises that there is no opportunity to relocate the length of ductwork running from the Riverside 2 stacks along the north side of the Riverside Campus, since there are no other viable routes for this ductwork from the Riverside 2 stacks to the Carbon Capture Facility, due to existing site constraints and access requirements, as illustrated on Appendix C of the Applicant's Written Summary of Oral Submissions at ISH1 (REP1-027). The proposed route for the Flue Gas Ductwork from Riverside 2 to the Carbon Capture Facility is to be located on the eastern and northern boundaries of the Crossness LNR, aligned with the western and southern boundaries of the Riverside Campus. The Flue Gas Ductwork from Riverside 1 would be located directly southward to the Carbon Capture Facility. Consequently, the Flue Gas Ductwork will not encroach the flood</p>

Question Number	Consultee Comments	Applicant's Response
	<p>Energy from Waste Power Stations until the route is far enough west to link to the proposed discharge delivery jetty?</p> <p>Where the Access Trestle crosses the River Thames Flood Defences the Environment Agency remains of the opinion that a clear 5 metre vertical clearance should be provided for operational access and improvement works relative to the existing flood defence crest level, as was provided by the underside of Middleton Jetty as part of the Riverside 1 scheme.</p>	<p>embankment. The Applicant can confirm that the Flue Gas Ductwork does not connect with the Proposed Jetty.</p> <p>The Applicant advises that a 5m vertical clearance where the Access Trestle crosses the River Thames Flood Defences could be achieved if required; a position that would fall within the parameters that have been assessed within the ES and found to be acceptable.</p>
<p>2.3b.12</p>	<p>The response made by the applicant regarding Water Framework Directive (WFD) and water chemistry (that the WFD assessment would be modified and updated in line with findings when sediment samples (planned to be taken march 2025) had been obtained and analysed, does however confirm that the WFD assessment in its current form is not fit for purpose because we do not know currently what levels of contamination will be found in the sediment, and therefore one logically cannot calculate the pollutant load that will be imparted to the waterbody when material is lost back into water from the backhoe method proposed.</p> <p>Actual volume of losses will be anticipated to be between 6% and 15% of the total dredge volume (this might be at the lower end of the scale if a lidded bucket is used, or towards the higher end of the scale without a lidded bucket and if the material is predominantly fine sediments).</p> <p>Considering a total dredge volume of 110 000cu m the losses to water will probably be of the order of 10-15 000 cu m, and we strongly suspect (based on long experience of seeing dredge samples in the Thames) that the sediment analyses will show the material to contain regulated chemicals at levels above Centre for Environment, Fisheries and Aquaculture Science (CEFAS) action level (possibly very significantly above- and in any case, grounds for WFD impact assessment to be carried out) and they will probably contain some regulated chemicals (such as the Polycyclic Aromatic Hydrocarbon (PAH) compound benzo(ghi)perylene or possibly Tributyl Tin. The applicant should check the River Basement Management Plan (RBMP) to identify which chemicals are failing) which are already failing their environmental quality standards (EQS) limits in the Thames Middle waterbody.</p> <p>For such failing chemicals it will be necessary to demonstrate that the losses from the dredge do not elevate the pre-existing (failing) annual baseline by more than 3% at waterbody scale (or else this is WFD deterioration and we would have to object). It will therefore be necessary to do much more work (which will necessarily include consideration of baseline concentrations (not merely baseline pass/fail status for classification as published in the river basin management plan) before any prediction of uplifts can be estimated. For those regulated chemicals present in the dredged material which do not currently fail their EQS limits at baseline concentrations in Thames Middle then the argument for compliance needs to be based on the predicted effect being insufficient elevation of baseline to reach or exceed the EQS concentration limit.</p>	<p>The assessment detailed in Appendix 11-1: Water Framework Directive Assessment of the Environmental Statement (Volume 3) (APP-106) was based upon grab samples of surface sediments collected as part of a coordinated assessment of physical, chemical and benthic biological baseline conditions. As outlined in the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019), the Applicant undertook additional sediment sampling, at depth, in December 2024 following consultation with the relevant stakeholders (MMO, PLA and Cefas). The Applicant received the additional sediment sampling data from the MMO approved laboratory on 6th February 2025. The Applicant can confirm that its initial analysis of the data from the December 2024 sediment sampling, is that it has validated the mitigation measures presented within Appendix 11-1: Water Framework Directive Assessment of the Environmental Statement (Volume 3) (APP-106). This initial analysis was relayed to the Environment Agency during a meeting on the 19th February 2025, as described in the Environment Agency SoCG (as updated alongside this submission).</p> <p>The Applicant is preparing a Technical Note that will present the findings of the December 2024 sediment sampling and present the evidence which validates that the conclusions and the mitigation measures presented within the WFD Assessment remain appropriate. During the meeting on 19th February 2025, the Environment Agency confirmed that a Technical Note to present the findings of the December 2024 sediment sampling, and the information requested by the Environment Agency, would be acceptable. Further details are provided within the Applicant's Response to the Examining Authority's Rule 17 Letter - Request for further information - Applicant and Environment Agency (AS-087), which was issued to the Examining Authority on 14th February 2025.</p>

Question Number	Consultee Comments	Applicant's Response
	<p>PAH's in the Thames Middle waterbody tend to be quite high, and the EQS limits for water (which include any suspended PAH, not just dissolved PAH) are set quite low for some PAH compounds. Whilst it is often tempting to simply dismiss risk by suggesting there will easily be sufficient dilution of any additional PAH compounds raised (temporarily) into the water column, a more detailed analysis will show that there is in fact very little headroom due to the fact that sediment contains several orders of magnitude more PAH than the overlying water, so a relatively short term "spike" caused by a dredge may translate to significantly large changes to annual average concentrations when the effect is averaged out over a year and the volume of the water body and current baseline concentration is considered.(As an example : benzo(ghi)perylene has an EQS Maximum allowable concentration of 0.00082 microgrammes per litre in water (equivalent to 0.00000082 parts per million) where the CEFAS action level 1 (which tends to be used as a guide to suggest a safe ecological limit under OSPAR guidelines (but these guidelines are NOT aligned with WFD criteria, which are much stricter) for PAH compounds is set at 0.1mg/kg (of dry sediment) which is equivalent to 0.1parts per million.</p> <p>The inference is that even if the CEFAS interpretation of sediment AT Action Level 1 for benzo(ghi)perylene would suggest it was "suitable for disposal at sea" (and this really means at licensed offshore disposal sites geographically outside of WFD waterbody designations) the sediment would still require dilution factors in excess of 27000 times before the water column concentration of receiving water (in which there was no pre-existing benzo(ghi)perylene present) would fall below the EQS maximum allowable concentration limit. Should the receiving water contain the chemical already then even higher dilutions would be required. But, in the case of the Thames Middle waterbody, the EQS concentration limit is already failed at baseline concentrations (there are significant amounts already present in the water column, and much more trapped in deposited sediment), so the bar is set at not elevating these concentrations by more than 3%. Although Thames Middle is a large volume waterbody, the dilution factors available when the "spike" may be five or more orders of magnitude above the baseline need careful scrutiny to establish whether an activity really can comply.</p> <p>At this stage, WFD compliance cannot logically be demonstrated. We await the sediment analysis and updated WFD arguments derived from that knowledge in due course. If sampling is to be in March 2025 then no WFD assessment will be likely until at least March 2025.</p>	

2.4. NATURAL ENGLAND

Table 2-4 Applicant's Response to Natural England's Deadline 3 Submissions

Table ref	Question Number and Question to	Question	Consultee Comments	Applicant's Response
Air Quality and Emissions				
2.4.1	Q 1.1.0.3 NE and the Applicant	The ExA notes that NE advise [REP1-038] that they will continue to work with the Applicant to obtain the information they require and resolve the issue. The ExA requests an update on this matter, including whether the information requested by NE has been provided and what matters of disagreement remain outstanding, including those identified in NE's Deadline 2 representations [REP2-027] in their comments on the Technical Note.	<p>Please note that Natural England is currently assessing the latest information provided by the applicant regarding air quality during a meeting on the 13th January. We request the Examining Authority's permission to delay the provision of our substantive response to this question and all air quality matters until Deadline 4.</p> <p>We regret that this is necessary due to the novel and complex nature of the information provided and the need to ensure we fully understand and agree with the methodology used to reach the assessment conclusions.</p> <p>We currently consider the following matters under discussion:</p> <ul style="list-style-type: none"> • The methodology used to assess the air quality impacts; • The Process Contribution for the Proposed Scheme and impacts of emissions on ecological sites; • The use of Emissions Limits Values as a mitigation measure; • Impacts on the Inner Thames Marshes SSSI; • In-Combination Assessment (further information can be found in our response to Q 1.7.0.1) <p>We sincerely apologise for inconvenience caused by this delay, and we continue to work collaboratively with the applicant to resolve this matter.</p>	<p>The meeting held with Natural England on 13th January 2025 was beneficial for both parties in reaching a clearer understanding of outstanding matters which remained under discussion at Deadline 3. During the meeting an explanation was provided to Natural England on the matters under discussion, which allowed Natural England to better understand the methodology, terminology and approach to assessment of impacts.</p> <p>Following this meeting, Natural England provided a written response (on 24th January 2025) that provided an update on its position regarding air quality matters and set out a number of questions for the Applicant to address.</p> <p>As depicted in the Natural England Statement of Common Ground (as updated alongside this submission), the Applicant further discussed Natural England's written response in a meeting on 18th February 2025 and has provided a written response to the questions from Natural England (presented in Appendix A: Applicant's Response to Natural England's Air Quality Position Letter of this report) with the intention of resolving the outstanding matters. The Applicant is committed to continue working collaboratively with Natural England to resolve these matters.</p>
Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment)				
2.4.2	Q 1.3.1.3 and Q 1.3.1.4 The Applicant and NE	<p>The ExA notes that the Applicant and NE have met to discuss a Water Vole Method Statement. The ExA requests an update on this matter, including whether the information requested by NE has been provided and what matters of disagreement remain outstanding.</p> <p>Please can the Applicant confirm what their timescales are for obtaining a Letter of No Impediment for water voles from NE.</p>	<p>Natural England have had positive meetings with the Applicant on this topic. The next piece of information required is the amended draft licence application with an updated Method Statement and Reason Statement. Although this is a question for the applicant, we thought it might be helpful to set out that once Natural England receive the re-submitted draft licence application, it should take a maximum of 30 working days to provide a LoNI (assuming NE can reach a satisfied decision).</p>	<p>The Applicant sent the updated Water Vole Method Statement (with associated application form and Reasoned Statement) which included a detailed mitigation strategy to Natural England on 17th January 2025 to obtain a Letter of No Impediment (LONI). Natural England provided the LONI pursuant to a water vole licence for the Proposed Scheme on the 25th February 2025 (Natural England Reference: DAS 457982). This was issued after signature of the Natural England Statement of Common Ground (Revision D, as updated alongside this submission) therefore the latter does not reflect this.</p>

Table ref	Question Number and Question to	Question	Consultee Comments	Applicant's Response
2.4.3	Q 1.3.1.5 The Applicant, NE and EA	Would the lighting strategy required by Requirement (R) 11 in the dDCO be capable of mitigating effects of lighting on water voles? If so, please provide a full and detailed justification and if not, what alternative arrangements are proposed?	The effects of lighting were not discussed as an impact to water voles within the Method Statement that Natural England reviewed. The lighting strategy [APP-123] does not specifically address potential impacts to water voles, or the mitigation of any impacts. Natural England has advised the Applicant that this section should be revised within the re-submitted version in order to ensure all the impacts of the proposed development are considered.	The effects of lighting on water voles have been addressed in the updated Water Vole Method Statement (issued to Natural England on 17 th January 2025), for both the construction and operation phases. The Water Vole Method Statement concluded that with the proposed lighting control measures set out in the Outline Lighting Strategy (APP-123) , existing baseline lighting disturbance, as well as the low sensitivity of water voles to lighting disturbance, the effects would be negligible during construction and operation (as described in Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056)). The lighting control measures include those listed in Paragraph 2.6.1 and Paragraph 2.6.2 of the Outline Code of Construction Practice (REP2-008) and Paragraphs 2.2.1 to 2.2.8 of the Outline Lighting Strategy (APP-123) .
Cumulative Effects				
2.4.4	Q 1.7.0.1 MMO, NE, LBBC	Could the MMO, NE and LBBC please confirm whether they are content that all other developments, plans and projects that have the potential to result in cumulative or incombination effects together with the proposed development have been identified and appropriately assessed by the Applicant in the Environmental Statement [APP-118] and the HRA Report [APP-090] (including any relevant marine licensed projects)?	For the purposes of the Habitats Regulations Assessment, the Applicant determined that carrying out a full in-combination assessment was not necessary based on the relatively low contribution of the project. From Revision B of the SOCG [PDA-002] the Applicant states that "The modelled impact of the Proposed Scheme at the Epping Forest SAC is imperceptible (<1% of any relevant critical load or critical level) given the large distance between the Proposed Scheme and Epping Forest SAC (11.8km). Taking into account the conservatism inherent in the dispersion modelling, these impacts can robustly be considered to be so small that the Proposed Scheme could not reasonably be considered likely to act in-combination with other plans or projects to have an adverse effect on the integrity of Epping Forest SAC." In [REP1-038] Natural England did not disagree with this conclusion. This was based on our understanding of the methodology at the time. As discussions with the Applicant have progressed, and our understanding of the methodology has advanced, we are currently reviewing our position on the in-combination assessment. Natural England do not currently have comments on the scope of the identification and assessment of other developments, plans and projects within the Environmental Statement [APP-118].	The Applicant received a written response from Natural England on 24 th January, updating its position on matters regarding air quality and in-combination matters and setting out a series of questions for the Applicant to address. As depicted in the Natural England Statement of Common Ground (as updated alongside this submission) , the Applicant further discussed Natural England's written response in a meeting on 18 th February 2025. The Applicant has responded to Natural England's question, including clarification on regarding the in-combination assessment in Appendix A: Applicant's Response to Natural England Air Quality Position Letter of this report.
2.4.5	Q1.8.3.10The Applicant, NE and EA	Would this R, either as proposed or suitably amended, be capable of satisfying the particular issue of	In principle, yes. We advise that we believe the wording of R 11 [REP1-002] as proposed, should be capable of ensuring any impacts to water voles are avoided or	The lighting control measures detailed in the Outline Lighting Strategy (APP-123) have been taken into consideration when

Table ref	Question Number and Question to	Question	Consultee Comments	Applicant's Response
		<p>sensitivity of water voles as pointed out in EA's Written Representation, section 6 [RE1-035]? Should EA or NE be required consultees on any strategy?</p>	<p>mitigated. The effectiveness of the requirement relies upon the detail and content of the lighting strategy [APP-123]. As discussed above, the lighting strategy [APP-123] does not currently specifically address potential impacts to water voles, or the mitigation of any impacts. Natural England would be pleased to be consulted on updates to the lighting strategy.</p>	<p>assessing the effects of lighting on water voles in the updated Water Vole Method Statement.</p> <p>As detailed in the Applicant's response to Q 1.3.1.5, the effects of lighting on water voles have been addressed in the updated Method Statement, for both the construction and operational phases, which was sent to Natural England on 17th January 2025. The Method Statement concluded that considering the existing baseline disturbance, the proposed lighting control measures (as included in the Outline Lighting Strategy (APP-123)), as well as the low sensitivity of water voles to lighting disturbance, the effects would be negligible during construction and operation.</p>

2.5. MARINE MANAGEMENT ORGANISATION

Table 2-5 Applicant's Response to MMO Deadline 3 Submissions

Table ref	Summary of issue raised	Applicant's response
Main DCO		
Part 2 Principal Powers		
2.5.1	<p>9. Benefit of the Order</p> <p>The MMO notes that the benefit of the order is typically solely reserved for the undertaker. In this order, the benefit of the order is solely for the undertaker save for any benefit in relation to Works No 2 (in which case the benefit is for the undertaker, REPL and RRRL) and then for Works No 1E(iv) to (vi), 2A (1) to (ii) and 3B where the benefit is for the undertaker and any company operating a heat network.</p> <p>The MMO requests that the Applicant explains why this is required. The MMO is concerned that this would cause a problem for enforcement purposes because it may be unclear who has the benefit or not at any specific point in time.</p>	<p>See paragraphs 4.3.20 and 4.3.22 of the Draft Explanatory Memorandum [APP-019].</p> <p>Article 9(2) provides that Work No. 2 is for the benefit of both the undertaker and REPL and RRRL because Work No. 2 is the electrical connection to Riverside 1 and Riverside 2, which may be installed by any of these three parties, given that the connection is between both of the two existing facilities and the Carbon Capture Facility.</p> <p>Article 9(3) provides that Work Nos. 1E(iv)–(vi), 2A(i)–(ii), and 3(b) is for the benefit of both the undertaker and a company operating a relevant heat network (as defined by section 216 of the Energy Act 2023) because these works are likely to become part of the Riverside Heat Network, which may be installed by the operator of a district heat network or a communal heat network (as defined by section 216 Energy Act 2023), as part of the wider development of that overall network.</p> <p>On the basis that the relevant works numbers may be carried out or operated by third parties other than the undertaker, it is necessary and appropriate for the respective DCO works powers to also be for the benefit of those third parties. This is well precedented in other made DCO. For example, the benefit provisions in each of the Gate Burton Energy Park Order 2024' Cottam Solar Project Order 2024 and West Burton Solar Project Order 2025 also apply to National Grid, in respect of works relating to substations owned and/or operated by National Grid.</p> <p>Finally, in terms of enforcement, section 161 (Breach of terms of order granting development consent) of the Planning Act 2008 provides that:</p> <p><i>“(1) A person commits an offence if without reasonable excuse the person – carries out, or causes to be carried out, development in breach of the terms of an order granting development consent, or otherwise fails to comply with the terms of an order granting development consent.”</i></p> <p>These enforcement provisions are not specific to the undertaker and therefore may be sought against each of the other beneficiaries of the Order if the provisions of the PA 2008 apply to the relevant party.</p>
2.5.2	<p>10. Consent to transfer benefit of the Order</p> <p>The MMO objects to the provisions relating to the process of transferring and/or granting the deemed marine licences set out in the draft DCO at Article 10(2)-(11) insofar as these are intended to apply to the MMO and requests paragraphs 10(2)(a)-(b) and (3) be removed in their entirety and all references to the MMO be removed from Article 10, with a clarification added to specifically exclude these provisions from applying to the MMO</p>	<p>The purpose of including the Deemed Marine Licence and the corresponding transfer provisions in the DCO is to ensure that the Order operates as a 'one-stop shop' to the consenting of the Proposed Scheme, avoiding the need to seek separate consents under separate consenting regimes.</p> <p>As explained at point 7.2.1 of the Applicant's response to the MMO's DML Representations [AS-043], the ability of the Applicant to transfer the benefit of the DCO is required in order for the Applicant to retain commercial flexibility to transfer the</p>

Table ref	Summary of issue raised	Applicant's response
	<p>(with corresponding wording added where appropriate in Schedule 11 Deemed Marine Licence).</p> <p>The MMO is concerned that the procedure proposed represents an unnecessary duplication of the existing statutory regime set out in s72 of the Marine and Coastal Access Act 2009 and that it will give rise to significant enforcement difficulties for the MMO. The MMO also considers that it has the potential to prejudice the operation of the system of marine regulatory control in relation to the proposed development. The MMO also regards the proposed procedure as cumbersome, more administratively burdensome, slower and less reliable than the existing statutory regime set out in s72 of the 2009 Act.</p> <p>In short, the MMO considers that little advantage is gained for the Applicant by these provisions and the tangible risks and disadvantages that it poses can be avoided by retaining the existing statutory regime in full.</p>	<p>benefit of the Order to a third party, subject to the provisions of the Article. It is important that the full provisions of the Order can be transferred, including a deemed marine licence, to ensure that the full scope of powers and controls under the Order are transferred as a complete package.</p> <p>Additional protections are already incorporated in the drafting of the Article for the benefit of the MMO, including Article 10(3) which provides that the undertaker requires the written consent of the Secretary of State to transfer the benefit of the deemed marine licence to any transferee or lessee. The Secretary of State must also consult the MMO before providing consent to the transfer (Article 10(3)).</p> <p>The ability to transfer the benefit of a DCO including a deemed marine licence is well precedented, including specifically in the River Thames in The Silvertown Tunnel Order 2018, The Port of Tilbury (Expansion) Order 2019, and in other recent DCO such as the Hornsea Four Offshore Wind Farm Order 2023.</p>
Part 4 Interpretation		
2.5.3	<p>Title and wording immediately below the 'Part 4' title</p> <p>This "Part 4 Interpretation" seems to be in the middle of Part 3 and is not referenced in the contents at the beginning of the dDCO.</p> <p>The wording immediately below the title does not need to have the number 30 in front of it (if it does need numbering this is out of synch as it follows 35 and is before 36). The sentence also leads with "In this schedule", however this text is not within a schedule</p>	<p>Article 35 of the draft DCO relates to the modification of Part 1 of the Compulsory Purchase Act 1965.</p> <p>Article 35(5) seeks to modify Schedule 2A of that 1964 Act. Specifically, Article 35(5)(b) seeks to insert a new "Part 4 Interpretation" into Schedule 2A of the 1964 Act. This would be as a new paragraph 30 in that Schedule.</p> <p>The references to 'Part 4 Interpretation', 'paragraph 30' and 'in this schedule' in Part 3 (Article 35) of the draft DCO are therefore correct as they are references to the 1965 Act.</p>
Part 4 Miscellaneous and General		
2.5.4	<p>Deemed marine licence 42</p> <p>This Article has been added as a response to the amendments made to Article 49 to be clear that the MMO is not to be subject to the arbitration provisions. The MMO does not agree with the inclusion of this Article because if this is included, it would apply the statutory appeals process that ordinarily applies only to MMO decisions to refuse to grant a licence, or to decisions to attach conditions to a licence we grant, to the approval of the method statement and the sediment sampling plan under conditions 10 and 11 of the DML.</p> <p>This is not required because there is already a way to challenge our decision to refuse to approve it and that is via a Judicial Review. Therefore, the MMO requests that Article 42 be removed.</p>	<p>In absence of the Arbitration provisions (Article 49 and Schedule 15) applying to the MMO, the Applicant considers that it is not appropriate for there to be no clearly defined route to appeal. The Marine Licensing (Licence Application Appeals) Regulations 2011 sets out a statutory appeals process that the MMO will be used to dealing with. Therefore, the Applicant considers this to be a suitable alternative given that the MMO is not agreeable to arbitration, particularly given the criticality of the Proposed Jetty. The Applicant considers that reliance on Judicial Review for the delivery of critical national priority infrastructure is not appropriate, particularly given that Judicial Review focusses on process and not merits.</p> <p>The wording at Article 42 ensures that there is another specific and defined procedure for appeals that will apply in the event that the MMO grants the deemed marine licence application subject to conditions or refuses the application. This provision allows for a process the MMO is used to dealing with to be invoked instead.</p>
Schedule 11 – Deemed Marine Licence		
Part 1 General		
2.5.5	<p>the licence holder" means Cory Environmental Holdings Limited [...] and any transferee pursuant to article 10 (consent to transfer benefit of the Order) of the Order</p>	<p>The Applicant considers that the existing wording already ensures that any transferee or lessee of the DCO is clearly bound by the conditions of the DML.</p>

Table ref	Summary of issue raised	Applicant's response
	<p>The MMO recommends that the latter part of the definition should be removed here: “the licence holder” means Cory Environmental Holdings Limited [...] and any transferee pursuant to article 10 (consent to transfer benefit of the Order) of the Order</p> <p>To ensure that the transferee/lessee is clearly bound by the conditions of the DML, which is required for enforcement purposes, the MMO requests that a provision be included within Article 10 (consent to transfer benefit of the Order) that states something along these lines :</p> <p>“ (12) Where an agreement has been made in accordance with paragraph [*] or [*] references in this Order to the undertaker, except in paragraphs [*],[*],[*] and the first reference in paragraph [*] include references to the transferee or lessee.”</p>	<p>Upon granting the DCO, the marine licence set out in Schedule 11 (deemed marine licence) will be deemed to have been issued to Cory Environmental Holdings Limited (CEHL) under Part 4 of the 2009 Act (marine licensing), subject to conditions. As explained at point 7.2.5 of the Applicant's response to the MMO's DML Representations [AS-043], it is important to ensure that the Deemed Marine Licence is distinguishable from the DCO. The Applicant would be the undertaker for the purposes of the DCO (as defined in Article 2 of the DCO) but would be a licence holder pursuant to the Deemed Marine Licence (as defined in Part 1 of Schedule 11 of the DCO), which must be clearly differentiated.</p> <p>It is also important that the full provisions of the Order can be transferred, including a deemed marine licence, to ensure that the full scope of powers and controls under the Order are transferred as a complete package. Therefore, it is appropriate for the DCO to contain those broad transfer powers (Article 10), with the definition in the DML confirming on the face of the DML that it includes any such transferee or lessee under those DCO provisions.</p>
2.5.6	<p>“the licence holder”</p> <p>The MMO has transitioned away from using the term ‘Licence Holder’ to the term ‘Undertaker’. The MMO has noted that this phraseology has been used here and throughout the document and urges the Applicant to amend the term ‘Licence Holder’ to ‘Undertaker’ throughout the DML going forward.</p>	<p>The Applicant intends to keep the existing wording. As explained at point 7.2.5 of the Applicant's response to the MMO's DML Representations [AS-043] and above, it is important to ensure that the Deemed Marine Licence is distinguishable from the DCO. The Applicant would be the undertaker for the purposes of the DCO but would be a licence holder pursuant to the Deemed Marine Licence, which must be clearly differentiated.</p>
2.5.7	<p>“the order”</p> <p>The MMO notes that the definition of the Order refers to the “Riverside Decarbonisation Order 202[*]” . Should the Order not refer to the “Cory Decarbonisation Project Order 202 [*]”?</p>	<p>This is noted. The Applicant has updated the draft DCO at Deadline 4 to amend the definition of Order in the DML at Schedule 11 to refer to the “Cory Decarbonisation Project Order 202 [*]”.</p>
2.5.8	<p>“the River”</p> <p>The MMO does not consider this definition, or the use of the term “the River”, to be necessary and request that this be removed. The Order has a definition of what the “authorised development ” means, and Works No.4 of the Order should already have been properly defined. Therefore, there is no need to add in a definition of “the River” and refer to works within “the River” in 3(2). The interpretation of “authorised development” should be the same in the DML as is set out in the Order.</p>	<p>This term is required as a result of the ‘Concrete and cement’ and ‘Coatings and treatments’ conditions.</p> <p>Condition 3 doesn't just include Work No. 4, it includes those works referred to in the ancillary works wording at the end of Schedule 1.</p>
2.5.9	<p>The MMO considers that following definitions should be included within the DML. We would be happy to discuss wording for these definitions if required.</p> <p>"Local Planning Authority" "MCMS" "Notice to Mariners" "Percussive Piling" "Seabed"</p>	<p>The Applicant has responded to this request in the Applicant's Responses to Interested Parties' Deadline 1 Submissions [REP2-019], specifically REP1-036.</p> <p>To confirm, the following terms are not used in the DML:</p> <ul style="list-style-type: none"> • Local Planning Authority • MCMS • Notice to Mariners

Table ref	Summary of issue raised	Applicant's response
	"Vessel" "TH070"	As raised in its earlier response, the Applicant would welcome proposals from the MMO as to definitions of "Percussive Piling", "Seabed" and "Vessel". The Applicant would also welcome proposals from the MMO as to the definition of "TH070".
2.5.10	Contacts The MMO notes that 2(1) states "the main point of contact" and then proceeds to list two contacts. We suggest this wording be updated to "the points of contact". When a notification to the MMO is required, both the Marine Licensing Team and the Hastings Office need to be notified	The Applicant has updated the draft DCO at Deadline 4 to amend the wording at paragraph 2(1) as suggested by the MMO.
2.5.11	Contacts Paragraph 2(3) states "Unless otherwise agreed in writing by the MMO, all applications or notifications required under this licence must be sent by the undertaker to the MMO using the MMO's marine case management system". However, this does not work with condition 16(b) which says that the licence holder must report spills of oil, fuel, or chemicals into the Marine Environment pursuant to 2(2), which in turn directs that notification directly to the pollution response team via a telephone number and/or a dedicated email address which is not via the marine case management system (MCMS). Paragraph 2(3) needs to reflect this and be amended to make it clear this does not include notifications under 16(b) which should go via the route set out in 2(2) rather than MCMS. This is to avoid the need for any separate written approval from the MMO to allow pollution incidents to be notified to the MMO other than through MCMS.	The Applicant has updated the draft DCO at Deadline 4 to amend the wording at paragraph 2(3) as suggested by the MMO.
2.5.12	Details of such licenced marine activity The MMO has concerns regarding this drafting, in particular the general right to alter, clean, modify, dismantle, refurbish, reconstruct, remove, relocate or replace any work or structure at (3(2)(b)(i)), very broad rights to carry out excavations and clearance, deepening, scouring, cleansing, dumping and pumping operations at (3(2)(b)(ii)), dispose of any materials (3(2)(b)(iii)) and remove and relocate any vessel whether lawfully or not (3(2)(b)(iv)). The MMO requests that these are amended or clarified as to whether these will be addressed further in the method statement. As drafted, these are very vague and the very broad nature of the provisions as they stand, especially given the absence of the other standard plans and statements, the MMO would expect to see references.	These matters would be considered in any construction method statement approved by the MMO. The drafting here reflects the wording of DMLs and DCOs previously approved in the River Thames and in the marine environment.
2.5.13	The MMO previously requested in our Relevant Representation and Deadline 1 submission that the exact coordinates be provided in Part 1 of the DML. The Applicant has stated in AS-043 that these were in the Works Plans so are not required here. However, the DML is a standalone document and it cannot refer to containing information in different documents or plans. We again request that these be provided in the DML.	The Applicant has made the update at Deadline 4 to provide for this.
Part 2 Conditions		
2.5.14	Notifications regarding licensed activities:	The Applicant has updated the draft DCO at Deadline 4 to make it clear that the condition applies in respect of " <i>any agents and contractors that will be carrying out any licensed activity on behalf of the licence holder</i> ".

Table ref	Summary of issue raised	Applicant's response
	<p>The current wording of this condition suggests that it only applies to agents/contractors that are carrying out licensable activities which require the involvement of a vessel. The MMO recommends this is amended to the following for clarity: "The licence holder must ensure that a copy of this licence has been read and understood by any agents and contractors that will be carrying out any licensed activity on behalf of the licence holder as well as any masters or transport managers responsible for any vessels involved with or used during the carrying out of any licensed activities on behalf of the licence holder."</p>	<p>However, the Applicant intends to keep the existing wording of the condition in respect of the masters or transport managers. The Applicant considers that it is more certain for the condition to apply in respect of "vessels that will be carrying out any licensed activity" as opposed to "vessels involved with or used during the carrying out of any licensed activity". It is particularly uncertain to determine which vessels were 'involved with' the carrying out of the licensed activity.</p>
<p>2.5.15</p>	<p>Notifications regarding licensed activities</p> <p>The obligation to make a copy of this licence available for inspection should be directly on those carrying out the licensed activity. The MMO suggests a potential wording change for this below: "The masters or transport managers responsible for the vessels that will be carrying out any licensed activity on behalf of the licence holder as notified to the MMO under condition 5 must make a copy of this licence available for inspection on board such vessels during the carrying out of any licensed activity."</p>	<p>The Applicant does not consider this wording to be necessary because, in addition to the obligation on the licence holder to make the licence available for inspection, the DML also includes an obligation on the licence holder to request the same from the masters or transport managers.</p> <p>See Condition 8 of the DML which provides that:</p> <p><i>"The licence holder must request that the masters or transport managers responsible for the vessels that will be carrying out any licensed activity on behalf of the licence holder as notified to the MMO under condition 5 make a copy of this licence available for inspection on board such vessels during the carrying out of any licensed activity."</i></p>
<p>2.5.16</p>	<p>Construction environmental management plan</p> <p>The MMO would expect to see some provisions along these lines: "Construction environmental management plan —(1) No licensed activities may be commenced until a construction environmental management plan for them has been submitted to and approved by the MMO following consultation with the relevant planning authority, the Environment Agency and Natural England on matters related to their function; and the submitted construction environmental management plan must be in accordance with the outline construction environmental management plan, unless otherwise approved by the MMO. (2) Any construction environmental management plan submitted pursuant to sub-paragraph (1) and any construction environmental management plan submitted pursuant to paragraph 6(1) of Schedule 2 (requirements) of the Order may be comprised in the same document or separate documents." And "all licensed activities must be carried out in accordance with the construction environmental management plan for those activities approved pursuant to paragraph [*] of this Schedule where applicable, unless otherwise approved by the MMO."</p>	<p>The Applicant uses the terminology of code of construction practice instead of construction environmental management plan. The Draft DCO already includes a requirement for a code of construction practice (see Requirement 7 of Schedule 2), therefore the Applicant does not consider it necessary for a further requirement to be inserted in respect of a construction environmental management plan.</p> <p>Condition 9 of the Deemed Marine Licence requires that all construction licensed activities must be carried out in accordance with the code of construction practice approved under Requirement 7. Requirement 7 requires the full CoCP to be substantially in accordance with the outline code of construction practice.</p> <p>Further, Condition 10 of the Deemed Marine Licence requires the Applicant to submit a method statement for the approval of the MMO in respect of the licensed activities. Therefore, to the extent the MMO requires any management measures, such measures can be requested as part of the method statement approval process.</p> <p>The Draft DCO therefore already provides the protection that we understand the MMO is seeking.</p>
<p>2.5.17</p>	<p>Marine Noise Registry</p> <p>As works include piling, the MMO would expect to see a condition regarding the Marine Noise Registry, for example as below: "-(1) Only when impact driven or part-driven pile foundations or detonation of explosives are proposed to be used as part of the foundation installation the undertaker must provide the following information to the Marine Noise Registry (MNR)— a) prior to the commencement of the licensed activities, information on the expected location, start and</p>	<p>The Applicant has updated the draft DCO at Deadline 4 to provide for this.</p>

Table ref	Summary of issue raised	Applicant's response
	<p>end dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Forward Look requirements; and (b) within 12 weeks of completion of impact pile driving/detonation of explosives, information on the exact locations and specific dates of impact pile driving/detonation of explosives to satisfy the Marine Noise Registry's Close Out requirements.</p> <p>(2) The undertaker must notify the MMO of the successful submission of Forward Look requirements."</p>	
<p>2.5.18</p>	<p>Sediment sampling</p> <p>The MMO considers that this condition is not appropriate as drafted and lacks detail. A requirement to carry out the sediment sampling in accordance with the approved plan should be included here.</p>	<p>The Applicant has updated the draft DCO at Deadline 4 to ensure that Condition 11 provides that any sediment sampling carried out under that condition must be in accordance with the approved plan.</p>
<p>2.5.19</p>	<p>Marine written scheme of archaeological investigation</p> <p>The MMO considers that a marine written scheme of archaeological investigation should be included within the DML, and we suggest potential wording for this below: "Archaeological method statements, together with a written report on any consultation carried out with Historic England and the relevant planning authority on matters related to their respective functions in their preparation, must be submitted to and approved by the MMO in writing in accordance with the provisions of the outline marine written scheme of investigation and a subsequent update must be provided to the MMO six weeks before commencement of any licensed activity to which the method statement relates."</p>	<p>The Deemed Marine Licence forms part of the Draft DCO, which secures the requirement for an Archaeological Mitigation Strategy prior to commencement of the development (see Requirement 22). The Applicant updated the Draft DCO during pre-examination to include the MMO as a consultee for the purposes of Requirement 22. As a result, for any archaeological survey/mitigation works within the marine environment and the development of the archaeological mitigation strategy, the MMO will have the opportunity to comment, prior to the works being carried out. It is important the appropriate heritage stakeholders are the approver for a heritage document.</p>
<p>2.5.20</p>	<p>Notice to Mariners</p> <p>The MMO would expect to see provisions covering this along these lines: "Notice to Mariners —(1) Local mariners, fishermen's organisations and the UK Hydrographic Office must be notified of any licensed activity or phase of licensed activity through a local Notice to Mariners. (2) A Notice to Mariners must be issued at least 5 days before the commencement of each licensed activity or phase of licensed activity. (3) The MMO and Maritime and Coastguard Agency must be sent a copy of the notification within 24 hours of issue. The Notice to Mariners must include— (a) the start and end dates of the work; (b) a summary of the works to be undertaken; (c) the location of the works area, including coordinated in accordance with WGS84; and (d) any markings of the works area that will be put in place. (4) A copy of the notice must be provided to the MMO via MCMS within 24 hours of issue of a notice under sub-paragraph (1)."</p>	<p>The Applicant does not consider this wording to be necessary because Article 25 (Works in the river Thames: conditions) of the Draft DCO already provides that the public right of navigation over the River Thames may only be temporarily suspended with the written approval of the PLA and subject to the conditions set out in Article 25. The Draft DCO also includes protective provisions for the benefit of the PLA at Part 5 of Schedule 12 which require work approvals from the PLA. The PLA has ultimate navigational control for the River Thames and the necessary mechanisms are already in place within the DCO for the PLA to request notice to Mariners if the PLA considered that to be necessary.</p>
<p>2.5.21</p>	<p>Piling</p> <p>The mitigation measures included for piling in the outline code of construction practice document [REP2-008] and the mitigation set out in the 'Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise' document by Joint Nature Conservation Committee (JNCC) that the Ecological Clerk of Works (ECoW) will be following, must be included in the DML.</p>	<p>No amendments are necessary for the mitigation measures included for piling in the outline code of construction practice [REP2-008] or the mitigation set out in the 'Statutory nature conservation agency protocol for minimising the risk of injury to marine mammals from piling noise' to be included in the DML.</p> <p>Condition 9 of the DML already requires that "<i>all construction licensed activities</i>" must be carried out in accordance with the code of construction practice approved under requirement 7 (code of construction practice) of Schedule 2 of the Order where</p>

Table ref	Summary of issue raised	Applicant's response
	<p>The MMO considers this condition is not detailed enough and we request the following conditions are added:</p> <p>“Between 1 March and 30 June (inclusive), in any given year, no piling of any type must take place in the water.”</p> <p>“No piling of any type is permitted between sunset and sunrise each day. The times of sunset and sunrise should be set in accordance with HM Nautical Almanac Office data.”</p>	<p>applicable. As such, any licence holder is already bound by the mitigation measures under the CoCP.</p> <p>Paragraphs 6.2.3 – 6.2.5 of the Outline CoCP includes the measures that have been agreed with the MMO for mitigation in the marine environment, which are consistent with and build on what is set out in the ES.</p>
2.5.22	<p>Dredging</p> <p>The MMO notes that this is a very spartan provision with significant information gaps, such as a detailed description of water injection dredging, to make it clear what should not be undertaken within this period. This should be updated in line with other DCOs of a similar nature. Alternatively, this should be covered in detail in the method statement.</p>	<p>Condition 13 (Dredging) should be considered alongside the commitments in the code of construction practice pursuant to Condition 9 (Code of construction practice) and Requirement 7. The Outline CoCP includes various commitments in respect of dredging and is the appropriate mechanism for such commitments to be secured. It is therefore not necessary for such commitments to be repeated in the method statement.</p>
2.5.23	<p>Pollution and spills</p> <p>Consider including the below:</p> <p>“16.—(d) The undertaker must comply with the existing marine pollution contingency plan in place as detailed in the construction environmental management plan.”</p>	<p>Sub-paragraph (d) as suggested by the MMO is not applicable as pollution prevention matters are dealt with pursuant to the CoCP.</p>
2.5.24	<p>Post activities</p> <p>The MMO requests that we be notified in writing when this has been completed, within five business days following completion of the removal.</p>	<p>The draft DCO has been updated at Deadline 4 to provide for this.</p>
2.5.25	<p>Dropped objects</p> <p>Should it be required, the MMO will provide a copy of the Dropped Object Procedure Form.</p> <p>The MMO notes that there is an error in 22(3) in the second sentence where it states “obstructions form the seabed” where is should say “obstructions from the seabed”</p>	<p>The draft DCO has been updated at Deadline 4 to correct the typo.</p>
Part 3 Procedure for the discharge of conditions		
2.5.26	<p>The MMO strongly disagrees with the inclusion of Part 3 as currently drafted. Further explanation should be provided by the Applicant as to why Part 3 is considered necessary within the DML.</p> <p>It is unusual for a DML to place obligations on the regulator, and whilst this uses language of “the MMO may” in many places, it moves to “the MMO must” within 26(2) and 27. If the MMO does not grant the application, grant it subject to conditions, or refuse it as soon as is reasonably practicable after the application is received, then the MMO will breach a condition of the DML. This would be an offence (the offence in s85 of the Marine and Coastal Access Act 2009 (MCAA) is an any person offence not a licence</p>	<p>The purpose behind Part 3 of the DML aligns with the justification for Schedule 14 (Procedure in relation to certain approvals etc.) of the draft DCO. The defined procedure for the discharge of conditions is required in order to ensure that decisions relating to the DML are dealt with efficiently so that the delivery of this project of national significance, which will support the UK’s transition to a net zero economy, is not unduly delayed.</p> <p>The Applicant’s response at 2.4.28 below explains why the obligation at paragraph 26(2) is required and the Applicant’s response at 2.4.29 below explains why the obligations at paragraph 27 are required.</p>

Table ref	Summary of issue raised	Applicant's response
	holder offence). The wording of a DML should not place obligations on the regulator for which there is criminal liability in the way this does.	This drafting is well precedented in DCOs (including The Thames Water Utilities Limited (Thames Tideway Tunnel) Order 2014; The Silvertown Tunnel Order 2018; and The Lake Lothing (Lowestoft) Third Crossing Order 2020), however the Applicant will add drafting to be clear that the MMO will not have criminal liability for breach.
2.5.27	Further information regarding application 25 just says that the MMO may require further information, which is to some extent simply a statement of fact and therefore is considered to be unnecessary here.	The Applicant sees no harm in being clear as to what the MMO may do.
2.5.28	Determination of application 26(1) just sets out what the MMO may have regard to. The MMO can have regard under public law rules to what is relevant, so this is considered to be unnecessary in the DML. 26(2) is not appropriate. This will place the MMO under an obligation to do something and it brings with it a criminal liability under s85 of MCAA if we fail to do so. This is not acceptable and should not be included in the DML. This goes further than MCAA does in relation to the MMO's standalone marine licence application decisions. Considering that s69 of MCAA says the MMO must have regard to the need to protect the environment, need to protect human health, need to prevent interference with legitimate uses of the sea, when determining application for licences but it is not obliged in relation to standalone marine licence applications to grant the licence unconditionally, grant it subject to the conditions we see fit or refuse it. The MMO can see no reason for justification for going beyond this for discharging conditions under this DML.	The Applicant does not consider the existing wording to be inconsistent with public law rules as paragraph 26(1)(c) (which following amendments made by the Applicant to the draft DCO at Deadline 4 is now paragraph 28(1)(c)) confirms that the MMO may have regard to "such other matters as the MMO thinks relevant". This catch-all ensures that the MMO retains full flexibility when determining whether to approve a method statement but makes it clear, on the face of the DML, what matters the MMO may take into account. The drafting does not seek to limit what the MMO can take into account. Paragraph 26(2) (which following amendments made by the Applicant to the draft DCO at Deadline 4 is paragraph 28(2)) is required to ensure that there is no unnecessary impediment to the Proposed Scheme. This provision requires the MMO to make a decision on any method statement submitted to the MMO under Conditions 10 or 11, which is essential for the delivery of the Proposed Scheme because Condition 10(3) prevents the licence holder from commencing any licensed activity until the MMO has approved in writing the submitted method statement. The Applicant does not consider this unreasonable as it does not impose any obligation on the MMO for approval to be granted. However, in light of the MMO's concerns about potential criminal liability arising under the Marine and Coastal Access Act 2009 in the event that the MMO is for some reason unable to determine an application in accordance with paragraph 28(2), the Applicant has inserted a new paragraph 28(3) setting out that if the MMO is unable to determine the application in accordance with paragraph 28(2) then this shall not constitute a breach of the condition nor be an offence under the Marine and Coastal Access Act 2009.
2.5.29	Notice of determination This again places an obligation on the MMO as it states that we "must give notice" of our decision as soon as is reasonably practicable and we "must state the reasons" with a refusal notice. This is not appropriate and should not be included in the DML. There is an established route for challenges for the MMO either failing to approve plans, or attaching conditions to approvals, through the Judicial Review process.	The obligations in paragraph 27 are necessary to ensure an efficient delivery of the Proposed Scheme. If the MMO is not given notice of the determination; made aware of a request for further information and/or informed of reasons for refusal, then this may result in an unnecessary delay to the Applicant being able to obtain the required approval of its method statement. By obliging the MMO to provide such notice(s) and/or provide reasons for refusal, ensures that the Applicant is in an informed position in an efficient manner to allow the Applicant to modify its application (if required) to secure the MMO's approval of the method statement.

Table ref	Summary of issue raised	Applicant's response
		<p>In any event, the Applicant considers that the obligations are appropriately limited by providing that the notices at sub-paragraphs (1) and (2) must only be given “<i>as soon as reasonably practicable</i>”. There is no time limit on sub-paragraph (3) and the Applicant considers this a reasonable request to avoid any risk of an unjustified refusal of its application.</p>
<p>2.5.30</p>	<p>Variations of approvals of Part 2 Conditions</p> <p>The MMO does not consider 28 relevant in Part 3 of the DML, as it is not about the procedure for discharging conditions, but rather about ensuring when the undertaker has to carry out an activity in accordance with an approved plan, they do so in accordance with the plan or any approved variation to it.</p> <p>28(1) would perhaps be more relevant in Part 2 of the DML, for example directly in the clauses which say activities must be carried out in accordance with approved plans.</p> <p>28(2) is not considered necessary in the DML. The MMO also notes that the environmental statement considers likely significant effects (positive or negative). Therefore, the use of “worse than” is inappropriate in this context.</p>	<p>The Applicant intends to keep the existing wording but will move it to Part 2.</p> <p>The need for paragraph 28(2) is to ensure that any small amendments in EIA terms do not require the Applicant to go through the full discharge process again. The language used is consistent throughout the DCO and therefore the Applicant considers this appropriate.</p>

2.6. PEABODY TRUST AND TILFEN LAND LIMITED

Table 2-6 Applicant's Response to Peabody Trust and Tilfen Land Limited's Deadline 3 Submissions

Table ref	Question	Peabody Response	Applicant's response
Topic			
2.6.1	Q1.16.O.3 Are the parties satisfied that the Deeds of Obligations have been drafted in a legally satisfactory manner and meet the tests for such obligations?	Peabody has received a copy of the draft Deed of Obligations and this has been provided to its lawyers for review in order to respond fully to the ExA's question. The lawyers have requested an undertaking to cover the costs associated with this review which has helped up the ability to provide a full response. Peabody will look to update the ExA at the next deadline by which time it would anticipate being in a position to respond with its comments on the legal suitability of the Deed of Obligations.	The Applicant has provided an undertaking to Peabody. It has received high level comments from Peabody on the Deed of Obligation in relation to approach, but no detailed comments as of yet. The Deed has been updated at Deadline 4 to account for the discussion at ISH2. The Applicant will continue to discuss the Deed with Peabody.
2.6.2	Q1.3.1.15 Would any additional permission be required such as planning permission, for the works and creation of the BNG Opportunity Area?	Peabody is working with the Applicant to remove concerns that planning permission may be required to deliver parts of the masterplan being promoted by Peabody and not included in the BNG Opportunity Area which is understood would not require planning consent.	The Applicant can confirm habitat creation and enhancement proposals for the BNG Opportunity Area do not require planning permission.
2.6.3	Q1.3.1.16 Further to the evidence of Dr Joyce at Issue Specific Hearing 1 and the LaBARDS [REP1-012] which states that the former Thamesmead Golf Course has not been subject to ecology survey, but these do not appear to have been provided with the DCO application. Can the Applicant confirm whether it intends to submit these surveys to the Examination, and if not why this is not considered necessary, as it is not clear how any positive weight could be attributed to the potential BNG if the baseline is not known?	Peabody acknowledge that the baseline study is used to inform the masterplan design was taken as a point in time. Over time there has and will be a graduation of change to the habitats. In order to stop further change and protect the Applicants approach we would seek funding to manage the sites so that the baseline does not change too much by the time the proposed works starts on the ground, which we believe could be some years away.	Habitat survey data underpinning proposals for Thamesmead Golf Course is provided as Annex A: Habitat Survey Data and Annex B: Condition Assessment Sheets of Appendix 7-1: Biodiversity Net Gain Report of the Environmental Statement (Volume 3) (APP-088) . Baseline data sources are identified in Section 2.2 and Annex A of Appendix 7-1: Biodiversity Net Gain Report of the Environmental Statement (Volume 3) (APP-088) . Thus, the Applicant can confirm that the baseline for the Biodiversity Net Gain Opportunity Area is known. The final proposals would be informed by updated surveys, in order that the requirements of Requirement 12(3)(e) of the Draft DCO (as updated alongside this submission) can be met.
2.6.4	Q1.3.1.17 – The LaBARDS [REP1-012] states that the exact future habitat creation at the BNG Opportunity Area has not been designed yet. Outline area measurements are listed in Section 11.1 and Appendix 1 of the outline LaBARDS. Further to the evidence of Dr Joyce at Issue Specific Hearing 1 and bearing in mind representations received regarding the proposed BNG Opportunity potential to support a range of wildlife at present,	Peabody has environmental consultants advising on the masterplan design for the Former Thamesmead Golf Course. They have been working with the Applicant to prepare a scheme that in principle will deliver both the ambitions Peabody has for the site and the BNG offset required by the Applicant. Of concern to Peabody is the likely length of time between now and the possible commencement of establishment of the landscape mitigation works. Whilst it would be preferable to have certainty of timing, as an	The Applicant refers the Examining Authority to its response to Question 1.3.1.17 within the Applicant's Response to the Examining Authority's First Written Questions (REP3-029) , the Applicant can confirm that it has been working with Peabody Trust and its landscape design partners, Land Use Consultants, on detailed proposals for habitat creation and enhancement at the BNG Opportunity Area, with the in-principle agreed design appended to the Peabody Trust SoCG . These designs will be subject to iterative changes as part of the detailed design, but many of the habitat elements are now broadly fixed and have been presented to stakeholders where it has been possible to arrange dialogue (including Buglife at the Applicant's meeting on the 26 th November 2024) and are considered to be feasible. Ultimately, the design of BNG at the BNG Opportunity Area will be

Table ref	Question	Peabody Response	Applicant's response
	<p>how has the Applicant considered this in the BNG calculations. Can the Applicant confirm: When the design of the BNG Opportunity Area will be determined? How this is considered to represent BNG in an area that may already be subject to a diverse ecological baseline?, and How any positive weight can be attributed to the BNG when it is not know whether the proposed habitats are feasible (eg whether the BNG Opportunity Area is located in an area of potential flood risk)?</p>	<p>interim position it is suggested that the Applicant could provide funding so that Peabody could manage the sites to ensure they remain available to deliver the BNG offset required.</p>	<p>subject to approval from LBB through details submitted under Requirement 12 of the Draft DCO (as updated alongside this submission), which relates to the full LaBARDS.</p> <p>Peabody and the Applicant continue to discuss works related to biodiversity at the former Thamesmead Golf Course and principally the Deed of Obligation that will establish the commitments for both parties regarding achievement of the agreed biodiversity outcomes. The Applicant does not propose to provide funding at this stage to deal with the 'interim' situation.</p> <p>The position for the Proposed Scheme is the same as for any other, and as is envisaged by the mechanisms in the Environment Act 2021 – a BNG calculation is made at the time of submission, but a condition/DCO Requirement is imposed to ensure that the delivery of BNG is secured on the basis of calculations made at the time of discharge of that condition/DCO Requirement.</p>

2.7. SAVE CROSSNESS NATURE RESERVE

Table 2-7 Applicant's Response to Save Crossness LNR's Deadline 3 Submissions

Table ref	Summary of issue raised	Applicant's response
Design		
2.7.1	<p>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:</p> <p>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 1,134m² (compared to 2,000m²). 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.</p> <p>b. Landsul & Munster Joinery proposed using 3 x 25m diameter spherical CO₂ 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 CO₂ 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.</p> <p>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.</p>	<p>2a. The Applicant has explained its comprehensive application of the mitigation hierarchy, including in its Response to Interested Parties’ Deadline 1 Submissions (REP2-019) not least at Table 2-9-5 (pages 117 and 118). SCNR has chosen to select just one element of the Proposed Scheme (the difference in area is just under 900m², a little smaller than the fenced paddock currently wrapped around the stables) and makes an unsubstantiated assertion in relation to the Applicant’s choices. The Applicant has not favoured one harm over another; it has taken a balanced approach across all relevant criteria and has demonstrably minimised the impact on the SINC and CNR through its selection of an appropriate site. The site assessment method has been agreed to be appropriate with LBB (SoCG, Rev C, AS-080).</p> <p>2b. The Applicant maintains that flexibility, to enable a range of different approaches to the provision of buffer storage of liquid CO₂ to be considered through detailed design, needs to be included in the DCO. It has been agreed with Landsul/Munster Joinery that a buffer storage volume of 24,000m³ is a reasonable estimate at this stage. This represents 120% of the largest CO₂ transport vessel likely to be adopted by Cory and the selected shipping transport partner (20,000m³). However, this buffer volume may be revised to provide adequate resilience following the completion of shipping studies and confirmation of ship sizes as the design process progresses.</p> <p>There are a range of options available for providing this total volume of storage, including spherical storage vessels, vertically oriented cylindrical tanks or horizontally oriented cylindrical tanks of varying size and varying number to provide the same total storage volume. The final selection of the preferred storage configuration will take account of process safety and the design of the rest of the Carbon Capture Facility.</p> <p>In all cases, the storage of the carbon dioxide would require a quantitative risk assessment process to be undertaken. This could lead to a variety of conclusions that would be taken into account in the detailed design of the Proposed Scheme. It would not be appropriate to decide now that 3 storage tanks should be the only basis of design, if this was ultimately found to be unsafe at detailed design.</p> <p>Therefore, a plot area sized to accommodate all potential configurations has been included by the Applicant in the overall plot plan for the Carbon Capture Facility, and the Applicant maintains that it would be inappropriate to reduce this plot area, as this would constrain the range of options that could be accommodated. Ultimately, the Applicant will implement a storage configuration that maximises safety and reduces risk to As Low As Reasonably Practicable (ALARP).</p> <p>3. The Thames Water Access Road is a secondary access that is used very infrequently by Thames Water and also by the Environment Agency. Access to this road is via locked gates at both the east (Norman Road) and west (Thames Water’s operational site) ends of the road. With the Carbon Capture Facility in operation, this road will be used primarily as an internal site road, providing a link between the southern and northern areas for personnel and vehicles. The gates to isolate the Thames Water Access Road from the Carbon Capture Facility will normally be</p>

Table ref	Summary of issue raised	Applicant's response
		<p>open and would only be closed on the occasions when Thames Water or the Environment Agency need to use the road, in order to prevent access by unauthorised personnel to the rest of the Carbon Capture Facility. Consequently, the Applicant does not consider the site to be bifurcated.</p> <p>SCNR promulgates the concept of relocating FP4 'around the East Zone' but does not suggest a replacement route. This is not surprising because it is not readily possible to do. The SCNR solution, where the Carbon Capture Facility is located in the north-western corner of the East Zone, is shown at Annex A to Appendix D of the Written Summary of the Applicant's Oral Submission at ISH 1 (REP1-026), in which layout FP 242 is also lost. Even if this outcome could be avoided, the figure at Annex A shows that attaching to FP 242 would be the earliest opportunity that a footpath connection could be made to the Thames Path. However, that connection would be thwarted as there is no existing route through from Norman Road; the land is occupied by private business operating on the Belvedere Industrial Area.</p>
<p>2.7.2</p>	<p>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.</p> <p>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.</p>	<p>4. The Environment Agency has its own key, so it's possible that the EA may use the Access Road more frequently than Cory is aware of. However, it is only Cory, Thames Water (including its grazier) and the Environment Agency that have the keys necessary to open the lock that secures the gates at Norman Road. Consequently, the CNR volunteers and other members of the public can only be using the road by invitation of Thames Water at one of the volunteering days, which happen on an occasional basis and certainly not several times a day. In any event, the Proposed Scheme will include provision for grazier access as discussed in the Outline LaBARDS (REP3-013) and has committed in the draft DCO to ensuring that TWUL and the EA have continued access to their assets. The Applicant has explained, not least in the response above (and also in its Written Summary of Oral Submissions at CAH2), how the Thames Water Access Road would function on a 'dual use' basis within the developed Carbon Capture Facility and would look and feel an integral part of the operational facility. Consequently, the Applicant does not agree that it would bifurcate the site.</p> <p>The Applicant also acknowledges that the western end of the Thames Water Access Road also forms part of FP2. The Outline LaBARDS (REP3-013) presents indicative proposals for the diversion of this footpath (not least at Figure 9), the details of which would be determined through any full LaBARDS to be submitted under requirement 12 of the draft DCO (as submitted alongside this response).</p> <p>The detailed LaBARDS will ensure that grazier and Friends of Crossness LNR access to the expanded LNR will be retained, whilst accounting for the physical and operational requirements of the Carbon Capture Facility.</p> <p>5. SCNR's assumed consequences are therefore unfounded.</p>
<p>2.7.3</p>	<p>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</p>	<p>6. The Applicant is surprised and disappointed to hear this feedback from the SCNR as it does not align with the experiences on site or interactions day to day outside of the DCO process. Cory has good contact with the CNR Manager through two representatives on site and members of Cory's Development Team and Operations. In the initial stages of the construction period in 2023 (during the first year) there was one incidence where the lock had been damaged by a third party and access for CNR volunteers was affected, Cory responded quickly, opened the gate and the event continued. Also around this time, the CNR Manager raised concerns that the</p>

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	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.	<p>hoarding facing onto Norman Road and the CNR was damaged and unsightly. The hoardings were quickly repaired and are routinely inspected. There has been no other feedback concerning negative impact on CNR events. The CNR Manager informs Cory in advance of an event, which is shared with the security teams at Riverside 1 and the Riverside 2 construction team. The Applicant has sought to work constructively with the Manager at CNR to ensure volunteer events continue successfully and has implemented the mitigation measures approved within the CoCP for the development of Riverside 2.</p> <p>The Outline LaBARDS (REP3-013) Proposed Scheme includes provision for improved access for the public and the graziers to the MEA, including car parking (available for the public) at the southern end of Norman Road if it can be accommodated through detailed design. Consequently, in contrast to the concerns expressed by SCNR, the Proposed Scheme would enable access and enhance the ability to run community events. In its Response to Interested Parties' Deadline 1 submissions (REP2-019) the Applicant has responded to all of SCNR's submissions regarding the East Zone (particularly in Table 2-9-5). The Applicant has demonstrated that the East Zone is not a reasonable alternative and fails to deliver the project objectives.</p>
2.7.4	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.	<p>7. As set out in the LBB SoCG Rev D (as submitted alongside this response) LBB and the Applicant have discussed this amended Design Code and agreed that 'where practicable' has the ordinary English meaning, as 'where able to be done or put into action' and agreed the text is acceptable.</p> <p>It is also worth noting that the back up generators are likely to be mobile and to move around the site during the operation phase, and in any event are not expected to be used more than 50 hours each year. The ES consequently concludes that there will be no significant effect. Consequently, the Applicant maintains that use of the word 'practicable' provides an appropriate level of flexibility within an identified control measure.</p>
2.7.5	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.	<p>The Applicant is not aware of the Environment Agency guidance referenced in SCNR's Deadline 3 submission and would therefore welcome further clarification on this matter. As presented in Chapter 2: Site and Proposed Scheme Description of the Environmental Statement (Volume 1) (APP-051), the Proposed Scheme is intended to operate for at least 25 years. However, for the purpose of assessing a worst case scenario it is anticipated that it could have a design life of 50 years, which is a typical design life of the civil and structural elements of the Proposed Scheme. At the end of the 50-year period, an investment decision will be made as to whether the operational life of the Proposed Scheme is to be extended. The Carbon Capture Facility is designed to capture a minimum of 95% of the carbon dioxide emissions from Riverside 1 and 2. Assuming this is 1.4million tonnes per annum for typical operation, even over just 25 years, the Proposed Scheme would capture (for permanent sequestration) some 35 million tonnes of CO₂, nearly two times the London Carbon Budget for 2028-2032.</p> <p>The Applicant has carried out an assessment of the likely potential significant effects of the Proposed Scheme on Crossness LNR in Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056). The assessment concluded that following the implementation of mitigation and enhancement measures there were no significant residual effects associated with habitat loss and fragmentation on the Crossness LNR, as set out in</p>

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		<p>Table 7-11 of the chapter. As set out at Page 19 of the Applicant's Response to Interested Parties' Deadline 2 Submissions (REP3-034) "although the Proposed Scheme involves habitat loss within Crossness LNR, significant harm is avoided through compensatory habitat enhancement, principally through the improvement of the condition of Floodplain Grazing Marsh in Norman 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>
2.7.6	<p>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).</p>	<p>At Page 22 of the Applicant's Response to Interested Parties' Deadline 2 Submissions (REP3-034) in response to the SCNR the Applicant explains that '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 this submission) and alongside the discharge of the full LaBARDs. As part of the detailed design 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.' As this is a detailed design matter the routes of any new or altered PRoW will not be available during the Examination.</p> <p>The Applicant disagrees that there would be residual risk of harm to ecological features. The Outline Landscape, Biodiversity, Access and Recreation Delivery Strategy (LaBARDS) (REP3-013) gives consideration to ecological features, including ground nesting bird habitat and ditches used by water voles, and other ecologically sensitive areas and demonstrates how additional PRoW will avoid effecting these features. Proposed PRoW would not contribute to 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. The Outline LaBARDS also requires that the detailed LaBARDS will need to account for managing the interface between its access proposals and biodiversity proposals (see paragraph 6.4.14).</p>
Alternative locations and layouts		
2.7.7	<p>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 failings¹; nor can any benefits, including carbon capture, remedy these failings². The Applicant has not provided any new evidence to challenge this view, and instead relies on the original Application Documents.</p>	<p>10. The Applicant has submitted comprehensive information in regard to its site alternatives assessment, the method for which is agreed with LBB to be appropriate (LBB SoCG Rev C, AS-080). The TSAR (APP-125) and the TSAR Addendum (AS-044) both consider alternatives located within the East Zone and different configurations of the South Zone.</p> <p>In its Response to Interested Parties' Deadline 2 Submissions (REP3-034) not least at table references 2.5.1 and 2.5.2, the Applicant confirms the site size for the Carbon Capture Facility and that the smaller footprint proposed by Landsul/Munster Joinery is not credible. This is further set out in the Applicant's Written Summary of Oral Submissions at CAH2.</p> <p>The Applicant has comprehensively responded to TWUL's written representation (REP1-057) in its Response to Interested Parties Deadline 1 Submissions (REP2-019) at tables 2-2-3, 2-4-3 and 2-9-3, with the latter table dealing with optioneering matters and the mitigation hierarchy. On page 103 of its Response to Interested Parties Deadline 1 Submissions (REP2-019), the Applicant directly addresses TWUL's assertion that the Applicant's decision making has been cost-driven and sets out the evidence for why the East Zone is not a reasonable alternative. The Applicant has demonstrated that it is not possible to avoid development in the Erith Marshes SINC/CLNR. Further, through its submissions on site alternatives (principally the TSAR (APP-</p>

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		<p>125), TSAR Addendum (AS-044) Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019) and Applicant's Response to Interested Parties' Deadline 2 Submissions (REP3-034) the Applicant has demonstrated that the Proposed Scheme has <i>minimised</i> land take within the area subject to these ecological designations.</p> <p>The Applicant has robustly demonstrated that there is no other reasonable alternative site for the Carbon Capture Facility. This conclusion has been drawn through application of a method that uses a balanced approach across the identified important and relevant Optioneering Principles to identify the location that will deliver the Project Objectives. LBB agrees that this method is appropriate (see SOCG, Rev C, AS-080).</p>
2.7.8	<p>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.</p> <p>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.</p>	<p>The Applicant confirms that the TSAR (APP-125) and the TSAR Addendum (AS-044) has considered specified land plots within the East Zone in a proportionate manner, it has not conducted consideration of 'a generic group'. Four distinct land plots within the Belvedere Industrial Estate (East Zone) have been considered, namely:</p> <ul style="list-style-type: none"> • land occupied by Iron Mountain Records Storage Facility and Lidl (TSAR, East Zone); • land occupied by ASDA CDC regional distribution facility (TSAR Addendum, East Zone 1); • land occupied by ASDA XDC regional distribution facility (TSAR Addendum, East Zone 2); • land occupied by Amazon UK DBR1, the MPS Belvedere Storage Facility and further infrastructure associated with the Lidl Warehouse/Belvedere Regional Distribution Centre to the north (TSAR Addendum, East Zone 3). <p>All of these plots are located to the west or north west of the East Zone and have been shown not to deliver the Project Objectives.</p> <p>The Applicant responded to SCNR's suggestion to relocate FP4, identifying it to be not a reasonable alternative, in its Response to Interested Parties' Deadline 2 Submissions (REP3-034) at table reference 2.5.5.</p> <p>At table references 2.5.4, 2.5.6 and 2.5.7 of that same response, the Applicant addresses all the other alternative suggestions made by SCNR at Deadline 2. Consequently, the Applicant does not consider it is necessary to do any further assessment of site options.</p> <p>At paragraph 4.3.22, NPS EN-1 states <i>'Given the level and urgency of need for new energy infrastructure, the Secretary of State should, subject to any relevant legal requirements (e.g. under the Habitats Regulations) which indicate otherwise, be guided by the following principles when deciding what weight should be given to alternatives:</i></p> <ul style="list-style-type: none"> • <i>the consideration of alternatives in order to comply with policy requirements should be carried out in a proportionate manner; and</i> • <i>only alternatives that can meet the objectives of the proposed development need to be considered.</i> <p>The consideration of alternatives has been carried out in a proportionate manner and complying with policy requirements. Within the TSAR (APP-125) and the TSAR Addendum (AS-044) this</p>

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		consideration has been undertaken to identify which of the alternatives <i>'can meet the objectives of the proposed development.'</i> At paragraph 128 of its Deadline 1 submission (REP1-047) SCNR confirmed the Project Objectives presented by the Applicant to be <i>'reasonable objectives and align with government's objectives for the energy system: "to ensure our supply of energy always remains secure, reliable, affordable, and consistent with meeting our target to cut GHG emissions to net zero by 2050". We suggest the notion of "objectives" for these purposes should be guided by the government's energy objectives.'</i>
2.7.9	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.	<p>NPS EN-1 paragraph 5.4.42 states <i>'As a general principle, and subject to the specific policies below, development should, in line with the mitigation hierarchy, aim to avoid significant harm to biodiversity and geological conservation interests, including through consideration of reasonable alternatives (as set out in Section 4.3 above). Where significant harm cannot be avoided, impacts should be mitigated and as a last resort, appropriate compensation measures should be sought.'</i></p> <p>The Applicant confirms that harm (the loss of a portion of the Erith Marshes SINC/CLNR) cannot be avoided. Further, Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056) concludes that following the implementation of mitigation and enhancement measures there were no 'significant' residual effects associated with habitat loss and fragmentation.</p> <p>In its Response to Interested Parties' Deadline 1 Submissions (REP2-019) not least in the responses set out at Table 2-9-5, the Applicant has set out how it has applied the mitigation hierarchy, avoided significant harm to biodiversity (not least through its consideration of reasonable alternatives) and provided appropriate mitigation and compensation to present a proposal that would achieve a BNG of at least 10%.</p>
2.7.10	<p>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 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 submission³.</p> <p>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.</p> <p>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.</p>	<p>The Applicant has responded in full to SCNR's Deadline 1 submission. Referring to the paragraphs identified in SCNR's footnote:</p> <ul style="list-style-type: none"> • Paragraph 10 falls within the Executive Summary. It promotes the East Zone and criticises the Optioneering Principles, both matters are addressed in the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019) at Table 2-9-5. • Paragraph 129 is simply the Optioneering Principles • Paragraph 136 introduces SCNR's own assessment of East Zone 1. The Applicant responds to this paragraph at Table 2-9-5, page 126 • Paragraphs 153 to 160 are the SCNR's consideration of the East Zone against the Optioneering Principles. The Applicant responds to these submissions at Table 2-9-5, pages 131 and 132. <p>The Applicant consequently disagrees with the RAG scoring presented by SCNR in its Deadline 1 submission at paragraph 160.</p> <p>SCNR submitted its own assessment of the East Zone against the Project Objectives in its Deadline 1 submission (REP1-047) at paragraphs 138 to 141. It has not demonstrated that the East Zone satisfies the Project Objectives as explained by the Applicant in its Response to Interested Parties' Deadline 1 Submissions (REP2-019) at Table 2-9-5, on pages 126 and 127.</p>

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	<p>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 test⁴.</p>	<p>The Applicant has explained its method and application of the Optioneering Principles across a number of documents:</p> <ul style="list-style-type: none"> • TSAR (APP-125); • Applicant's Response to Relevant Representations (AS-043); • TSAR Addendum (AS-044); • Written Summary of the Applicant's Oral Submissions at Issue specific Hearing 1 (REP1-025); • Appendices A – E of the Written Summary of the Applicant's Oral Submissions at Issue specific Hearing 1 (REP1-026); • Appendix F of the Written Summary of the Applicant's Oral Submissions at Issue specific Hearing 1 (REP1-027); • Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019); and • Applicant's Response to Interested Parties' Deadline 2 Submissions (Document Reference: 9.17). <p>However, further explanation is provided in the hope that it clarifies this point. Section 2.2 of the TSAR (APP-125) sets out the framework for reasonable alternatives, which starts with paragraph 4.3.22 of NPS EN-1. Each of the elements of paragraph 4.3.22 – the proportionate response to legislative and policy requirements and identification of the key principles for any alternative to meet the objectives of the Proposed Scheme – are then considered.</p> <p>Paragraph 2.2.7 of the TSAR (APP-125) recognises the protective policies in NPS EN-1 that are relevant to a proportionate assessment of site alternatives, namely:</p> <ul style="list-style-type: none"> • the need for the mitigation hierarchy to be followed; • the presence of MOL, which is treated in the London Plan and Local Plan terms (and in previous DCO applications) as having the same status as Green Belt, and thus the need to demonstrate very special circumstances for building on it; • the Accessible Open Land being both designated as, and used as, public open space, which has not been deemed surplus to requirements by LBB; and • the ‘due consideration’ to be given to impacts to local nature designations such as LNRs and SINCs, both of which are present in the Site. <p>It is also recognised that the Proposed Scheme will need third party land. Paragraph 2.2.6 of the TSAR (APP-125) notes that in the absence of successful negotiations, the land would need to be compulsory acquired under the DCO, an action that is subject to the legal requirement to demonstrate a ‘compelling case in the public interest’. As part of demonstrating that this test is satisfied, Government policy provides that a prospective acquiring authority must be able to demonstrate that acquisition of the land is necessary and that all reasonable alternatives to compulsorily acquiring the land proposed have been explored.</p> <p>The remainder of section 2.2 of the TSAR sets out the context relevant to undertaking the alternatives exercise in a ‘proportionate manner’ (as per NPS EN-1, paragraph 4.3.22, first bullet point), including the context relevant to the Project Objectives as set out in the second bullet point of NPS paragraph 4.3.22, only ‘<i>alternatives that can meet the objectives of the proposed development need to be considered</i>’. As such, the function of the Optioneering Principles is to identify <i>how</i> each development zone would deliver the Project Objectives through considering</p>

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		<p><i>both</i> policy priorities and practical matters regarding third party land and project delivery as relevant and helpful to differentiate between the options.</p> <p>Consequently, the Optioneering Principles expressly (as explained at paragraph 2.8.1 of the TSAR) <i>do not include all policy priorities</i>. Such an approach would not help to differentiate between the development zones as either:</p> <ul style="list-style-type: none"> • it would be the same outcome for all locations considered (there are no internationally, or nationally important statutory designations within the development zones, they are all located within the Air Quality Management Area, they are all located in Flood Zone 3, and they would all be accessed via the strategic road network); or • it would be a very similar outcome at all locations and a matter that has a readily available design/technical remedy, for example noise and vibration effects or air quality effects. <p>The detailed consideration of all policy requirements relevant to the Proposed Scheme is presented (as appropriate to its function) in the Planning Statement (APP-040). The Optioneering Principles have been purposefully focussed on those matters that will differentiate between the alternatives being considered, pursuant to the important and relevant policy imperatives and practical matters that enable the Project Objectives to be met.</p> <p>Accessible Open Land is defined at paragraph 2.2.7 of the TSAR (APP-125) and further explanation was given by Mr Fox as Issue Specific Hearing 1, confirming <i>'that in relation to Accessible Open Land this also counts as open space or special category land. The term Accessible Open Land had been in recognition that this land is used by people both to recreate and to access nature. It was a term used in the Environmental Statement and in the Optioneering Principles.'</i> (please see Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 1 (REP1-025) at page 33). There is really no more to it. In the signed SoCG (REP3-021), SCNR does not raise any confusion over the term Accessible Open Land, albeit does disagree that accessibility is relevant to consideration of the planning harm.</p>
Compulsory acquisition, temporary possession and other land rights		
2.7.11	<p>15. In its Deadline 1 submission, SCNR noted the Sharkey case⁵, 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.</p> <p>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</p>	<p>As explained previously, the Deed of Obligation as submitted did not <u>require</u> TWUL to manage land within the Order limits.</p> <p>It was proposed only to bring forward a co-ordinated approach with its retained land outside of the Order limits <u>if TWUL agreed</u> to such an approach.</p> <p>The Applicant is currently <u>not</u> dependent on TWUL carrying out management measures on that retained land in the LaBARDS. Furthermore, in respect of land within the Order limits, for the reasons it has given in submissions (including in the 9.24 Applicant's Written Summary of Oral Submissions at CAH2 9.24 as submitted at this deadline) it cannot take the approach of only relying on TWUL complying with updated management measures to ensure the LaBARDS outcomes are delivered, as an alternative to compulsory acquisition.</p> <p>For the land within the Order limits, the Applicant <u>is</u> relying on the delivery of the LaBARDS in those areas and so requires delivery of the LaBARDS outcomes to be secured.</p>

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	<p>agreed under a separate contract between the Applicant and TWUL). The level of certainty as to delivery of the mitigation remains the same.</p> <p>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.</p>	<p>In respect of that land, although negotiations are on-going, no agreement is secured with TWUL, and so the Applicant needs the ability to use compulsory acquisition powers if an agreement is not secured.</p> <p>In respect of the final point of the role of the NPPG, the Applicant notes the recent Court of Appeal decision in <i>Mead Realisations vs SSCHLG [2025] EWCA Civ 32</i>, where, at paragraph 22, in agreeing with the High Court it was stated that it is not 'accurate to say the PPG was "only guidance, as if to suggest that it has a different <i>legal</i>, as opposed to <i>policy</i>, status from the NPPF", or that "fundamental legal principles on policy" did not apply to both. The Applicant also notes that NPS paragraph 4.1.18 applies the same tests to development obligations. As such, the general principle is correct – the Applicant should not be forcing new section 106 obligations onto parties where the obligations do not relate to developments that those parties brought forward.</p> <p>Please see further the Applicant's Written Summary of Oral Submissions at CAH2 and ISH2 on these matters.</p>
Statutory undertakers' land.		
<p>2.7.12 Pinsent Masons</p>	<p>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.</p> <p>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.</p>	<p>In the Applicant's submission, just because the Crossness LNR land is managed pursuant to the section 106 obligations, does not mean it is 'used for the purposes of the undertaking'. It is not used for the purposes of water industry requirements; and it is not held for those purposes. It is held to comply with its section 106 obligations. Put another way, at any time, TWUL could look to vary the section 106 to change the obligations existing on that site, or indeed do away with them, if LBB agreed. TWUL could then do with the land what it wished.</p> <p>If Save Crossness LNR's logic were to hold true then this would mean, for example, that all BNG land created pursuant to the Environment Act 2021 for statutory undertaker developments would become statutory undertaker's land, with all the protections that means under planning legislation, which cannot be Parliament's intention.</p> <p>TWUL does not own the nature reserve because of the ecological/conservation benefits it delivers or to comply with its statutory duties. It delivered the LNR because it was required to do so by the section 106 obligation associated with the sludge incinerator development, but did not hold the land to achieve that aim before that. This can be evidenced by the fact that it is understood by the Applicant that TWUL (and its previous entities) has owned the land since 1983 at the latest and did not manage the land as nature reserve land until it was required to do so by the section 106 obligation.</p> <p>The statutory duties do not apply to land. They apply to how TWUL carries out its functions generally. Looked at another way - TWUL could get rid of that land, even without the Proposed Scheme, and it would still need to comply with its duties, e.g. by funding replacement biodiversity initiatives.</p> <p>As such, the fact that a statutory undertaker has 'duties' or 'functions' does not relate to how land is held by that statutory undertaker – they are different questions.</p>

Table ref	Summary of issue raised	Applicant's response
		<p>The LNR land is used as such because TWUL was required to do so; but it was not held to deliver on those duties - indeed TWUL (and its predecessor bodies) owned the land before those duties arose.</p> <p>In any event even if the land was considered to be held for its undertaking, the draft DCO has been drafted such that the carrying out of the authorised development, and any associated land powers (even if compulsory acquisition powers were used from the outset) would not put Thames Water in breach of the section 106 agreement on that land.</p> <p>Article 50 of the draft DCO makes clear that the carrying out of Work Number 7 (which are the only works proposed on Thames Water's land subject to compulsory acquisition) does not constitute a breach of the section 106 Agreement and that once those works are completed, the relevant clause of the section 106 agreement is abrogated, meaning it will no longer apply to that land.</p> <p>The management of that land is then to be replaced by the provisions of the final LaBARDS in the future. The proposed Deed of Obligation will ensure that Thames Water are not financially worse off for having to manage the part of the Crossness LNR that remains in their ownership in line with that new management regime (although that is not necessarily relevant to the question of 'serious detriment' in this context).</p> <p>As such, there can be no serious detriment to Thames Water's undertaking, even if the land in question is considered to form part of it.</p> <p>Please see further the Applicant's Written Summary of Oral Submissions at CAH2 also submitted at Deadline 4 on this matter.</p>
Special Category Land – public recreation		
2.7.13	<p>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 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.</p> <p>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</p>	<p>The Applicant notes that the examples given by SCNR are not analogous to the situation of the Non-Accessible Open Land; and indeed it struggles to quite follow what is meant by the examples – in the football pitch example, a football pitch in a park would be an area of public recreation, but a football pitch in a stadium clearly would not; and 'sculpture parks' are not normally public access except by ticket (e.g. the Yorkshire Sculpture Park).</p> <p>As set out in the response to FWQ 1.5.0.9 (REP3-029), save for the exceptions discussed below, none of the fields within the Non-Accessible Open are publicly accessible and consequently are not used for public recreational purposes – they are used for grazing horses.</p> <p>The Norman Road Field areas are ponded vegetated areas completely inaccessible (and when grown, have no 'views' as such).</p> <p>The only land in question is therefore Island Field and the Applicant has set out its position in response to FWQ .1.5.0.9.</p> <p>It is for Save Crossness LNR to explain why its open-ended definition should be used given that precedent – taking its position to an extreme would suggest that any land adjacent to a park, for example, should be considered as special category land; which cannot be right.</p>

Table ref	Summary of issue raised	Applicant's response
	<p>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</p>	<p>In any event, the Applicant has set out in the Statement of Reasons (APP-020) why section 131(4A) applies in the circumstances of the Proposed Scheme; not least in the context that <u>none</u> of the special category land is actually 'lost' to any physical development, and indeed it will be improved by the Proposed Scheme. This is equally true if the Island Field was considered to fall within the description of the Proposed Scheme.</p> <p>Paragraphs 8.2.19 – 8.2.27 of the Statement of Reasons set out why it is in the public interest for the scheme to proceed without special parliamentary procedure in this context.</p>
Public interest		
2.7.14	<p>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".</p> <p>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.</p>	<p>As set out in the Statement of Reasons (APP-020) and the Project Benefits Report (APP-042), there are numerous reasons why the Proposed Scheme has a compelling case in the public interest, not least that it is a critical national priority project.</p> <p>The Applicant highlights that question of compelling case in the public interest in a compulsory acquisition setting is not a question of balancing against environmental harms; but considering if the case is made out such that it outweighs private loss. The Applicant's position is that its compelling case does do so.</p> <p>In any event, the Applicant notes that it has, in its Examination submissions, set out why the Proposed Scheme location is the suitable location for the Proposed Scheme, that the East Zone is not a reasonable alternative, how the mitigation hierarchy has been followed and how the harms of the Proposed Scheme should actually be characterised (i.e. as not significant).</p>
Water Quality		
2.7.15	<p>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 Reserve⁶. The samples were sent to an accredited lab, who found 240.52 ng/l, including 47.73ng/l of POPS regulated under Stockholm Convention.</p> <p>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.</p>	<p>As set out in the Applicant's response to 2.8.1.2 below, PFAS is a ubiquitous and diffuse pollutant with many potential sources. Appendix 17-1: Preliminary Risk Assessment of the Environment Statement (Volume 3) (APP-113), depicts that historically the Site and surrounding area contained a range of potentially contaminative land uses which included a manure works, gunpowder store, Guano and Oil works, a borax mill etc. Therefore, there is likely to be legacy contamination of the site and surrounding area associated with the former historic land uses. The potential effects on controlled waters and ecological receptors from historic contamination within the underlying soils/groundwater during the construction phase have been assessed in Chapter 17: Ground Conditions and Soils of the Environmental Statement (Volume 1) (APP-066). The assessment concludes there will be no significant effect on controlled waters from historic contamination within the underlying soils/groundwater during the construction phase following implementation of mitigation measures.</p> <p>The Outline CoCP (as updated alongside this submission) provides details of the mitigation measures that would be implemented to mitigate risks to human health, controlled waters, below ground services and ecological receptors. Notwithstanding this, as outlined in the Applicant's response to 2.8.1.2 below, a ground investigation will be undertaken to include testing soil, groundwater and surface water (where relevant) for a range of contaminants including PFOA and PFAS. A Generic Quantitative Risk Assessment (an outcome of Phase II Ground Investigation shown in Figure 17-3: Connections between the Ground Conditions and Soils Mitigation Tasks and Design of Chapter 17: Ground Conditions and Soils of the</p>

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		<p>Environmental Statement (Volume 1) (APP-066) will be undertaken that will assess the risk to all identified receptors including human health receptors such as on and off-site users and Controlled Water receptors. Should these substances and an unacceptable risk to identified receptors be identified then Phase III Ground Remediation Strategy and Verification will be produced and provided to the Environment Agency and other relevant stakeholders. Should remediation be required and undertaken then this would represent an improvement on the current baseline. The development of these documents is secured pursuant to Requirement 21 of the Draft DCO (as updated alongside this submission).</p> <p>The Applicant does not discharge polluted water to any ditches. As detailed at page 76 of the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019), the Applicant explains that "<i>Riverside 1 is operated in compliance with its Environmental Permit. Only uncontaminated roof and surface water is discharged to local ditches, which has first been through full retention oil and water separators prior to discharge</i>". Riverside 2 will operate in accordance with the consented Surface and Foul Water Drainage Design Strategy¹.</p> <p>When the Proposed Scheme is operational, it will operate in accordance with an approved full Drainage Scheme (to be prepared in substantial accordance with the Outline Drainage Strategy (AS-027)), surface water runoff will be subject to treatment appropriate for the proposed activities prior to discharge to the local watercourses at a controlled rate. The Proposed Scheme, its activities during the operation phase, the pollution prevention measures, and associated maintenance will ensure that the surface water drainage provision will prevent pollution entering into the receiving waterbodies.</p> <p>This full Drainage Scheme will include for any discharges from potentially high risk internal areas (e.g. those contained and bunded within the buildings) will be contained and tested prior to release to either the surface water network or, if polluted, discharged into the foul network. The Applicant maintains its position that the mitigation measures detailed in the Outline CoCP (as updated alongside this submission), Outline Drainage Strategy (AS-027) and Mitigation Schedule (REP1-010) are sufficient to mitigate the risk of potential pollution to the Site and adjacent areas, including Crossness LNR, arising from the Proposed Scheme.</p>

Biodiversity, ecology and natural environment

Level of harm and conflation of ecological mitigation and BNG

2.7.16	<p>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</p>	<p>The Applicant maintains its position that the assessment of impacts and provision of mitigation in Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056) is robust and follows the mitigation hierarchy. Also, the level of impact is not unusual for a project of this scale, with direct loss of habitat limited to some 2.5ha; importantly, it is readily mitigated and compensated with the proposals set out in the Outline LaBARDS (REP3-013) and Appendix 7-1: Biodiversity Net Gain Report, Environmental Statement (Volume 3) (APP-088) providing for biodiversity net gain. The Applicant has confirmed through prior responses, including its Response to Examining Authority's First Written Questions (REP3-029), that habitat creation and enhancement included in the Proposed Scheme is such that it achieves additionality (i.e. biodiversity net gain) and is not also used for the mitigation and compensation of the ecological impacts of the Proposed Scheme.</p>
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¹ Cory Environmental Holdings Limited. (2021). 'Riverside Energy Park: Surface and Foul Water Drainage Design Strategy In accordance with Requirement 9, Schedule 2, of the Riverside Energy Park Order (2020), as amended'.

Table ref	Summary of issue raised	Applicant's response
	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.	
2.7.17	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.	<p>As detailed within Appendix 7-1: Biodiversity Net Gain Report of the Environmental Statement (Volume 1) (APP-088), the Proposed Scheme will result in an overall net gain for biodiversity, when applying habitat creation and enhancements both onsite and offsite, achieving a 10.01% increase in Area Habitat Biodiversity Units and 13.71% increase in Watercourse Biodiversity Units. Although the Proposed Scheme involves loss of Coastal Floodplain Grazing Marsh and ditch habitat within Crossness LNR, significant harm is avoided through compensatory habitat enhancement, principally improvement of the condition of Coastal Floodplain Grazing Marsh in Norman Road Field and the West Paddock from poor to moderate condition, and creation of new wetland habitat in Norman Road Field in the form of new ditches with aquatic planting.</p> <p>Further to the points above, and to clearly demonstrate the distinction between compensation required for habitat loss and habitat creation/enhancement to achieve biodiversity net gain, the Applicant submitted their Biodiversity Net Gain - Trading Rules Compliance Technical Note (REP3-031) at Deadline 3 which provides further detail, as does the response to FWQ 1.3.1.18 (REP3-029).</p>
2.7.18	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 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.	<p>At Page 21 of the Applicant's Response to Interested Parties' Deadline 2 Submissions (REP3-024) in response to the SCNR and under title 'Gannon Land', the Applicant explains that it 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> <p>The Applicant disagrees this restoration of Open Mosaic Habitat represents confusion of habitat compensation and biodiversity net gain. Creation of Open Mosaic Habitat will be in compliance with Biodiversity Net Gain Trading Rules mediated by the Statutory Biodiversity Metric (as demonstrated within the Biodiversity Net Gain - Trading Rules Compliance Technical Note (REP3-031)). Creation of Open Mosaic Habitat within the Biodiversity Net Gain Opportunity Area will compensate for the fact it will not be restored following completion of Riverside 2 as a result of the Proposed Scheme. Other habitat creation and enhancement measures at the Biodiversity Net Gain Opportunity Area outside the creation of Open Mosaic Habitat provide the necessary net gain contribution.</p> <p>The Applicant acknowledges that there is a loss of land (2.5ha) within the Crossness LNR, the East and Stable Paddocks. The effects of grazing in the paddocks are evident, with a short close-cropped sward and patches of bare ground present. These factors influence its habitat condition. Whilst replacement land is not available, the Applicant proposes to compensate for this loss of through improving the habitat condition across a much larger area (~8ha) of an existing grassland habitat including poor quality grazing marsh to establish an expanded LNR</p>

Table ref	Summary of issue raised	Applicant's response
		<p>under a single management regime. This proposal allows for the ongoing Crossness LNR management to be retained and the additional benefits of a single and enlarged LNR to be secured. These commitments are set out in the Outline LaBARDS (REP3-013) and provide appropriate mitigation for the loss of land. Combined with the measures proposed at the former Thamesmead Golf Course, the Proposed Scheme would deliver also biodiversity net gain of some 10%.</p>
<p>2.7.19</p>	<p>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.</p>	<p>(a.) to (c.) The Outline LaBARDS (REP3-013) was updated at Deadline 3 on a number of matters including more comprehensive measures for management, maintenance and monitoring (see section 14 of that document). Amongst other things this now specifically includes: criteria for defining effective management; a regime of management, maintenance and monitoring procedures; and scheduled review of the LaBARDS to be undertaken every three years for the lifetime of the Proposed Scheme. As confirmed in LBB SoCG Rev D (as submitted alongside this response) the Outline LaBARDS is agreed with LBB.</p> <p>(d.) The Applicant confirmed its position on the long term management of the areas covered by the LaBARDS following decommissioning of the Carbon Capture Facility in its Response to Examining Authority's First Written Questions (Q1.8.3.12) (REP3-029).</p> <p>(5) Cory has successfully managed sites for biodiversity and public access over its company history. This includes that the company used (until 2017) to hold contracts and assets around the UK, including a number of landfill sites on which biodiversity and recreational initiatives were delivered, notably at the large Mucking Landfill near Stanford-Le-Hope, Essex. Cory's business focus has evolved in more recent years prioritising the provision of services and associated operations in London and on the River Thames meaning it no longer has dispersed land based assets across the country to manage in the way it historically did. However, it understands the importance and still takes accountability for achieving the positive biodiversity outcomes that it has committed to. Not least, the Applicant has worked with the Environment Bank to deliver five local off-site Conservation Sites - predominantly in LBB - that will achieve over 10% BNG as part of the Riverside 2 project.</p> <p>Cory is a diligent company that takes pride in delivering, and operating, high quality projects for the communities it serves. Further, it has suitable experience in delivering biodiversity and community-based environmental objectives and managing these through in-house resource coupled with outsourced service providers where beneficial. There is no reason for SCNR to suggest otherwise.</p>
<p>2.7.20</p>	<p>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</p>	<p>As detailed within Appendix 7-6: Botanical Survey Report of the Environmental Statement (Volume 1) (APP-093), the desk study included analysis of Thames Water data from Crossness LNR, which returned a total of 254 plant species between 2015 – 2023 and the field survey recorded one SPI/London Priority Species listed species. This resulted in the botanical community being assessed as County importance within Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP- 056). The addition of the notable plant species recorded by SCNR does not change the assessment of the botanical community as County importance and it would not change the considered impact on Crossness LNR as a moderate adverse (significant) effect. Therefore, the position presented in relation to evaluation of Crossness LNR and as such the assessment of impacts on the botanical community and the mitigation proposed is considered sufficient and robust.</p>

Table ref	Summary of issue raised	Applicant's response
	(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”.	
2.7.21	32. Further, this level of data is insufficient to inform a robust Environmental Impact Assessment, particularly for a 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.	<p>The Applicant does not agree that the assessment in Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP- 056) is insufficient to inform the Proposed Scheme, a project of national significance. Chapter 7 of the ES demonstrates compliance with legislation and policy (including the relevant National Policy Statements) related to the assessment of impacts on biodiversity and follows current best practice guidance for such an impact assessment, as issued by the Chartered Institute of Ecology and Environmental Management, which is industry standard.</p> <p>It is unclear as to why Article 2 of the Habitats Directive is referenced, as the Habitats Directive is not relevant to the sites directly impacted by the Proposed Scheme. Potential air quality effects on one National Network Site, Epping Forest SAC, have been explored through Habitats Regulations Assessment, and found not to lead to adverse effects on the integrity of that site, as set out in Appendix 7-3: Information to Inform a Habitat Regulations Assessment of the Environmental Statement (APP-090).</p>
2.7.22	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.	The Applicant does not agree the assessment in Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056) has shortcomings or failures. Chapter 7 of the ES presents a proportionate description of baseline conditions and robust assessment of impacts, with appropriate proposals to mitigate effects following the mitigation hierarchy. The information presented is thus suitable to inform the Secretary of State regarding biodiversity allowing them to discharge their duties under the Natural Environment and Rural Communities Act 2006 and Environment Act 2021.
2.7.23	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”	The Applicant does not recognise a contradiction between the two statements and does not hold them to be mutually exclusive. The first statement does not falsify the second. As detailed in Appendix 7-6: Botanical Survey Report, Environmental Statement (Volume 3) (APP-093) , a botanical survey was undertaken on 14 th July 2023. The survey focussed on areas of habitat that could qualify as Habitats of Principal Importance (HPI). The objective of the botanical survey was to confirm the presence and condition of HPI identified during the PEA and identify any populations of rare or notable plants, if present, in addition to any invasive plant species that may be present. Thus, it identified habitat types in more detail, with a focus on Coastal Floodplain Grazing Marsh which is known to be an important ecological feature. Notable plant species were identified by the botanical survey, and these findings are detailed in the species lists presented in Appendix 7-6: Botanical Survey Report, Environmental Statement (Volume 3) (APP-093) .
2.7.24	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.	A sufficient assessment of the habitats present on Site has been carried out and is detailed within Appendix 7-2: Preliminary Ecological Appraisal, Appendix 7-1: Biodiversity Net Gain Report and Appendix 7-6: Botanical Survey Report of the Environmental Statement (Volume 3) (APP-089, APP-088 and APP-093 respectively) . Two SPIs were missed during the botanical survey (that were identified by the SCNR Botanical Survey), however it is considered that this will not affect the overall assessment of the habitat types present as having a County importance, in line with standard UKHab categories, in the context of the analysis of the overall survey data collected by the Applicant – they do not lead to any consideration that the baseline

Table ref	Summary of issue raised	Applicant's response
		should be considered to be of National importance. Therefore, the assessment of habitats is considered robust, despite this limitation.
2.7.25	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.	<p>As detailed within Table 7-6 of Chapter 7: Terrestrial Biodiversity, Environmental Statement (Volume 1) (APP-056), Regional/County level of importance is determined if there is '<i>a regularly occurring, locally significant number of a nationally important species. Any regularly occurring, locally significant population of a SPI or a species listed in a county/district BAP (where available). A regularly occurring, locally significant population of a county/district important species. Sites supporting populations of internationally/nationally/regionally important species that are not threatened or rare in the region or county, and not integral to maintaining those populations. Sites/features scarce in the county or that appreciably enrich the county habitat resource.</i>'</p> <p>To achieve National/UK ecological importance the criteria is '<i>Any regularly occurring/large population of a nationally important species (e.g. Red Data Book). A large population of a species identified as a Species of Principal Importance (SPI).</i>' Whilst two further SPIs were identified and the potential for more species are present, the SCNR Botanical Survey Report (REP1-050) does not indicate the botanical community complies with criteria for National importance. Despite the presence of SPI plant species, there is no indication from the evidence that their populations are especially large (a measure that should be taken into the context of the wider geographic range of such species in the UK) given the comparatively small size of Crossness LNR, with species of importance mainly found at margins of areas subject to intensive horse grazing. Evaluation criteria to establish ecological importance take into account more than simply the presence of a species at a site and must consider their contribution to maintaining the conservation status of a species more widely. The significant limits placed upon the botanical community at Crossness LNR including by intensive horse grazing (leading to large areas of bare ground and a close cropped sward over much of the site), a hydrological regime that does not adequately support floodplain grazing marsh (which is in Poor condition) and lack of management across the whole site (Norman Road Field is not covered by Thames Water's habitat management plan) are all significant negative factors affecting the botanical community and the Crossness LNR's habitats from achieving a higher level of importance, and the important botanical species are found despite these but their populations being limited by them. Thus, when considering the context in which botanical species are found at Crossness LNR, County level importance is still appropriate and robust.</p>
2.7.26	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	SCNR has misunderstood in the case of Species of Principal Importance (SPI) that, although the Secretary of State maintains a list of such species for England under provisions of the Natural Environment and Rural Communities Act (2006, as amended), it does not automatically follow that a site where a species on this list is found is evaluated under CIEEM's Guidelines for Ecological Impact Assessment ² . The Applicant has applied evaluation criteria from CIEEM's Guidelines within Chapter 7: Terrestrial Biodiversity, Environmental Statement (Volume 1) (APP-056) with reference to SPI and the approach is explained and justified within the chapter, being consistent with recognised best practice for ecological impact assessment. Furthermore, it is incorrect of SCNR to suggest that population size is not relevant to the determination of importance during evaluation; population size has been taken into account in the evaluation of

² CIEEM. (2022). 'Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine (Version 1.2)'. Chartered Institute of Ecology and Environmental Management, Winchester.

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	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 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.	<p>ecological features since at least Derek Ratcliffe's 'A Nature Conservation Review'³ whose criteria underpin the CIEEM evaluation guidance used, and current guidelines used by the Joint Nature Conservation Committee to select biological Sites of Special Scientific Interest⁴ which state in paragraph 4.14 of Part 1 that "<i>The primary habitat information required is the extent and quality of habitats and vegetation communities within a site. Information on the abundance and population size of the species under consideration is also vital</i>".</p> <p>As detailed within Chapter 7: Terrestrial Biodiversity, Environmental Statement (Volume 1) (APP-056), CIEEM's Guidelines for Ecological Impact Assessment⁵ have been adapted to classify the magnitude of impacts by a matrix approach to determine significance of effects. This is based on the approach used for road schemes in the UK by the Design Manual for Roads and Bridges⁶. Although the Proposed Scheme does not comprise of a road/bridge to which the public has access, this guidance provides a robust methodology for assessing impacts to terrestrial biodiversity and is considered suitable for this assessment.</p> <p>The SCNR Botanical Survey Report (REP1-050) identified extensive stands of Borrer's Salt Marsh in two areas which meets the criteria of regularly occurring, locally significant population of SPI and thus assessed as County level importance. The Applicant's proposals to mitigate the loss of Coastal Floodplain Grazing Marsh (of which the Borrer's Saltmarsh-grass resides) is a key priority and therefore approximately 7 ha of Coastal Floodplain Grazing Marsh will be enhanced from poor to moderate condition and 0.6ha of Coastal Floodplain Grazing Marsh will be created to mitigate for the loss of approximately 2 ha of Coastal Floodplain Grazing Marsh (poor condition) as detailed in Appendix 7-1: Biodiversity Net Gain Report (Volume 3) (APP-088). Therefore, it is considered that this enhancement and creation of Coastal Floodplain Grazing Marsh will not only increase the population of Borrer's Saltmarsh-grass on Site but all other SPIs that are found within this habitat.</p>
2.7.27	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.	The botanical community is assessed as County importance within Chapter 7: Terrestrial Biodiversity, Environmental Statement (Volume 1) (APP-056) . As explained in row 2.7.26 and 2.7.27 above, having considered the criteria to achieve National/UK ecological importance, the evaluation of County level importance remains appropriate and robust. Furthermore, the mitigation proposed will provide an overall benefit to the SPIs identified within the Coastal Floodplain Grazing Marsh habitat as the Applicant will enhance approximately 7 ha of Coastal Floodplain Grazing Marsh from poor to moderate condition and 0.6ha of Coastal Floodplain Grazing Marsh will be created to mitigate for the loss of approximately 2 ha of Coastal Floodplain Grazing Marsh (poor condition), as detailed in Appendix 7-1: Biodiversity Net Gain Report (Volume 3) (APP-088) .
2.7.28	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	Please see the responses above, the Applicant disagrees that the conclusions are unfounded and flawed.

³ Ratcliffe, D (ed.). (1977). 'A Nature Conservation Review'. Cambridge University Press.

⁴ Bainbridge, I., Brown, A., Burnett, N., Corbett, P., Cork, C., Ferris, R., Howe, M., Maddock, A., Mountford, E. & Pritchard, S. (Eds.), 2013. Guidelines for the Selection of Biological SSSIs - Part 1: Rationale, Operational Approach and Criteria for Site Selection, JNCC, Peterborough, ISBN 978-1-86107-625-0.

⁵ CIEEM. (2022). 'Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine (Version 1.2)'. Chartered Institute of Ecology and Environmental Management, Winchester.

⁶ Highways Agency. (2019). 'Design Manual for Roads and Bridges, LA 104 Environmental assessment and monitoring'. Available at: <https://www.standardsforhighways.co.uk/dmrb/search/0f6e0b6a-d08e-4673-8691-cab564d4a60a>

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	mitigation. Accordingly, the proposed mitigation falls woefully short, and the environmental mitigation hierarchy has not been met.	
2.7.29	<p>Water voles</p> <p>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.</p>	<p>The Applicant has explained and justified its evaluation of water voles as an ecological feature within Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056). County value is the appropriate geographic scale to apply to the importance of this species at Crossness LNR and has been assigned to water voles.</p> <p>The Applicant appreciates that the SCNR disagrees with this and the statements they have highlighted from responses made at Deadline 2 demonstrate this difference of opinion. The Applicant does not seek to diminish the ecological importance of water voles at Crossness LNR through the evaluation and is aware, as demonstrated through the impact assessment and proposed mitigation, that this species is important and requiring attention. However, the SCNR’s position, that water voles at Crossness LNR are of National importance, is not credible, not least as it simply highlights statements made by the Applicant which they believe to undermine this case. Actually, the statements referenced present, and support, the logic behind the evaluation made, which is supported by baseline data.</p> <p>The SCNR asks the Examining Authority to accept two statements that are not supported by current planning policy, legislation or case law. The SNCR states both that the protection of water voles under Schedule 5 (mediated by Section 9) of the Wildlife and Countryside Act 1981 (as amended) <i>and</i> listing as Species of Principal Importance under the Natural Environment and Rural Communities Act 2006 (as amended) <i>must</i> lead to their evaluation at the National scale. The Applicant confirms that no such imperative exists and refers to Paragraphs 7.4.7 to 7.4.16 and Tables 7-6 to 7-8 of Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056) which explain and justify compliance with CIEEM ecological impact assessment. Both “healthy” and “large” as descriptions of the water vole population can (and have) been applied to the water voles at Crossness LNR, but do not contradict the evaluation of County importance.</p>
2.7.30	<p>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”.</p>	<p>A Water Vole Method Statement with a detailed mitigation strategy for water voles was submitted to Natural England on the 17th January 2025 to obtain a Letter of No Impediment (LONI). Natural England provided the LONI pursuant to a water vole licence for the Proposed Scheme on the 25th February 2025 (Natural England Reference: DAS 457982). The mitigation strategy includes capture and release of water voles and to mitigate for the removal of approximately 540m of drainage ditch, a total of approximately 1.3km of ditches will be dug within two receptor sites within the Mitigation and Enhancement Area of the Site. Furthermore, approximately 540m of ditches will be enhanced by improving water levels to a sufficient level all year round; planting of emergent vegetation to increase the species diversity to >10 species present within 20m ditch length; improving water quality by removal of rubbish and waste that pollutes the ditches; and thinning out reed. The Proposed Scheme presents a well-considered mitigation strategy for water vole that is being actively progressed with Natural England.</p>
2.7.31	<p>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.</p>	<p>A Water Vole Method Statement with a detailed mitigation strategy for water voles was submitted to Natural England on the 17th January 2025, to obtain a Letter of No Impediment (LONI). Natural England provided the LONI pursuant to a water vole licence for the Proposed Scheme on the 25th February 2025 (Natural England Reference: DAS 457982).</p>

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Breeding Birds		
2.7.32	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.	Similar logic as set out at row 2.7.26 applies to breeding birds: BoCC red listing and the legal protections birds receive (all wild birds, even common garden birds, are protected) does not necessarily imply National importance and the Applicant's evaluation of County importance for breeding birds is justified in Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP- 056) . The Applicant responded previously on the difference in opinion on magnitude of impacts and significance of effects (see Pages 58-60 of the Applicant's Response to Interested Parties Deadline 1 Submissions (REP2-019)) and maintains the position for breeding birds is as presented in Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP- 056) .
2.7.33	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.	The breeding bird community identified within the breeding bird survey area was considered as a whole, as the majority of the bird species were identified to be nesting within all suitable nesting habitat present on Site (such as reedbed, scrub and woodland), therefore Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP- 056) focussed on the effect and resulting harm to nesting birds within these habitats, with reference to more specialised species (e.g. barn owl) where appropriate. There is no precedent requiring assessment of each individual species alone within impact assessment, although it is recognised certain species can be extracted and evaluated if deemed necessary. No such necessity is required in this case as the breeding bird community is robustly represented by the current evaluation. The Applicant notes the difference in opinion and is disappointed that SCNR has not changed its view despite the new evidence presented.
Data Sufficiency		
2.7.34	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.	The Applicant has responded to points made by TWUL within Table 2.9 of this document, as well as those by SCNR, and does not accept the criticisms made of baseline data collection or the assessment presented in Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056) . The Applicant maintains that the information presented to the Examination on Terrestrial Biodiversity impacts is robust.
Buglife		
2.7.35	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.	The Applicant has had a positive meeting with Buglife with regards to the mitigation for invertebrates, as described in the Buglife Statement of Common Ground (REP2-012) . Buglife understands that habitat creation (including Open Mosaic Habitat (OMH) and that within ditches) at Thamesmead Golf Course will offer useful habitat for invertebrates and that management of this area may be beneficial for invertebrates in this case, as described within the Buglife Statement of Common Ground (REP2-012) . The Applicant explained to Buglife that transferring the OMH (a highly valuable habitat for invertebrates) to the offsite area rather than restoring onsite provides greater security for this habitat, recognising the SIL designation. Buglife understood this approach and is happy to work with the Applicant to provide a beneficial outcome for invertebrates. Furthermore, Buglife detailed its concerns on losing Coastal Floodplain Grazing Marsh of poor condition which may still benefit some invertebrate species. The Applicant explained that it has a commitment to restoring water drainage which will restore Coastal Floodplain Grazing Marsh, but the habitat is not uniform and so there are opportunities to manage this habitat to include micro habitats that benefit invertebrates. The Applicant is open

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		to working with Buglife to address their concerns and Buglife is happy to work with the Applicant and understands there are not limitations to what can be proposed for invertebrates. The Applicant has committed to on-going engagement with Buglife in the Outline LaBARDS.
Trees and Ditches		
2.7.36	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.	The trees had been included in illustrative plans on the eastern fringes of the grazing marsh, on the understanding that sparse tree planting could be accommodated within grazing marsh and would add to the diversity of habitats, as well as adding an additional layer to assist with screening the development. Recognising the concern this proposal has raised, the extent of tree planting in Figure 14 of the Outline LaBARDS (REP3-013) (submitted at Deadline 3) has been reduced. However, additional mitigation is not consequently required. Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP- 056) does not cite this planting as mitigation for ecological effects, and consequently its loss does not affect the outcomes of that assessment.
2.7.37	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.	Given the high temperatures recorded in June 2023, the following ditches were recorded as dry during the second survey visit (15 th June 2023): MR4-west, OW3, OW6 and OW11-Borax South (as presented in Appendix 7-9: Water Vole Survey Report of the Environmental Statement (Volume 3) (APP-096)). Therefore, a third visit was carried out on these ditches later in June (22 nd) when water was present to ensure a sufficient assessment of the water vole population (if present) within these ditches. Furthermore, these ditches were still assessed to be suitable for water vole as a worst case scenario to ensure that adequate mitigation is in place to protect the water vole population (if present) from harm. To mitigate for the removal of approximately 540m of drainage ditch, a total of approximately 1.3km of ditches will be dug within two receptor sites within the Mitigation and Enhancement Area of the Site. Furthermore, approximately 540m of ditches will be enhanced by improving water levels to sufficient water levels all year round; planting of emergent vegetation to increase the species diversity to >10 species present within 20m ditch length; improving water quality by removal of rubbish and waste that pollutes the ditches; and thinning out reed. This creation and enhancement of wetland habitat will provide an increase in high quality habitat for water voles, aquatic macroinvertebrates, freshwater fish and macrophytes. The Proposed Scheme incorporates adequate mitigation that has been informed by credible and robust assessment.
Norman Road Field		
2.7.38	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".	The evidence available in the planning history indicates that planning conditions relevant to the Norman Road Field have been complied with. The Applicant's position on this matter is set out in <ul style="list-style-type: none"> • Written Summary of the Applicant's Oral Submissions at Issue specific Hearing 1 (REP1-025) at page 32; • Appendix F of the Written Summary of the Applicant's Oral Submissions at Issue specific Hearing 1 (REP1-027); and • Applicant's Response to Interested Parties' Deadline 2 Submissions (REP3-034) at table references 2.5.23 to 2.5.25.

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	<p>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 Master Plan itself were carried out).</p>	<p>It has been agreed with LBB (see SoCG, Rev C, AS-080) that the mitigation measures required at Norman Road Field have been implemented and managed for the requisite period of 10 years. <i>'Consequently, there remains no mitigation commitments at Norman Road Field.'</i> The Applicant confirms that it has assumed the Proposed Scheme needs to build on the habitats presents there having been compliance with relevant planning controls. Consequently, the proposals set out in the Outline LaBARDS (and secured through requirement 12 of the draft DCO) should not be considered as 'double counting' for measures that either have been delivered, or should have been delivered but have not been and not enforced against – the Applicant's proposals go above and beyond that 'base' position and should therefore be seen as a benefit (as well as mitigation for the Proposed Scheme's impacts).</p> <p>It is also worth noting, as set out at Appendix F to Written Summary of the Applicant's Oral Submission at ISH 1 (REP1-027) (see paragraph 1.2.10) only <i>'a small part of the Norman Road Field is intended to be enhanced (just 1.31ha, corrected to 1.32 in the LBB 2009 Letter); and that the raised mound (the spoil resulting from the scrapes) will mean the loss of grazing marsh, a priority habitat.</i> It is clear that the proposals set out in the Outline LaBARDS (REP-013) will be substantially additional to these modest enhancements.</p>
Metropolitan Open Land		
<p>2.7.39</p>	<p>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.</p> <p>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.</p>	<p>The Bexley Local Plan at paragraph 5.56 states <i>'The primary function of Metropolitan Green Belt is to serve as a break between settlements. Metropolitan Open Land functions, similarly, but as a break within a built-up area rather than at the edge.'</i> As such, whilst the text of the Bexley Plan does not word-for-word read "the primary function of MOL is a break within a built-up area", it is clear that this is the principal intention of the designation, the difference being that MOL provides a break within a built-up area, as opposed to at the edge of a settlement.</p> <p>The argument that the London Plan states that MOL is "strategic open land" surely reiterates this point.</p> <p>The Applicant agrees, and has acknowledged in previous responses (not least in its Response to Examining Authority's First Written Questions (REP3-029) (at table 14), that there are additional functions attributed to MOL as set out in the local development plan that require this designated open environment to be enhanced, to improve Londoners' quality of life. However, as Bexley's Green Infrastructure Study (2020) states at paragraph 3.48 <i>"...the essential characteristics of Green Belts – openness and permanence – apply equally to MOL"</i> (Criterion 1) highlighting that this is the key factor.</p> <p>The Bexley Green Infrastructure Study goes on, at paragraph 3.49, to state that <i>"Open land is designated as MOL to protect open spaces for leisure, recreation, sport, the arts and cultural activities (Criterion 2), protect features or landscapes of either national or metropolitan value (Criterion 3) and protect green chains or links (Criterion 4). However, it is the contribution of openness to these facilities and features that is protected through MOL, rather than the facilities and features themselves (i.e. there are other international, national, regional and local planning and environmental designations which protect such facilities and features"</i> [emphasis added]. The Applicant therefore considers that its interpretation of MOL policy is correct.</p>

Table ref	Summary of issue raised	Applicant's response
		<p>The Outline LaBARDS (REP-013) gives a proportionate level of detail, appropriate to this stage of the Proposed Scheme; its sets out the principles of matter that are to be worked up in more detail within any full LaBARDS and includes relevant examples of enhancement such as:</p> <ul style="list-style-type: none"> • the opportunity to improve water levels across the MEA from improved ditch engineering and site drainage; • additional/improved paths (not least as shown at Figure 9 of the Outline LaBARDS); • enhanced woodland management; • commitment to achieve at least 10 BNG% ahead of legislative requirement to do so; • improved access points and wayfinding (not least as shown at Figure 18 of the Outline LaBARDS); and • engagement with relevant stakeholders to ensure the Applicant's proposals take into account matters of interest to those stakeholders in the improvement and on-going management of the expanded Crossness LNR. <p>Whilst the Applicant accepts there will be an unavoidable loss of MOL that is contrary to policy, very special circumstances have been illustrated (see Chapter 5 of the Planning Statement, APP-040) which clearly outweigh the identified harm to be caused, notwithstanding that NPS EN-1 (at paragraph 4.2.16) confirms that ' <i>As a result, the Secretary of State will take as the starting point for decision making that such infrastructure is to be treated as if it has met any tests which are set out within the NPSs, or any other planning policy, which requires a clear outweighing of harm, exceptionality or very special circumstances.</i> '</p> <p>One of these very special circumstances is that the Proposed Scheme will deliver sustainable infrastructure through coherent design.</p> <p>The Proposed Scheme has been comprehensively considered, and the design is robustly underpinned by the Design Principles and Design Code (REP3-007) and will deliver a range of benefits, across the Mitigation and Enhancement Area and retained areas of MOL and Accessible Open Land as set out in the Outline LaBARDS (REP3-013). Whilst the loss of a small area of MOL is unavoidable, the quality and condition of the retained MOL and Accessible Open Land will be comprehensively mitigated through a general improvement in the habitats present, amenity experience of retained MOL and Accessible Open Land and delivery of a more consistent natural environment of recreation facilities and improved access, which recognises the proximity of the local community through the provision of improved and extended PRow and interpretation facilities. These are enhancements which will deliver benefits for Londoners' quality of life and are considered to accord with the wider functions of MOL as set out in the London and Bexley Local Plans.</p> <p>Throughout the design and development of the Proposed Scheme, the mitigation hierarchy has been applied appropriately to ensure that adverse impacts are avoided as far as possible, and where this is not possible, they are minimised, mitigated or appropriately compensated for in accordance with the hierarchy. The Applicant has explained its comprehensive application of the mitigation hierarchy, including in its Response to Interested Parties' Deadline 1 Submissions (REP2-019) not least at Table 2-9-5 (pages 117 and 118).</p>

Table ref	Summary of issue raised	Applicant's response
Open space		
2.7.40	<p>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.</p> <p>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.</p> <p>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.</p>	<p>53. The Applicant's methodology for assessment of value follows the Landscape Institute guidance (GLVIA3)⁷ and is outlined in Appendix 10-2: Townscape and Visual Assessment Methodology of the Environmental Statement (Volume 3) (APP-102). The views for users of the Accessible Open Land are assessed as having medium value as they are views from a locally important landscape as identified in local planning policies or supplementary planning document. The designations and LBB assessment of 'high quality' and 'high value' recognise the value of the land at a local level. However, the views are without designation or reference at national, regional, or local level and therefore cannot be considered of high value regionally, nationally, or internationally. High value landscapes typically include areas such as National Landscapes, National Parks, or designed landscapes on the English Heritage Register.</p> <p>54. The Applicant disagrees that the Site maintains a strong sense of tranquillity. The Accessible Open Land is influenced heavily by the manmade features surrounding the Site. Noise is readily audible from the nearby industrial development, marine engineering and transport infrastructure, and the visual amenity and scenic value of the Site is undermined by the existing developments which are visible throughout the Site.</p> <p>55. The Applicant disagrees that this undermines its previous analysis of the tranquillity of the Accessible Open Land. Tranquillity considers various factors including noise, scenic value, light, and air quality. The assessment of susceptibility to change considers the nature of the users of the Accessible Open Land and the type of development proposed. The surrounding developments contribute to the assessment of both tranquillity and susceptibility to change but in different ways. The assessment of a medium-high susceptibility to change has no bearing on the tranquillity of the Accessible Open Land.</p>

2.8. RIDGEWAY USERS

Table 2-8 Applicant's Response to Ridgeway Users Group Deadline 3 Submissions

Table ref	Summary of issue raised	Applicant's response
Section 1 (pertinent paragraph included)		
2.8.1.1	<p>1.1.1 In response to the question laid out by the ExA, we sought to gain greater clarity on whether Cory's discharge ditches contain PFAS by conducting an additional test. Cory had initially informed us they discharged into a different, incorrect ditch, which we then tested in (which re-affirms our previous statements regarding the poor quality of data and site management we have noted from the applicant in the DCO so far). As a result of this, we wanted to make sure our test site was correct. In correspondence with us, Cory stated: 'We do discharge into the ditch on the west side of the road.' We also cross-referenced planning document 6.3 table 5-1 & Figure 10-1, as well as document 5.2 from the previous Riverside 2 application. Document 6.3 identifies the ditch as MR4 - Located between the Carbon Capture Facility and Norman Road, the watercourse receives surface water runoff from Riverside 1 and Riverside 2.</p> <p>1.1.2 We sampled in ditch MR4, which Cory describes as the stream which 'uncontaminated' roof and surface water discharges into.</p>	<p>The Ridgeway User's original request was directed to non-operational staff within Cory. There was a simple misunderstanding regarding off-site discharge locations in the original response, which has been rectified.</p> <p>The Applicant does not discharge polluted water to ditches. Ditch MR4 only receives 'uncontaminated roof and surface water is discharged to local ditches, which has first been through full retention oil and water separators prior to discharge' as previously explained at page 76 of the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019).</p>
2.8.1.2	<p>1.1.7 We note that the applicant has, in rebuttal to our previous representation, claimed in Appendix 17-1: Preliminary Risk Assessment of the Environmental Statement (Volume 1) that the potential source might be the use of fire-fighting foams in 2005, but we note that the site in question is not only around half a kilometre away and some of the PFAS found are not in firefighting foams. Our previous test only 20-25 metres away which has far lower results, acts as a decent environmental baseline for PFAS in the localised area. Likewise, in this same appendix, Riverside 1 is listed as a potential source of VOCs & SVOCs. PFOA and PFOS are both VOCs, many other PFAS are SVOCs. These volatile and semi-volatile compounds, which have already been found recently in flue gases from another EfW plant after a pioneering test, could be spread widely across an enormous area. A PFAS flue gas test is essential.</p>	<p>The Applicant is a responsible operator; Riverside 1 is currently operated under an environmental permit which places limits upon emission and any permitted water discharges which are regulated by the Environment Agency. Whilst the Applicant does not dispute that PFAS may be present within the water sample for which RU have provided chemical testing results, PFAS is a ubiquitous and diffuse pollutant with many potential sources. The information provided does not follow the full assessment methodology outlined within the Environment Agency's Land Contamination Risk Management (2023) Guidance⁸ for assessing risk to potential receptors. Notwithstanding this, as previously outlined within Section 7 of Chapter 17: Ground Conditions and Soils of the Environmental Statement (Volume 1) (APP-066), a ground investigation will be undertaken as a requirement of the Draft DCO (as updated alongside this submission) and shown on Figure 17-3. The Phase II Ground Investigation will include testing soil, groundwater and surface water (where relevant) for a range of contaminants including PFOA and PFAS. As part of the Phase II Ground investigation, a Generic Quantitative Risk Assessment will be undertaken which will assess the risk to all identified receptors including human health receptors such as on and off-site users and Controlled Water receptors. Should these substances and an unacceptable risk to identified receptors be identified then a Remediation Strategy will be produced and provided to the Environment Agency and other relevant stakeholders. This is secured via Requirement 21 of the Draft DCO (as updated alongside this submission).</p>
2.8.1.3	<p>1.2.3 Ridgeway users believe that contrary to this legislation, Cory cannot claim they use 'all reasonable efforts' as they are obligated to. 'All' is a key term here, especially given we understand that Cory doesn't test for PFAS at present, which indicates a lack of targeted removal. There are several plausible techniques below that according to our best understanding they do not use:</p>	<p>The Applicant notes that these matters are not relevant to the determination of the Proposed Scheme, which is about future operations, and where the Secretary of State is directed by policy to assume that the permitting regime will perform its regulatory functions.</p>

⁸ Environment Agency. (2023). 'Land contamination risk management (LCRM)'. Available at: <https://www.gov.uk/government/publications/land-contamination-risk-management-lcrm>

Table ref	Summary of issue raised	Applicant's response
	<p>1. Cory does not currently sort the waste they incinerate to avoid burning plastics, which are commonly known to contain PFAS.</p> <p>2. Cory does not incinerate waste at a hot enough temperature to destroy PFAS. Data from the International Journal of Environmental Research and Public Health indicates that EfW incinerators operate at temperatures which do not destroy PFAS, but instead release and spread them more widely – increasing their potential for harm to locals. According to Cory's own documentation, the temperatures used in Riverside 1 are 850 degrees + which is not very hot for an EfW incinerator.</p> <p>3. We could have found no evidence so far that Cory use specific PFAS-targeted methods such as Electrochemical Oxidation that have been proven to help remove these substances.</p>	<p>1. Cory provides a service to manage residual wastes for its customers, in accordance with the waste hierarchy. It is not the role of these facilities to undertake all stages of the waste hierarchy, but to safely and efficiently treat the residual wastes it receives.</p> <p>2. and 3. The Environmental Permits for both Riverside 1 and Riverside 2 require that waste is incinerated at a temperature of at least 850°C for at least two seconds. This minimum temperature and time period is established from the Waste Incineration Directive, which has been transposed into UK law. Riverside 1 is operated in accordance with the Environmental Permit and Riverside 2 will be so when operational.</p>
2.8.1.4	<p>1.3.3 Cory's response to our question concerning the use of PFAS in the CCF states that the process will not release any PFAS into the environment. Ridgeway Users argues that this is an untested and unproven assertion - maintaining this level of unproven risk on controlled land is not acceptable</p>	<p>Riverside 1 is currently operated under an Environmental Permit, as will the Riverside 2 facility be, which are regulated and enforced by the Environment Agency. The Applicant is complying with all that is required of it under these Environmental Permits.</p> <p>Due to the nature of the Proposed Scheme, PFAS will not be introduced by the carbon capture process.</p>
Section 2 Romani Communities (summary of points raised)		
2.8.2.1	<p>We note Cory's failure to respond to our Written Representation on the lack of adequate adjustment for Romani communities at the last deadline. This failure to engage with our earlier points demonstrates that Cory is not taking this issue (and our belief that Romani equality obligations must be met) seriously enough. It is this which acts as further evidence as to why this Site is extremely unsuitable as a location for the CCF. Cory have so far not demonstrated that they looked closely enough at the Romani ties to this land before choosing the Site. These concerns could be mitigated by choosing the Iron Mountain site, but Romani community ties to the land appear not to be adequately included in their site adjudication.</p>	<p>The Applicant apologises for not including the response that was prepared but failed to be submitted in response to the Ridgeway Users' Written Representation. It was a simple mistake; it is not a failure to take the interests of all relevant communities seriously. Through its Response to Examining Authority's First Written Questions (REP3-029) particularly Question 1.0.2.1, the Applicant believes it has responded to the Ridgeway Users' points on this matter.</p> <p>In summary, the Applicant has engaged appropriately with relevant parties with an active interest in the land, including those who use it for grazing. The land within the Order limits is not generally available to any community; it is all private property that is held freehold with grazing tenancies held by two parties. Where it is 'recreated' it is done so by people straying from a public right of way. If more horses were to be grazed on this land by parties other than the graziers who have a licence, TWUL and Tilfen Land Limited would be able to remove them from the land for being unauthorised.</p> <p>There is no prejudice to the Romani community because of the Proposed Scheme. The Romani community in a general sense do not, and are not authorised, to use this land</p>
2.8.2.2	<p>We note that in the Applicant's Responses to Relevant Representations (AS-043) at Section 4.1.41, Cory states: '<i>Engagement with the graziers, Peabody and TWUL has confirmed that the grazing has always operated under some form of formal agreement, and it is understood that the graziers do not use the land as part of a gypsy way of life – the horses are grazed on the land as a hobby, not for use in travelling or for sale.</i>'</p> <p>We reiterate that this is not only demonstrably untrue given the well-documented and century-long Romani history on the site that is now the nature reserve, but it seeks to unfairly limit mandated engagement with the Romani community to a</p>	<p>TWUL has provided copy of a grazing tenancy expressly for non-business use over 27 acres of Crossness Nature Reserve including the Eastern Paddock. The permitted use is '<i>the right to graze for the Tenant's own use and enjoyment no more than Twelve of the Tenant's stabled horses or ponies on the Holding and to the exclusion of any business.</i>' The tenancy further includes the tenant's agreement '<i>Not to use and farm the Holding or any part of it for the purposes of a trade or business</i>' and not to depart from the permitted use. The tenant is not permitted '<i>to sell off or remove from the Holding any hay or straw and not to mow the permanent pasture.</i>' Further the tenant is not permitted '<i>to assign, sublet, part or share possession or occupation of the Holding or any part of it.</i>'</p>

Table ref	Summary of issue raised	Applicant's response
	<p>very narrow group and risks depriving the wider community of their right to partake in their traditional way of life.</p> <p>Traditional ways of life are protected under law within <i>Paragraph 12 Circular 1/06 PLANNING FOR GYPSY AND TRAVELLER CARAVAN SITES</i>. The Applicants' initial documentation argues that the Romani Graziers' use of the land is a hobby and thus does not constitute an equalities issue and thus offers no fair compensation.</p> <p>We note that a testimony provided by a grazier contradicts the idea that the horses are not used for traditional ways of life and puts forward what we would expect in such a situation: that the graziers are against the repeated depletion of the marshes and their increasing lack of agency on these lands to the extent that it is pushing them out.</p> <p>We argue that the applicant should provide some clarity on how exactly they got this insight from the local Romani community as it appears this does not match our records.</p>	<p>The Applicant has provided a full response on this matter in responding to question 1.0.2.1 in its Response to Examining Authority's First Written Questions (REP3-029). The Romani community (as opposed to specific individuals, even if was considered that the current individual graziers are Romani, even though that has not been confirmed to the Applicant) do not partake in their traditional way of life on the land affected by the Proposed Scheme.</p> <p>The Applicant has had specific conversations (in writing, over the phone and through face-to-face meetings) with both graziers that have informed its submissions and responses to date.</p>
2.8.2.3	<p>We also argue that given we have good evidence that this would constitute part of a traditional way of life, that Cory needs to tackle this as an equalities issue and at the very least provide some form of according mitigation in the way of additional grazing marshes, pitches, transit sites or other Romani infrastructure to compensate for potential damage to and depletion of sites relevant to cultural history and ongoing tradition.</p>	<p>Appendix A: Equalities Considerations of the Written Summary of the Applicant's Oral Submission at Compulsory Acquisition Hearing 1 (CAH1) (REP1-028) sets out how the impacts of the Proposed Scheme on persons or groups of persons who share characteristics that are protected under Section 4 of the Equality Act 2010 ('protected characteristics') have been considered. As set out in the appendix, the Crossness LNR owned by Thames Water, and which includes the East Paddock and Stable Paddock, is subject to a single grazing tenancy held by Ms Anderson, who has identified as part of the Gypsy and Traveller community. Gypsy and Travellers are considered within the 'race' protected characteristic group under the Equality Act 2010.</p> <p>The appendix sets out the potential impacts of the Proposed Scheme on the protected characteristic group during both the construction and operation phases, as well as the proposed mitigation and action plan for the identified impacts. Overall, with the proposed mitigation measures in place, no differentiated or disproportionate impacts on groups with protected characteristics under the Equalities Act 2010 (including, specifically, the graziers) are predicted as a result of the Proposed Scheme.</p> <p>The stable was built by Thames Water and is granted, under the tenancy, to the grazier to maintain, along with all the gates and fencing. Transit sites and pitches relate to living accommodation and there is neither these nor Romani infrastructure provided on the LNR. The tenancy and the planning use of neither the LNR nor Norman Road Field extends to 'living'. Consequently, the Proposed Development will not remove any living accommodation, pitch, transit site, or other Romani infrastructure. The submitted documents have assessed the potential impacts on both parties that use the grazing land within the Order limits, with appropriate mitigation provided for through the Outline LaBARDS and requirement 12. The outcome of the Outline LaBARDS (as updated alongside this submission) would be to improve the habitat condition and overall biodiversity value of Floodplain Grazing Marsh, securing appropriate long-term management and benefits for the graziers including improved access arrangements, provision of utilities and water and replacement stabling (if required).</p>

Table ref	Summary of issue raised	Applicant's response
2.8.2.4	<p>Any consideration of potential pollution (heightened air, water and ground pollution) and its effects outlined in section 1 must also take into account the potential impacts of said pollution on a community with pronounced health vulnerabilities. We believe a failure to do this would contract Section 149 of the 2010 Equalities Act.</p>	<p>The Applicant has considered the potential impacts and effects of the Proposed Scheme on air quality during both the construction and operation phases as detailed in Chapter 5: Air Quality of the Environmental Assessment (Volume 1) (APP-054). In summary, the assessment has demonstrated that with appropriate mitigation measures (both embedded and additional mitigation) there are no residual significant effects predicted during the construction and operation phases of the Proposed Scheme.</p> <p>As outlined in the Applicant's response to 2.7.16 above, when the Proposed Scheme is operational, it will operate in accordance an approved Drainage Scheme (prepared to align with the Outline Drainage Strategy (AS-027)). Surface water runoff will be subject to treatment appropriate for the proposed activities prior to discharge to the local watercourses at a controlled rate. The Proposed Scheme, its activities during the operational phase, the pollution prevention measures, and associated maintenance will ensure that the surface water drainage provision will not increase pollution into the receiving waterbodies. The Applicant maintains its position that the mitigation measures detailed in the Outline CoCP (REP2-008), Outline Drainage Strategy (AS-027) and Mitigation Schedule (REP1-010) are sufficient to mitigate the risk of potential pollution to the Site and adjacent areas, including Crossness LNR and does not disadvantage any person or community.</p> <p>The Applicant considered the effects on third party neighbours from potential contamination within the underlying soils during construction activities in Chapter 17: Ground Conditions and Soils of the Environmental Statement (Volume 1) (APP-066). The Applicant has also assessed the potential effects on controlled waters from potential contamination within underlying soils/groundwater. In summary, the assessment concludes that with appropriate embedded mitigation there are no significant residual effects on groundwaters, surface waters and on third-party neighbours during the construction phase. As detailed in Chapter 17: Ground Conditions and Soils of the Environmental Statement (Volume 1) (APP-066), the Applicant will undertake further ground investigations and chemical testing prior to the commencement of construction as secured by the DCO requirement and set out in the Outline CoCP (REP2-008). The results obtained from the ground investigation would be screened for risks to human health and controlled waters and the results used to refine the contaminant linkages identified. If the ground investigations identify contaminant linkages, then a Remediation Strategy would be produced and agreed with the regulators prior to implementation. The mitigation measures to prevent, offset and/minimise the effects of the Proposed Scheme on air quality, water and ground conditions are detailed in the Mitigation Schedule (REP1-010) and secured by DCO Requirement. The Applicant confirms that this approach does not disadvantage any person or community.</p> <p>The Applicant has also carried out an assessment of the potential human health, mental health and wellbeing effects on the local population for both the construction and operation phases in Chapter 14: Population, Health and Land Use of the Environmental Statement (Volume 1) (APP-063). The population, health and land use assessment has also carried out an assessment of specific human health effects related to air quality, noise and water. The outcomes of these individual assessments have been considered to determine the overall impact on human health. In summary, the assessment concluded that there were no residual significant effects on human health, mental health and wellbeing on the local population for the construction and operation phases of the Proposed Scheme. Again, the Applicant confirms there is no disadvantage to any person or community.</p>

Table ref	Summary of issue raised	Applicant's response
2.8.2.5	We stated in our previous submission around there being no evidence of direct and targeted outreach to Romani communities and their affiliated civic organisations such as Friends Families, Travellers, Traveller Movement, Pride of Romany, London Gypsies & Travellers or any other relevant groups. We ask that the Applicant begins consultation with these groups.	The Applicant has provided a full response on this matter in responding to question 1.0.2.1 in its Response to Examining Authority's First Written Questions (REP3-029) . In summary, the Applicant requested traveller liaison and grazier contact from TWUL, Peabody and LBB in 2023 and has focussed on engaging with those who would be reasonably expected to be directly impacted. In the case of the Crossness LNR, including the East Paddock, this would be TWUL as the freeholder and its tenant, who has exclusive possession by way of a tenancy.
2.8.2.6	Given the violent evictions of the 1950s & 60s by the local council and the 2004 & 2010 refusals of the re-establishment of caravan sites laid out along the Norman Road in 09/01717/FUL and by testimony given in the Outline Landscape, Biodiversity, Access and Recreation Delivery Strategy (REP3-013) at Section 1.7.2 which describes 'travellers' as a 'problem' (one that Cory dealt with via the installation of gates), we believe that there has been both a nation-wide and local failure to meet their obligations to maintaining a traditional way of life for local Romani and whilst Cory is in no way solely to blame, their application contributes a small amount to its cumulative effects.	As noted in its response to question 1.0.2.1 in its Response to Examining Authority's First Written Questions (REP3-029) the Applicant acknowledges the former use of the Belvedere Marshes by gypsies, and that this was effectively ended by the great flood of 1953 and consequent removal by LBB. These events happened a long time prior to Cory's involvement in the area (which commenced in 2008 with the start of construction for R1) and are in no way related to the Proposed Scheme. The Applicant's response also confirms that the text that the Ridgeway Users claim (at their paragraph 2.2.3) to be used by the Applicant within the Outline LaBARDS does not originate with the Applicant. It is contained within Appendix 2 to the Outline LaBARDS, which is the Crossness Nature Reserve Management Plan (2016 – 2020) as prepared by Thames Water.
2.8.2.7	By not choosing any nearby Romani sites off the reserve as part of Cory's proposed draft Site visit route, we believe the applicant's route means that the ExA will be unable to understand their importance as Category 3 persons and the potential future and current risks of pollutant exposure. We ask that these sites be included so that the ExA can better understand the proximity and conditions of these sites.	As summarised in the Contents section of the Book of Reference (REP2- 006) Category 3 parties are those <i>'while not directly affected by the authorised development, may be entitled to claim compensation for loss resulting from the implementation of the Order and use of the land once the Order has been implemented (Category 3 as set out in section 57 in the Planning Act 2008).'</i> The Applicant has not identified any parties who would be able to make such a relevant claim; there are no Category 3 parties in relation to the Proposed Scheme. As noted in its response to Q1.0.2.1 in its Response to Examining Authority's First Written Questions (REP3-029) (at page 13) the Gypsy/Traveller Site at Jennings Way was within the consultation zone for the Proposed Scheme.
2.8.2.8	Cory has overlooked the site's archaeological significance as the largest Romani grazing marsh in Europe at one point. In Vattenfall's 2022 submission 22/00728/FUL, they note the Northern paddocks are part of an area of archaeological significance. Similarly, we see that in Cory's Document 6.1, subsection 9.4.2, unknown remains and assets are identified as a potentially significant effect. Due to the history of the site, we posit that a significant portion of these unknown assets would likely be Romani. Romani archaeology is still a very new field in this country with the first dig ongoing. Romani Archaeology is an underappreciated area of study, but it is an expanding one and this site is likely to be of significance given its provenance. We would like some clarity on how the applicant will take this into account.	The Applicant has carried out an assessment of the likely impacts and effects on above ground and buried heritage assets within or immediately around the Site in Chapter 9: Historic Environment of the Environmental Statement (Volume 1) (APP-058) and Appendix 9-1: Historic Environment Desk-Based Assessment of the Environmental Statement (Volume 3) (APP-100) . The presence of any surviving physical archaeological remains associated with traveller communities within the Site is considered unlikely and if present, would likely be ephemeral and of low significance due to the impermanence of traveller activities within the Order limits. Notwithstanding, should any significant archaeological remains be present these would be covered by the mitigation strategy outlined in Chapter 9: Historic Environment of the Environmental Statement (Volume 1) (APP-058) , which is secured by requirement 22 of the draft DCO (as updated alongside this submission) with any further work carried out under the terms of an agreed Written Scheme of Investigation (WSI). Relevant effects of the Proposed Scheme on local communities are addressed in Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064) and Appendix A: Equalities Considerations of Written Summary of the Applicant's Oral Submission at Compulsory Acquisition Hearing 1 (CAH1) (REP1-028) .

Table ref	Summary of issue raised	Applicant's response
2.8.2.9	Realistically we believe that the loss of this land is near on impossible to replace like for like. Much of the importance of this land is its cohesiveness as one entity. Although it is better than nothing, we do not believe that land such as this can be adequately provided on an alternate site due to the need for horses to roam widely. We do not believe The Applicant has effectively included analysis of the impact of the proposal on traditional Romani ways of life when evaluating site options. On balance, it adds to a growing body of evidence that points to alternate sites being preferable. Any scheme building on the Nature Reserve should be refused.	<p>The Crossness Nature Reserve is fenced, with different horses generally kept in specific fields. Through conversation with the Crossness Nature Reserve grazier, the Applicant understands that the East Paddock is primarily used to separate the stallion from mares and ponies. Norman Road Field is separately fenced so that the two graziers' horses do not intermingle. The horses within the Order limits do not 'roam widely'.</p> <p>The outcome of the Outline LaBARDS (REP-013) would be to improve the habitat condition and overall biodiversity value of Floodplain Grazing Marsh, securing appropriate long-term management and benefits for the graziers including improved access arrangements, provision of utilities and water and replacement stabling (if required)</p>
Section 3		
2.8.3.1	<p>In our last representation, we stated that we had doubts as to whether Cory's plans would achieve 95% CCS rates and that they would need to provide an explanation if it is likely that they cannot, noting that the guidance states: <i>You should aim to design your plant to achieve a CO2 capture rate of at least 95% during normal operating conditions, although operationally this can vary, up or down.</i></p> <p><i>You will need to justify proposing a design CO2 capture rate of less than 95% as an annual average of all normal operating conditions. You can submit a cost-benefit analysis as part of your application.</i></p> <p>Cory have not answered this concern but they need to follow this guidance to be granted a DCO. Since then new information has re-affirmed old concerns and created additional ones over their carbon accounting touched upon in section 1.</p>	<p>The Applicant has previously advised on this matter, not least in its Written Summary of the Applicant's Oral Submission at CAH1 (REP-028) and in its response to SCNR's Deadline 1 submissions (at REP2-019, Table 2-3-4, page39) and Deadline 2 submissions (at REP3-034, Tables 2.5.32 to 2.5.37).</p> <p>In summary, the Carbon Capture Facility will be designed to capture at least 95% of the emissions of carbon dioxide from Riverside 1 and Riverside 2 and it will be operated under an Environmental Permit that will control the capture rate. The Secretary of State is dictated by policy to rely on the fact that the permitting regime will control emissions, including carbon emissions and does not need to duplicate any controls within the DCO. In any event, the Applicant is commercially incentivised to maximise the benefits arising from the Carbon Capture Facility as it will be paid for the carbon it captures. The Proposed Scheme will entail a significant financial investment, and the Applicant will seek to optimise efficiency of operations and operational availability.</p>
2.8.3.2	<p>As previously mentioned, it has since then come to our attention that recycle, rejected either for quality or capacity issues could be part of incineration and contributes a significant proportion of their emissions (65%). Cory reported in 2024:</p> <p><i>240,000 tonnes of carbon saved by diverting waste from landfill</i></p> <p>However, we are uncertain as to whether this accounts for burning recyclable plastics where it would otherwise be recycled or simply remain unburnt and comparatively inert in landfill. In 2022, The Guardian claimed that not only is 60% of this waste incinerated recyclable, but that emissions reporting only has to include plastic.</p> <p>We want clarity on this to better understand their carbon accounting in relation to their waste streams.</p>	<p>As stated at row 2.8.1.5, the Riverside 1 and 2 facilities are neither consented nor designed to sort the waste received on site. In accordance with the waste hierarchy, these facilities provide an important social function, diverting residual waste from landfill and recovering energy through the incineration of the waste. Cory's 2022 Sustainability Report is appended to the Project Benefits Report (APP-042). On page 11, the 2022 Sustainability Report describes the enhanced composition analysis undertaken of the waste entering Riverside 1, which <i>'found that plastics, while only representing 16 per cent of the residual waste by weight, contribute a whopping 65 percent of the fossil carbon emissions from our EfW process.'</i> The Sustainability Report then describes the context to plastics recycling and concludes <i>'we look forward to seeing the impact of the kerbside collections and hope to see use of supermarket collections in the meantime.'</i></p> <p>Chapter 13: Greenhouse Gases of the Environmental Statement (Volume 1) (APP-062) identifies that approximately 49% of the carbon in the residual waste would be attributable to plastic material (fossil carbon), with the remainder attributable to biogenic sources of carbon.</p> <p>Ridgeway Users reference to <i>'240,000 tonnes of carbon saved by diverting waste from landfill'</i> is a Cory press release for both the 2023 Annual Report and 2023 Sustainability Report. These documents provide the answers that the Ridgeway Users is seeking. Page 36 of the 2023 Annual Report states:</p>

Table ref	Summary of issue raised	Applicant's response
		<p>'By diverting 790,000 tonnes of waste from landfill in 2023, we saved the equivalent of 240,000 tonnes of CO2e.' Page 83 of the 2023 Annual Report provides the calculations behind this statement, confirming that the carbon saving v. landfill is 240,601t CO2e. This includes any plastics in the residual waste processed at Riverside 1.</p> <p>To derive the 240,000 tonne saved figure, Cory compared the same amount of waste processed at Riverside 1 in 2023 with sending it to landfill. The comparison included all fuel and electricity emissions associated with handling the waste and the avoided emissions netted off the gross total (from electricity generation and recycling incinerator bottom ash, air pollution control residue and metals). The landfill counterfactual also netted off electricity generation and included the assumptions of 50% methane generation, a 66% capture rate and 100% combustion rate of the methane. The net emissions of 239,099 tCO2e from Riverside 1 were subtracted from 479,700 tCO2e from landfill giving 240ktCO2e.</p> <p>Cory reports its greenhouse gas emissions annually according to requirements set out by the UK Government's Streamlined Energy and Carbon Reporting Requirements. Cory's reporting methodology is in accordance with UK Government Environmental Reporting Guidelines and the GHG Protocol Corporate Accounting and Reporting Standard. This data is included in the 2023 Annual Report as per the requirements and is externally assured.</p> <p>For Cory's 2023 emissions data, third-party ERC Evolution conducted its review to a limited level of assurance, in accordance with the procedures recommended in the Greenhouse Gas (GHG) Emissions Protocol entitled 'The GHG Protocol: A corporate reporting and accounting standard' (Revised edition, 30 Mar 2004) and the UK Government's Streamlined Energy and Carbon Reporting (SECR) and the principles of ISO 14064-3:2019, entitled 'Part 3: Specification with guidance for the verification and validation of greenhouse gas statement'.</p> <p>Page 08 of the 2023 Sustainability Report (under title 'Assurance') states <i>'Cory worked with ERCE Evolution (ERCE) to undertake an independent assurance review of our 2023 GHG emissions data. The assurance review was carried out for the period 1 January 2023 to 31 December 2023 and included all 2023 Scope 1, Scope 2 and Scope 3 emissions required by the Streamlined Energy Carbon Reporting requirements, as well as some additional Scope 3 categories. ... ERCE found no evidence to indicate that the data and information in our statement were not fairly stated.'</i></p>
<p>2.8.3.3</p>	<p>We also ask whether Carbon Capture percentages include WLC (Whole Life Carbon) such as construction, maintenance, energy use, transport etc. and what methodology they are using. There is no standardised methodology in the UK but RICS (Royal Institute of Chartered Surveyors) has laid out a framework that is increasingly widely adopted. We would like to know if this is being included in Cory's carbon calculations.</p>	<p>To clarify, the carbon capture percentage relates specifically to the proportion of carbon dioxide that would be removed from emissions to the atmosphere from Riverside 1 and Riverside 2 by the Proposed Scheme. It is confirmed that additional to the carbon capture percentage, relevant sources of greenhouse gas (GHG) emissions over the lifecycle of the Proposed Scheme have been taken into account in Chapter 13: Greenhouse Gases of the Environmental Statement (Volume 1) (APP-062). Construction emissions are reported in Table 13-8 of the chapter and operational emissions (including residual emissions, maintenance and energy use) are reported in Table 13-10 of the chapter; the overall saving in GHG emissions identified for the Proposed Scheme over its lifecycle is summarised in Table 13-11 of the chapter.</p> <p>A detailed description of the methodology used to determine lifecycle GHG emissions for the Proposed Scheme is provided in Section 13.4 of Chapter 13: Greenhouse Gases of the Environmental Statement (Volume 1) (APP-062), which has been undertaken using best practice carbon management methods, including alignment with the lifecycle stages set out in</p>

Table ref	Summary of issue raised	Applicant's response
		the guidance for the PAS 2080 standard for Carbon Management in Buildings and Infrastructure ⁹ and the RICS standard for Whole Life Carbon Assessment (WLCA) for the Built Environment ¹⁰ .
2.8.3.4	We wish to reiterate that according to a 2023 study by IEEFA (Institute for Energy Economics and Financial Analysis), no commercially operational facility they could find has achieved greater efficiency than 78%. The technology Cory is proposing to use contains no radical departure from previous methodologies - in fact, some of the schemes within IEEFA's research such as Petra Nova are even cited by Cory in appendix 4.2.1.2 of document 9.2. Whilst it is possible that the planning guidance in question is ill-advised in requiring unattainable targets, we once again state that Cory must follow the guidance that exists to be considered as having met the requirements to be granted a DCO.	<p>As identified above, at Table 2.8.3.1, the Applicant has previously advised on this matter, not least in its Written Summary of the Applicant's Oral Submission at CAH1 (REP-028) and in its response to SCNR's Deadline 1 submissions (at REP2-019, Table 2-3-4, page39) and Deadline 2 submissions (at REP3-034, Tables 2.5.32 to 2.5.37).</p> <p>In the context of the permitting regime requiring the Proposed Scheme to be designed to capture 95%, the historical performance of other carbon capture plants is not relevant; as the Applicant will need to comply with its permit.</p> <p>In summary, the Carbon Capture Facility will be designed to capture at least 95% of the emissions of carbon dioxide from Riverside 1 and Riverside 2 and it will be operated under an Environmental Permit that will control the capture rate. The Secretary of State is dictated by policy to rely on the fact that the permitting regime will control emissions, including carbon emissions. In any event, the Applicant is commercially incentivised to maximise the benefits arising from the Carbon Capture Facility. The Proposed Scheme will entail a significant financial investment, and the Applicant will seek to optimise efficiency of operations and operational availability.</p>

⁹ PAS 2080:2023. (2023). 'Publicly Available Specifications: 2080 Carbon management in Infrastructure'.

¹⁰ RICS. (2017). 'Whole life carbon assessment for the built environment'.

2.9. THAMES WATER UTILITIES LIMITED

Table 2-9 Applicant's Response to Thames Water Utilities Limited's Deadline 3 Submissions

Table ref	TWUL Further Response for D3	Applicant Response
DCO Drafting and Land Matters		
2.9.1	<p>The LaBARDS does not need to include the TWUL owned part of the LNR – as shown on figures 14 and 15 from the Outline LaBARDS document, there are no proposed new habitats or landscaping proposals, nor are there any environmental proposals for the TWUL owned part of the LNR. Requirement 12 is a self-imposed requirement which the Applicant could amend so that all of the mitigation/enhancement is provided on the Norman Road Field. TWUL is content managing the nature reserve as per the present arrangements under the 1994 agreement, which indeed secures the management of the nature reserve for a longer period than proposed by the Applicant.</p> <p>As such, the Applicant's argument that its inclusion in the dDCO shows there is "no doubt" the TWUL land is required is not substantiated and TWUL does not agree that the compulsory acquisition tests in section 122 of the Planning Act 2008 or in the guidance are clearly met.</p> <p>TWUL also maintains that East Zone is a viable alternative, notwithstanding the Applicant's further response on this issue.</p> <p>If the Applicant ultimately did secure the requested CPO powers and acquired the freehold in the TWUL-owned LNR, TWUL would like clarification as to how the Applicant would provide sufficient rights to TWUL to enable it to undertake the management obligations in the proposed planning agreement. Clearly without sufficient rights, TWUL could not agree to the obligation as proposed.</p> <p>TWUL also wishes to note that it is considering whether the TWUL owned part of the LNR (besides the access road) satisfies the definition of statutory undertakers' land for the purposes of section 127 of the Planning Act 2008, and will endeavour to confirm its position in relation to this ahead of CAH2</p>	<p>The Applicant has set out clearly why compulsory acquisition of the TWUL Crossness LNR land is required in absence of an agreement, including its summary of case at CAH1 (REP1-028), in response to FWQ 1.5.0.8 (REP3-029) and in its written summary of submissions at CAH2 and ISH2 (also submitted at Deadline 4).</p> <p>These submissions explain why there is no reasonable alternative to compulsory acquisition and how the land outside Norman Road Field is to be managed in a coordinated fashion.</p> <p>To secure that co-ordinated approach the Applicant needs to go beyond TWUL's current obligations; and therefore the Applicant cannot simply rely on TWUL meeting its current obligations to ensure the outline LaABRDS outcomes are delivered. As those previous and contemporaneous submissions set out, the Applicant cannot also simply vary the obligations on TWUL.</p> <p>In line with Guidance however, the Applicant has and continues seek to secure a voluntary agreement for this land. The Applicant has also updated the Deed of Obligation at Deadline 4 to cater for the different scenarios that may exist in terms of whether a voluntary agreement is completed between the parties.</p> <p>The Applicant in particular considers that section 122 is met – the LaBARDS is clearly a part of the Proposed Scheme, given that the works pursuant to it form Work No. 7 and Requirement 12 requires its delivery. The land within Work No. 7 is therefore clearly required for the Proposed Scheme. Further, the Proposed Scheme has a compelling case in the public interest, as established in the Statement of Reasons (APP-020); and delivery of the LaBARDS is a clear part of that Proposed Scheme.</p> <p>In the arrangements proposed by the DCO and Deed of Obligation, TWUL would have no obligations or liability in respect of needing to undertake any management of land within the Order limits; therefore the Applicant would not need to provide TWUL with any rights over that land. The current draft Deed of Obligation requires only that TWUL manage their retained land in accordance with the LaBARDS.</p> <p>In its Response to Interested Parties Deadline 1 Submissions (REP2-019), the Applicant directly addresses TWUL's assertion that the Applicant's decision making has been cost-driven and sets out the evidence for why the East Zone is not a reasonable alternative.</p> <p>Please see the response to item 2.7.13 above and the Applicant's Written Summary of Oral Submissions at ISH1 in respect of the position on section 127.</p>
2.9.2	<p>TWUL is concerned by this lack of uncertainty. If the access is required to be diverted, the internal approvals required to be obtained by TWUL, along with approval of the HSE and emergency services (given the access is subject to the COMAH Regulations 2015), and the Environment Agency, which benefits from a right of way over the access, could take several months. The element of the Project</p>	<p>The Applicant is clear that the current route of the Access Road is required for the Proposed Scheme. The eastern half of the route will become part of the internal roads of the Carbon Capture Facility (if not diverted), necessitating acquisition and the western half of the route will become part of the access provision determined by the LaBARDS process. Please see the Applicant's Written Summary of Oral Submissions at CAH2 for further submissions on this point.</p>

Table ref	TWUL Further Response for D3	Applicant Response
	<p>necessitating the diversion would have to be placed on hold during this time, which would not be a satisfactory position for TWUL or the Applicant.</p> <p>The position confirmed by the Applicant further demonstrates that the CPO tests are not met in relation to the access road – the tests require certainty, i.e. section 122(2) of the Planning Act 2008 require that the land “is required for the development...” or “is required to facilitate or is incidental to that development” (emphasis added).</p> <p>The Applicant has confirmed that it does not know whether the land will be required; it does not have a clear idea of how it intends to use the land. As such, this clearly demonstrates the CPO tests are not met in respect of the access road.</p> <p>TWUL does not agree to the Applicant’s proposed Protective Provisions in relation to the access road and has provided an updated version to the Applicant. Given its operational importance and the requirement for approvals from multiple parties, TWUL will not agree to deemed approval of its consent in relation to the access road and must also be permitted to refuse its consent to a diversion in its discretion entirely; TWUL does not agree to being exposed to potential arguments as to what constitutes reasonableness in this regard. Finally, TWUL considers that the Applicant should not be empowered to exercise any compulsory acquisition of the access road without TWUL approval.</p>	<p>The land that is within the limits of deviation for the potential diversion route of the Access Road is also in the limits of deviation for Work No. 7 (the MEA), as such that land would be used for one or the other. The land is therefore clearly required for the Proposed Scheme.</p> <p>As noted in the SoCG (AS-081), the position on diverting the road is agreed – the Applicant will require TWUL approval, will obtain any other approvals necessary; and will not compulsorily acquire the road without TWUL approval.</p>

Terrestrial Biodiversity

<p>2.9.3</p>	<p>The ecological surveyors were in constant contact with the Crossness Nature Reserve manager at that time and could have requested removal of horses to undertake robust ecological surveys in the very area that their clients wish to build on. GiGL data would not be available for this area because the public do not enter and therefore no adhoc records are provided. Also, horses freely graze the Norman Road Field and the Applicant was able to survey this.</p> <p>TWUL is confident that further survey or changes in methodology would yield a difference in the conclusions returned by the assessment within Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056), and for this reason the survey methods are not considered robust. TWUL reach this conclusion due to, despite, and because of the heavy grazing, the East Paddock, is the only part of the nature reserve that contains a very large population (hundreds) of Strawberry Clover (which has vulnerable to extinction status) that will be directly lost due to the Project.</p> <p>The only other known location on the reserve contains only a tiny number of plants, and the East Paddock concentration is likely to be the original source. It is also the location of Borrer’s Saltmarsh Grass (which is a nationally scarce plant listed under section 41 NERC) and other flora species that are of conservation concern. These were missed during the Applicant’s ecological surveys, because they did not enter, nor liaise with the site manager to safely enter, to carry out a robust survey.</p> <p>TWUL maintains that the timing of reptile surveys should be considered a significant limitation because the population could be larger than the Applicant has currently</p>	<p>The Applicant’s ecological surveyors undertook surveys at the Site in accordance with their health and safety procedures and did not enter the East Paddock as they did not feel safe to do so. However, within its Response to Interested Parties' Deadline 1 Submissions (REP2-019), the Applicant explained that all surveys, including botanical surveys, at the Site are robust despite access restrictions. The Applicant maintains its position that ecological survey undertaken at the East Paddock provided a robust baseline that has supported the assessment of impacts within Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP- 056).</p> <p>It should be noted that the East Paddock is a smaller, enclosed space with a significantly greater risk of interaction (including negative interactions) with grazing animals than the Norman Road Field which is more expansive and crossed by a PRoW, and with a relatively lower stocking density (which can be observed through the high level of grazing pressure that characterises the vegetation of the East Paddock), thus presenting a much lower risk to surveyors.</p> <p>With regards to the comments on reptiles, although the Applicant disagrees the point of view expressed regarding survey work undertaken, it would note that despite the low population encountered, reptiles have been considered to be an important ecological feature within Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056) with mitigation proposed to avoid effects on the local population. The Applicant does not dispute the fact that marginal habitats and ditches are suitable for reptiles and that areas of these habitats would be lost. However, in the mitigation proposed, a total of 1.3km of ditches will be dug within two receptor sites within the Mitigation and Enhancement Area of the Site and approximately 540m of ditches will be enhanced. Additionally, 6.9 ha of Coastal Floodplain Grazing Marsh will be enhanced from Poor to Moderate condition as detailed in Appendix 7-1:</p>
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Table ref	TWUL Further Response for D3	Applicant Response
	<p>suggested. Despite grazing by horses and the perceived low suitability for reptiles, the marginal habitats and ditches are suitable for reptiles and will be lost due to the Project.</p>	<p>Biodiversity Net Gain Report (Volume 3) (APP-088). This habitat creation and enhancement will increase the area of high quality habitat for reptiles and create habitat of higher suitability than that which exists at present.</p> <p>Furthermore, the addition of two SPI plant species (including Borrer's Saltmarsh-grass) to the baseline analysis will not change the overall impact assessment on the botanical community within the Site. The Applicant's proposals to mitigate the loss of Coastal Floodplain Grazing Marsh (of which the Borrer's Saltmarsh-grass resides) is a key priority and therefore approximately 7 ha of Coastal Floodplain Grazing Marsh will be enhanced from poor to moderate condition. In addition, 0.6ha of Coastal Floodplain Grazing Marsh will be created to mitigate for the loss of approximately 2 ha of Coastal Floodplain Grazing Marsh (poor condition), as detailed in Appendix 7-1: Biodiversity Net Gain Report (Volume 3) (APP-088). Therefore, it is considered that this enhancement and creation of Coastal Floodplain Grazing Marsh will not only increase the population of Borrer's Saltmarsh-grass on Site but all other SPIs that are found within this habitat.</p>
<p>2.9.4</p>	<p>The Applicant states that for Lagoon Field and Island Field, "no interventions (through the Proposed Scheme directly or habitat creation and enhancement) are proposed in these areas – they are instead proposed to be managed as part of the overall expanded Crossness LNR. Ecological surveys focussed on the development footprint and areas within the Mitigation and Enhancement Area." However, Lagoon Field has been identified as the potential receptor for the stables, the rerouted public footpath, and potentially the rerouted TWUL access road, so there are potentially direct interventions and further habitat loss which have not been assessed.</p>	<p>The areas of the Lagoon Field that would potentially receive the stables, rerouted PRoW and the rerouted Thames Water Access Road are directly adjacent (40-50m) to the Carbon Capture Facility and Mitigation and Enhancement Area. Ecological surveys have been undertaken which describe and evaluate the ecological features in this area within Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056). The Applicant does not agree with the questioning of the adequacy of the impact assessment as presented on the basis of the available baseline survey data and its coverage. There is a very small distance between the Site/Mitigation and Enhancement Area boundaries and thus baseline data presented is representative of Lagoon Field. Wintering and breeding bird survey data is presented for Lagoon Field within Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056) and its supporting appendices (Appendix 7-5: Breeding Birds Survey Report and Appendix 7-10: Wintering Bird Survey Report of the Environmental Statement (Volume 3) (APP-088 and APP-097) respectively). Confirmation of the exact route for the Thames Water Access Road will be determined as part of the detailed design process. 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 any compensation measures to be provided to the satisfaction of the London Borough of Bexley (as per paragraph 6.2.4 of the Outline LaBARDS (as updated alongside this submission)).</p>
<p>2.9.5</p>	<p>TWUL queries how the Applicant considers it has properly focussed on areas where habitat would be lost (i.e. the East Paddock/Stable Paddock), given that these were surveyed with binoculars only. TWUL reiterates that this is not adequate survey methodology and the Applicant could (and should) have arranged for the removal of the horses, if it had health and safety concerns.</p>	<p>The Applicant has responded to TWUL's assertion that botanical survey was undertaken with binoculars only within its Response to Interested Parties Deadline 1 Submissions (REP2-019). Binoculars were not the sole method used for the botanical survey, as described in Appendix 7-6: Botanical Survey Report of the Environmental Statement (Volume 1) (APP-093). Plant species were recorded directly from the southern and eastern boundaries of the field (as noted in the survey limitations presented in Section 2.4 of Appendix 7-6: Botanical Survey Report of the Environmental Statement (Volume 1) (APP-093)). Other parts of the habitat could be adequately surveyed from the other side of the fence using binoculars to confirm visually they are similar to those directly surveyed. Thus, the survey is considered to be sufficient for the purposes it was intended. As detailed in response 2.9.3, additional plant species will not change the overall impact assessment on the botanical community within the Site and adequate mitigation is in place to protect the botanical community on Site.</p>

Table ref	TWUL Further Response for D3	Applicant Response
2.9.6	<p>The statement “any obligations relating to the NERC relate to the NERC, not the NPS” is not correct. The NPS specifies that: “Applicants for CNP infrastructure must continue to show how their application meets the requirements in this NPS and the relevant technology specific NPS, applying the mitigation hierarchy, as well as any other legal and regulatory requirements.”</p> <p>The reference to complying with legal requirements (including NERC) means that if the Applicant has not complied with NERC (which TWUL considers is the case), the application does not accord with the NPS in this respect. Whilst the footnote refers to the Secretary of State’s obligations, paragraph 4.2.10 of the NPS expressly requires the Applicant to demonstrate how the application meets the requirements of NERC. The Applicant has failed to identify or assess the presence of a species listed on the Habitats and Species List. The application therefore does not fully meet a legal requirement, contrary to paragraph 4.2.10 of the NPS.</p>	<p>There is not a statutory requirement on the Applicant to comply with the NERC within its application materials. The Applicant provides the information to allow the Secretary of State to discharge his statutory duties, including under the NERC.</p> <p>As set out in the other responses in this document, the Applicant has provided sufficient information to enable a judgement to be made on the impacts of the Proposed Scheme to botanical flora by the Secretary of State. That is how the application meets legal requirements.</p>
Optioneering Matters		
2.9.7	<p>TWUL does not assert that the Applicant has forgotten the mitigation hierarchy; TWUL considers that it has not been correctly applied, and reiterates its position as per its written representation that avoidance is possible and that the East Zone was ruled out primarily due to cost implications.</p> <p>TWUL remains of the view that the Applicant 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.</p>	<p>The Applicant has comprehensively responded to TWUL’s written representation (REP1-057) in its Response to Interested Parties Deadline 1 Submissions (REP2-019) at tables 2-2-3, 2-4-3 and 2-9-3, with the latter table dealing with optioneering matters and the mitigation hierarchy. On page 103 of its Response to Interested Parties Deadline 1 Submissions (REP2-019), the Applicant directly addresses TWUL’s assertion that the Applicant’s decision making has been cost-driven and sets out the evidence for why the East Zone is not a reasonable alternative. The Applicant has demonstrated that it is not possible to <i>avoid</i> development in the Erith Marshes SINC/CLNR. Further, through its submissions on site alternatives (principally the TSAR (APP-125), TSAR Addendum (AS-044) Applicant’s Response to Interested Parties’ Deadline 1 Submissions (REP2-019) and Applicant’s Response to Interested Parties’ Deadline 2 Submissions (REP3-034) the Applicant has demonstrated that the Proposed Scheme has <i>minimised</i> land take within the area subject to these ecological designations.</p> <p>The Applicant has robustly demonstrated that there is no other reasonable alternative site for the Carbon Capture Facility. This conclusion has been drawn through application of a method that uses a balanced approach across the identified important and relevant Optioneering Principles to identify the location that will deliver the Project Objectives. LBB agrees that this method is appropriate (see SOCG, Rev C, AS-080).</p>
2.9.8	<p>The Applicant’s response confirms that it is feasible to have a longer gas flue pipe to an alternative site further away that is not in MOL or part of a Nature Reserve. TWUL considers that the primary reason that a longer pipe has not been selected is because it would cost more.</p> <p>TWUL has consistently taken the position, since the pre-application process, that the Applicant’s site selection process was not robust and that more sites that are not in MOL or part of a Nature Reserve should have been assessed. It is the Applicant’s responsibility to undertake a robust site selection process prior to submitting their application; TWUL considers that this has not been undertaken</p> <p>With regards flood risk designation, Veridion Business Park has the same flood risk designation as the surrounding area, including the Applicant’s preferred site:</p>	<p>As set out in the row above, the Applicant has comprehensively responded to TWUL’s assertions previously and this submission does not raise new points.</p> <p>On pages 101 and 102 of its Response to Interested Parties Deadline 1 Submissions (REP2-019), the Applicant directly addresses TWUL’s promotion of Veridion Park. The Applicant confirms that Veridion Park is not a reasonable alternative, a matter agreed with LBB (see SoCG Rev C, AS-080). Further, the Applicant refers to NPS EN-1 paragraphs 4.3.27 and 4.3.28 which advise that alternative proposals that mean the development could not proceed because they are not commercially viable or physically suitable, and those that are vague or immature, can be excluded on the grounds that they are not important and relevant to the Secretary of State’s decision. This is clearly the case for the Veridion Park proposal given the constraints discussed in REP2-019.</p>


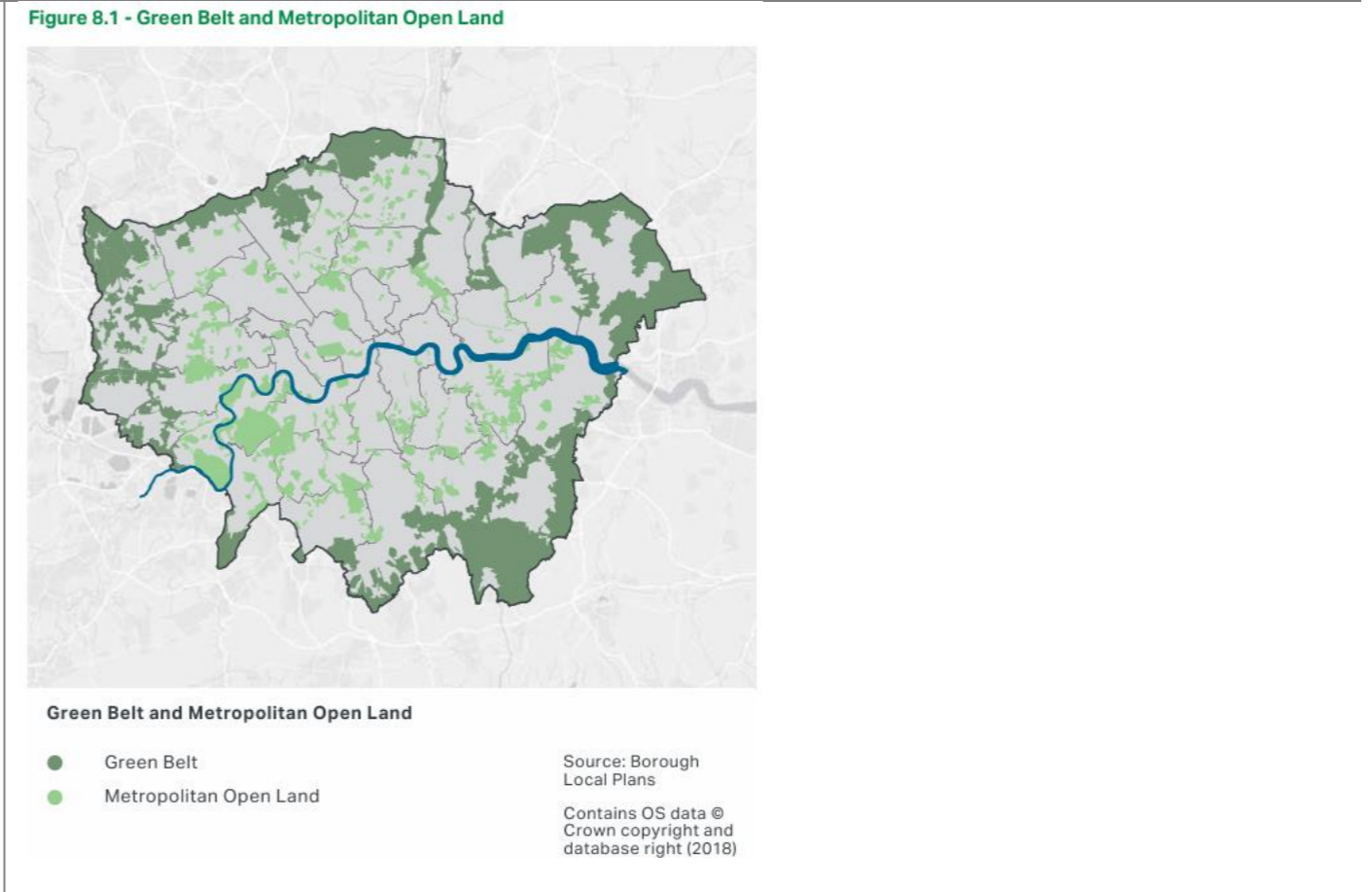
Table ref	TWUL Further Response for D3	Applicant Response
	 <p>Veridion Business Park is also allocated for employment development in the Bexley Local Plan.</p> <p>Further, a flue gas pipe bridge over the Eastern Way A2016 could also be used as a footpath which would be a significant enhancement to local accessibility. At present pedestrians have to try and cross the busy A2016 to gain access from Abbey Wood and Crossness Southern Marsh from Public Footpath 1 to the south, to Public Footpath 2 on the Crossness Nature Reserve and Thameside walkways. Due to the danger involved in crossing the 50mph A2016 dual carriageway, TWUL understand that this footpath connection is seldom used.</p> <p>It is not accepted that the gas flue pipe would need to cross the operational Crossness Sewage Treatment Works area. It could run down the boundary between the nature reserve and the sewage works.</p> <p>It is therefore considered that Veridion Park should be assessed further by the Applicant along with other sites to avoid the loss of MOL and Crossness Nature Reserve land.</p>	<p>Further to the responses above, the Applicant would repeat that an appropriate site selection method has been implemented, as agreed with LBB (see SoCG, Rev C, AS-080).</p> <p>The Applicant also notes that, at page 29 of its representation (reproduced below at row 2.9.18), TWUL considers that the Flue Gas Ductwork proposed along the edge of the Sea Wall Field to 'have a significant and lasting adverse effect on the habitats and species thereon.' However, in its promulgation of Veridion Park, TWUL also suggests that the same structure could be appropriately located to 'run down the boundary between the nature reserve and the sewage works'. The Applicant notes this route would be some 400m longer than the proposed route, and that it would have to cross over the Crossness LNR to make this alignment (rather than solely hugging the boundary of it).</p>
Green Belt and MOL Harm		
<p>2.9.9</p>	<p>The Applicant states that the "retained MOL will continue to perform its primary function, to provide a meaningful break within the built up area..."</p> <p>However, the Bexley Local Plan does not actually state that "a break within a built-up area" is the primary function of MOL. Further, 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, contrary to policy.</p>	<p>This point is addressed in the Applicant's response to SNCR's submission at 2.7.41 above.</p> <p>The Bexley Local Plan at paragraph 5.56 states 'The primary function of Metropolitan Green Belt is to serve as a break between settlements. Metropolitan Open Land functions, similarly, but as a break within a built-up area rather than at the edge.' As such, whilst the text of the Bexley Plan does not word-for-word read "the primary function of MOL is a break within a built-up area", it is clear that this is the principal intention of the designation, the difference being that MOL provides a break within a built-up area, as opposed to at the edge of a settlement.</p> <p>The argument that the London Plan states that MOL is "strategic open land" surely reiterates this point.</p> <p>The Applicant agrees, and has acknowledged in previous responses (not least in its Response to Examining Authority's First Written Questions (REP3-029) (at Q1.13.0.1 and 1.13.0.2), that there are additional functions attributed to MOL as set out in the local development plan that require this designated open environment to be enhanced, to improve Londoners' quality of life. However, as Bexley's Green Infrastructure Study (2020) states at paragraph 3.48 "...the essential characteristics of Green Belts – openness and permanence – apply equally to MOL" (Criterion 1) highlighting that this is the key factor.</p>

Table ref	TWUL Further Response for D3	Applicant Response
		<p>The Bexley Green Infrastructure Study goes on, at paragraph 3.49, to state that “<i>Open land is designated as MOL to protect open spaces for leisure, recreation, sport, the arts and cultural activities (Criterion 2), protect features or landscapes of either national or metropolitan value (Criterion 3) and protect green chains or links (Criterion 4). However, it is the contribution of openness to these facilities and features that is protected through MOL, rather than the facilities and features themselves (i.e. there are other international, national, regional and local planning and environmental designations which protect such facilities and features</i>” [emphasis added].</p> <p>The Applicant has demonstrated that its interpretation of MOL policy is correct. Further, the Applicant maintains that an open environment, the terminology used by TWUL, is retained - there is a clear open space between the Carbon Capture Facility and the STW. The provision of the Outline LaBARDS (REP3-013) will protect and enhance this open space, delivering policy.</p>
<p>2.9.10</p>	<p>As above, any loss of open environment is a clear failure to protect it, contrary to policy</p>	<p>This point is also addressed in the Applicant’s response to SNCR’s submission at 2.7.41 above.</p> <p>Whilst the Applicant accepts there will be an unavoidable loss of MOL that is contrary to policy, very special circumstances have been illustrated (see Chapter 5 of the Planning Statement, APP-040) which clearly outweigh the identified harm to be caused, notwithstanding that NPS EN-1 (at paragraph 4.2.16) confirms that ‘<i>As a result, the Secretary of State will take as the starting point for decision making that such infrastructure is to be treated as if it has met any tests which are set out within the NPSs, or any other planning policy, which requires a clear outweighing of harm, exceptionality or very special circumstances.</i>’</p> <p>One of the very special circumstances is that the Proposed Scheme will deliver sustainable infrastructure through coherent design.</p> <p>The Proposed Scheme has been comprehensively considered, and the design is robustly underpinned by the Design Principles and Design Code (submitted with the Applicant’s Rule 17 Response, dated 29 January 2025) and will deliver a range of benefits, across the Mitigation and Enhancement Area and retained areas of MOL and Accessible Open Land as set out in the Outline LaBARDS (REP3-013). Whilst the loss of a small area of MOL is unavoidable, the quality and condition of the retained MOL and Accessible Open Land will be comprehensively mitigated through a general improvement in the habitats present, amenity experience of retained MOL and Accessible Open Land and delivery of a more consistent natural environment of recreation facilities and improved access, which recognises the proximity of the local community through the provision of improved and extended PRoW and interpretation facilities. These are enhancements which will deliver benefits for Londoners’ quality of life and are considered to accord with the wider functions of MOL as set out in the London and Bexley Local Plans.</p> <p>The Applicant acknowledges that TWUL reiterates the position set out in its Written Representations in regard to very special circumstances. The Applicant has comprehensively responded to each of TWUL’s points in its Response to Interested Parties Deadline 1 Submissions (REP2-019) on pages 105 to 110. TWUL’s Deadline 3 submission does not raise any new points.</p>
<p>2.9.11</p>	<p>The Applicant cannot assert what the London Borough of Bexley would have done, as this response suggests - there may be multiple reasons why the designation is MOL and not Green Belt.</p>	<p>TWUL seems not to recognise that it is the policy designation of Metropolitan Open Land (MOL) not Green Belt that applies within the Order limits. The Applicant recognises that MOL is afforded the same status and level of protection as Green Belt within development plan policy,</p>

Table ref	TWUL Further Response for D3	Applicant Response
	<p>There is no suggestion that the settlements of Erith and Thamesmead are merging. In any event, the Applicant's reference to the Bexley Local Plan is not relevant. The Applicant's Planning Statement is referring to the NPPF and this is what TWUL's written representation is responding to.</p> <p>The MOL encourages the recycling of derelict and other urban land due to its status as MOL: it has protected status and therefore the development of other urban land will be prioritised.</p> <p>TWUL reiterates its position and the reasons as detailed in paragraphs 2.31.1 – 2.31.3 of its written representation.</p>	<p>but they are different policies that focus on subtly different outcomes. Policy relevant to MOL has been comprehensively considered within the submitted documents, not least the Planning Statement (APP-040) and the Applicant's Response to Examining Authority's First Written Questions (REP3-029) (at Q1.13.0.1 and 1.13.0.2), These submissions also address Green Belt policy, to the extent relevant and important to considering MOL; but it is not that policy which applies within the Order limits.</p> <p>Notwithstanding the above, the Applicant provides below further explanation as to why the designation of MOL is applied within the Order limits, not Green Belt. It is noted that TWUL agrees that the settlements of Erith and Thamesmead are not merging; otherwise, the Applicant notes that TWUL raises no new points.</p> <p>The Green Belt designation has been applied to 14 areas of land around the edges of cities across England through powers established by the TCPA 1947. Around London, some small areas are also designated by an earlier statute in 1938.</p> <p>The Glossary of the London Plan itself defines Green Belt as '<i>A designated area of open land around London (or other urban areas)...</i>' and MOL as 'Extensive areas of land bounded by urban development around London that fulfils a similar function to Green Belt.' This definition of MOL is expanded at paragraph 8.3.1 of the London Plan which states that '<i>Metropolitan Open Land is strategic open land within the urban area.</i>' [emphasis added].</p> <p>The Site is clearly in an area bounded by urban development, rather than on the edge of London, and Figure 8.1 in the London Plan, which illustrates the areas within the plan area designated as both Green Belt and MOL, shows that it would be incongruous for this Site to be designated as Green Belt rather than MOL.</p>

Table ref	TWUL Further Response for D3	Applicant Response
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Interaction with Existing Consents

<p>2.9.12</p>	<p>TWUL queries where is it specified that the mitigation measures at Norman Road Field required by the 2005 Agreement lapse after 10 years.</p>	<p>The Applicant's full consideration of the planning history is set out at Appendix F to the Written Summary of the Applicant's Oral Submission at ISH 1 (REP1-027). Paragraph 1.2.7 of Appendix F references the Ecological Master Plan where it addresses matters under title 'Proposed Habitat Creation and Enhancement' quoting the fourth paragraph on page 7-27 of that document, which says (emphasis added): <i>'The Ecological Masterplan will be implemented through a series of Management Plans which will provide detailed prescriptions and specifications for habitat creation and management of the habitat in the long-term. The Management Plans will be written to cover a ten-year period. The Management Plans will also include requirement for annual monitoring so that the condition of the habitat can be recorded and adjustments made to the management regime accordingly ...'</i></p> <p>Further, LBB and the Applicant have agreed (SOCG Rev C, AS-080) that the mitigation measures required at Norman Road Field <i>'have been managed for the requisite period of ten years. Consequently, there remains no mitigation commitments at Norman Road Field.'</i></p>
<p>2.9.13</p>	<p>TWUL reiterates its position that it considers the temporary construction compounds proposed on the Sea Wall Field will have a significant and lasting adverse effect on the habitats and species thereon. It is also noted that the avoidance of large concrete foundations only applies "where practicable ". In other words, the Applicant is under no obligation to avoid using such foundations and will likely not avoid using them if it proves inconvenient or costly.</p>	<p>The Applicant will restore Sea Wall Field to a grassland habitat following its use for temporary construction compounds. The Applicant is confident that temporary effects resulting from the construction compounds proposed on Sea Wall Field will not lead to lasting adverse effects. Seawall Field comprises a semi-natural neutral grassland that has developed on land subject to modification by human process over the years (not least from construction of the River Thames flood wall, neighbouring Environment Agency pumping station which are evident from observation). The principles of creation and restoration of neutral grasslands of this type such</p>

Table ref	TWUL Further Response for D3	Applicant Response
	<p>TWUL reiterates the position set out in its Written Representation in relation to this response in all other respects.</p>	<p>that their ecological value is maintained are well established by the conservation community and readily deployed through landscaping and land management.</p> <p>Thus, the Applicant is certain Sea Wall Field will be returned to its former condition following completion of construction and removal of the temporary construction compounds.</p>

Table 2-10 Applicant's Response to Alex Illsey's Deadline 3 Submissions

Table ref	Summary of Issues Raised	Applicant Response
2.10.1	<p>There was no postal notification of this development for residents in Upper Belvedere where the Carbon Capture facility will be clearly visible from as on a hill and less than 1 mile away. There is also a significant reduction in enjoyment of views from Upper Belvedere. As you can see the Riverside 1 and Riverside 2 have already made a massive impact.</p>	<p>The Applicant distributed 18,354 postcards advertising its statutory consultation to residential and business addresses on 18 October 2023. This consultation zone extended from Royal Arsenal in the west to Erith in the east as well as stretching across the river to Dagenham and south to the train line, thereby focusing on the area most likely to be impacted by the proposed development. The consultation zone is shown in its response to Q1.0.2.1 in its Response to Examining Authority's First Written Questions (REP3-029) (at page 13).</p> <p>In order to ensure that news of the consultation reached communities beyond those in closest proximity to the Site, the Applicant also employed a number of other publicity channels:</p> <p>Posters advertising the statutory consultation were placed by the Applicant in the following seven community venues within the consultation zone:</p> <ul style="list-style-type: none"> • Asda Belvedere, Station Rd, Belvedere DA17 6DF; • Belvedere Pharmacy, 11 Picardy St, Belvedere DA17 5QQ; • Thamesmead Library, The Nest, 3 Cygnet Square, London SE2 9FA; • Thamesmere Library, Thamesmere Dr, London SE28 8RE; • Thamesmere Leisure Centre, Thamesmere Dr, London SE28 8RE; • The Link, Bazalgette Way, London SE2 9BS; • Sportsclub Thamesmead, London SE28 8NJ. <p>In response to feedback from the London Borough of Bexley, received during the draft SoCC consultation process, 16 posters were also displayed across public footpaths surrounding the Crossness Nature Reserve. Posters were also posted to a further five community venues in the consultation zone, with notes requesting that they be displayed for the duration of the statutory consultation:</p> <ul style="list-style-type: none"> • Abbey Wood Community Group, 4 Knee Hill, Abbey Wood, London SE2 0YS; • Birchmere Community Hub, Birchmere Park, Thamesmead, London, SE28 8AG; • Jubilee Centre, Lytton Strachey Path, (off Titmuss Avenue), Thamesmead, London, SE28 8DU; • Moring Sociable Club, Arnott Close, Thamesmead, SE28 8BG; and • Slade Green & Howbury Community Centre, Chrome Rd, Erith DA8 2EL. <p>Details of the consultation were posted on the Applicant's X account on four separate occasions, to mark key milestones in the statutory consultation.</p> <p>The Applicant placed copies of the statutory consultation materials, including the brochure and feedback form, at the following three community venues within the consultation zone, which included a location in Upper Belvedere:</p> <ul style="list-style-type: none"> • Upper Belvedere Community Library, Woolwich Road, Upper Belvedere, DA17 5EQ; • London Borough of Bexley Civic Offices, 2 Watling Street, Bexleyheath, Kent, DA6 7AT; • Belvedere Community Centre, Mithcell Close, Belvedere DA17 6AA.

Table ref	Summary of Issues Raised	Applicant Response
		<p>Two print advertisements were placed in the <i>Bexley and Bromley News Shopper</i> on the 18 October and 01 November 2023 to announce the launch of statutory consultation and publicise events. Digital advertisements were placed on the <i>Bexley and Bromley News Shopper</i> website and ran continuously during the statutory consultation period. Facebook posts were also made on the <i>Bexley and Bromley News Shopper's</i> page. This was in addition to the section 48 and section 47 notices that were placed in a mix of six local and national publications.</p> <p>A press release was released via the Applicant's website (https://www.corygroup.co.uk/) announcing the launch of statutory consultation. This press release was also distributed to local and trade media lists. A second press release was also distributed on 21 November 2023 as a reminder of the statutory consultation.</p> <p>The Applicant issued launch emails to political and community stakeholders, as well as hard to reach groups advertising the statutory consultation and providing details of events. This group of stakeholders included ward councillors for Belvedere, West Heath and Erith (as part of the London Borough of Bexley), which encompass Upper Belvedere.</p> <p>The Applicant has regularly updated the project website with details of the consultation, latest news (including Change Requests) and consultation documents.</p> <p>The Applicant believes that it has delivered an effective and proportionate approach to publicising the Proposed Scheme and that residents of Upper Belvedere were consulted using various different forms and techniques of consultation and would not have been materially disadvantaged by not receiving individual postal notification.</p>

2.11. LANDSUL LIMITED AND MUNSTER JOINERY (UK) LIMITED

Table 2-11 Applicant's Response to Landsul Limited and Munster Joinery (UK) Limited's Deadline 3 Submissions on Socio-Economics

Table Ref	Paragraph	Summary of Issues Identified	Landsul Limited & Munster Joinery (U.K.) Limited Response	Applicant's Response
2.11.1	1.1.5/3.1.2	The Applicant states at paragraph 3.1.2 that the loss of operations at Munster Joinery's Norman Road site was considered within the Environmental Statement as a worst-case scenario. However, the Applicant also maintains that they do not agree that the DCO would result in the loss of Munster Joinery's business from Belvedere (paragraph 1.1.5).	As Landsul Limited and Munster Joinery (U.K.) Limited have not agreed to a relocation, the DCO would result in the loss of the Munster Joinery site and existing facilities on Norman Road. Within the Environmental Statement, the loss of Munster Joinery from Belvedere should be considered as the central, rather than worst-case, scenario and the impacts assessed on this basis.	The Applicant considered the loss of the Munster Joinery site as a worst case scenario as part of the Environmental Statement as, at the time of writing, Landsul Limited and Munster Joinery were being approached regarding a relocation agreement which had not yet been reached. However, the Applicant's position has always been that it is willing to assist Landsul and Munster Joinery in relocating, including within Belvedere; that offer has not been taken up to date.
2.11.2	3.1.3	The Applicant outlines that the loss of jobs at Munster Joinery was considered as part of the operational human health assessment (within Chapter 14 of the Environmental Statement [APP-063]) alongside the permanent jobs generated from the Proposed Scheme, as the job losses associated with Munster Joinery would be permanent.	<p>As outlined within the Lichfields Report, the loss of jobs at the Munster Joinery site would occur as a result of the construction of the Proposed Scheme rather than from the operation of the Proposed Scheme; it is therefore inaccurate to consider these within the operational human health assessment. Additionally, the Applicant fails to provide justification for the approach adopted within Chapter 15 of the Environmental Statement [APP-064] and does not provide reasonable evidence as to why the assessment of the loss of employment at the Munster Joinery site was considered within the operational assessment, when it should have been considered within the assessment of effects during the construction phase.</p> <p>Within Environmental Impact Assessment, effects are assessed at the stage or phase they are expected to occur. It is not the case, as stated by the Applicant, that all permanent effects can be assessed together without regard to when they would occur. In their approach, the Applicant fails to recognise that the adverse effects of the permanent job losses at Munster Joinery would occur several years before the Project would be fully operational and the benefits from permanent job creation realised.</p> <p>As such, an individual assessment of the loss of jobs at Munster Joinery on human health should be considered for the construction phase. By considering the loss of jobs at Munster Joinery in tandem with the permanent jobs generated from the scheme in net terms, the adverse effects on human health resulting from the loss of jobs are understated within the Applicant's assessment in Chapter 14 of the Environmental Statement [APP-063]. This is also true of the approach within Chapter 15 [APP-064] which considers the job losses from Munster Joinery at the</p>	<p>The Applicant agrees that the point of impact would be during the construction phase. However, as the jobs would be long-term losses they have been considered within the operation phase of the Proposed Scheme within Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064), in order to provide a more holistic view of the impacts. This approach is consistent with the EIA Scoping Report¹¹, EIA Scoping Opinion¹² and Appendix 4-2: Scoping Opinion Response of the Environmental Statement (Volume 3) (APP-076).</p> <p>Chapter 14: Population, Health and Land Use of the Environmental Statement (Volume 1) (APP-063) concludes that there would be a significant adverse effect on Munster Joinery if a relocation site is not agreed. As identified in the ES and above, the Applicant has offered to assist in relocating this business.</p> <p>When considering the overall impact of the Proposed Scheme on employment and economy, the loss of jobs at Munster Joinery during the construction phase rather than the operation phase would not change the outcomes of the human health assessment presented in Chapter 14: Population, Health and Land Use of the Environmental Statement (Volume 1) (APP-063) and socio-economic assessment presented in Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064).</p>

¹¹ Cory Environmental Holdings Ltd. (2023). 'Environmental Impact Assessment Scoping Report: Cory Decarbonisation Project'. Available at: [Environmental Impact Assessment Scoping Report](#)

¹² Planning Inspectorate. (2023). 'Environmental Impact Assessment Scoping Opinion: Cory Decarbonisation Project.' Available at: <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010128/EN010128-000026-EN010128%20-%20Scoping%20Opinion.pdf>

			operational phase, when in reality these job losses would occur during the construction phase.	
2.11.3	3.1.4	The Applicant states that Chapter 15 of the Environmental Statement [APP-064] has “considered the impacts on the local and regional economy”.	As outlined within paragraph 2.25 of the Lichfields Report, Chapter 15 of the Environmental Statement [APP-064] defined the local study area as the London Borough of Bexley (LBB) while the Regional Study Area is Greater London. However, the assessment of employment is only considered at a Greater London level. This results in an incomplete assessment of the effects of the Proposed Scheme on local employment, which is critical when considering the potential loss of jobs at the Munster Joinery site.	The assessment has been based on professional judgement and considers the impacts of the Proposed Scheme on the London Borough of Bexley economy as well as Greater London economy, in the context of the calculated employment opportunities that would be generated and lost as a result of the Proposed Scheme. The assessment approach is consistent with the EIA Scoping Report ¹¹ , EIA Scoping Opinion ¹² and Appendix 4-2: Scoping Opinion Response of the Environmental Statement (Volume 3) (APP-076) .
2.11.4	3.1.5	The Applicant highlights that there is no set methodology for socio-economic assessments undertaken for the purposes of an Environmental Impact Assessment, and that the assessment carried out in Chapter 15 of the Environmental Statement [APP-064] was based on information available at the time of writing, in accordance with the Additionality Guide.	Paragraphs 3.2 and 3.3 within the Lichfields Report acknowledges that there is no UK legislation or guidance for the preparation of socio-economic assessment. However, the Applicant requires a stronger methodological framework to define both sensitivity and magnitude criteria, in line with wider Environmental Impact Assessment best practice and the approach established for the wider Environmental Statement and set out within Chapter 4: EIA Methodology [APP-053]. The Applicant has failed to provide justification for the omission of the application of sensitivity and magnitude criteria within the assessment in Chapter 15 of the Environmental Statement [APP-064] and therefore has not provided sufficient evidence to support the conclusions of their assessment.	Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064) is based on professional judgement and has been undertaken in accordance with best practice and industry standards. Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064) is in accordance with the EIA Scoping Report ¹¹ , EIA Scoping Opinion ¹² and Appendix 4-2: Scoping Opinion Response of the Environmental Statement (Volume 3) (APP-076) , which sets out the agreed assessment approach with statutory bodies. Suitable mitigation has been proposed on the basis of the conclusions within the chapter. LBB has agreed (LBB SoCG (AS-080)) both the submitted Outline Skills and Employment Plan (REP2-022) and the controls set out within the Draft DCO (as updated alongside this submission) .
2.11.5	3.1.6/3.1.7	The Applicant considers the employment estimates provided within the Lichfields Report to be high and that actual employment numbers should have been provided.	As stated within Section 2.0 of the Lichfields Report, the reassessment was undertaken using industry standard, best-practice methodologies and information on the public domain to provide an accurate evidence-based assessment of the adverse effects- utilising information that would have been available to the Applicant at the time the assessment was prepared. In order to undertake a representative re-appraisal of the assessment, Lichfields has made use of the same level of detail as was available to the Applicant. Paragraph 3.14 of the Lichfields Report estimates an existing baseline employment at the Munster Joinery site that is only marginally higher than the estimates set out within Chapter 15 of the Environmental Statement [APP064]. This is attributable to a more detailed breakdown of floorspace uses based on the extant planning permission for the site and the floorspace recorded by the Valuation Office Agency ('VOA'), both of which are in the public domain and available to the Applicant. The Lichfields Report goes beyond the Applicant's assessment by considering the future baseline, i.e., the total floorspace that would be	The Applicant notes that the Lichfields Report provides an estimate of the number of existing jobs and potential future jobs supported by the Munster Joinery site. As set out in Paragraphs 3.1.9 and 3.1.10 of Applicant's Response to Landsul and Munster Joinery's Deadline 1 Submission (REP2-021) , the Applicant does not consider that there would be a significant effect on the local study area (London Borough of Bexley) when considering the potential future jobs generated by the expansion of Munster Joinery, as set out in the Lichfields Report. Additionally, the planning application for the expansion of Munster Joinery has been in place for a number of years and there has been no previous indication that the facility would be built. Given the timescales of the Proposed Scheme, it is not correct to say that there is a future baseline of jobs being lost at a facility that currently has no credible prospect of existing. In any event, jobs would be created by the Proposed Scheme on

			<p>delivered at the site once it has been fully developed in line with the extant planning permission. This full consideration of the future baseline scenario, which is notably absent in the Applicant's assessment, results in a higher estimate of the potential number of jobs that would be lost at Munster Joinery as a result of the Proposed Development but provides a more granular estimate of employment.</p>	<p>that same land. Further the jobs created by the Proposed Scheme would be presented in the context of the full Skills and Employment Plan, which would provide full employment opportunities including apprenticeships and career progression.</p> <p>Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064) is based on professional judgement and has been undertaken in accordance with best practice and industry standards. Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064) is in accordance with the EIA Scoping Report¹¹, EIA Scoping Opinion¹² and Appendix 4-2: Scoping Opinion Response of the Environmental Statement (Volume 3) (APP-076), which sets out the agreed assessment approach with statutory bodies.</p>
2.11.6	3.1.9	<p>The Applicant outlines that it does not agree that the effects the local study area (London Borough of Bexley) would be "significant in the context of the local employment market".</p>	<p>The Lichfields assessment has been based on a pre-defined set of criteria for both magnitude and sensitivity. As outlined within paragraph 3.21 and 3.22 of the Lichfields Report, the sensitivity and magnitude criteria applied to the assessment, as well as the justification for each category applied, provide a more robust framework for the overall assessment of effects.</p> <p>As noted above, the Applicant's assessment within Chapter 15 of the Environmental Statement [APP-064], fails to provide an assessment of employment in the local study area. The assessment also fails to set out a methodology which defines and applies both sensitivity and magnitude criteria to the assessment of effects.</p>	<p>Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064) is based on professional judgement and is in accordance with best practice and industry standards. Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064) is in accordance with the EIA Scoping Report¹¹, EIA Scoping Opinion¹² and Appendix 4-2: Scoping Opinion Response of the Environmental Statement (Volume 3) (APP-076), which sets out the agreed assessment approach with statutory bodies.</p>
2.11.7	3.1.10	<p>The Applicant states that they do not anticipate a significant effect on business and commercial activity within the local study area.</p>	<p>As outlined at paragraphs 3.25 to 3.35 inclusive within the Lichfields Report, the Munster Joinery site at Norman Road is an integral part of the company's operations within the UK. Munster Joinery is one of the largest producers of energy efficient doors and windows in the UK, and the Norman Road site serves as its sole distribution centre for London and the South East, which forms a significant proportion of Munster Joinery's customer base. The Norman Road site has a strategic location, with easy access to the M25 allowing efficiency in distribution while also offering good public transport accessibility for their employees.</p> <p>Additionally, Munster Joinery intend to expand their operations on the site; this expansion has extant permission under 13/00918/FULM and the foundations have been laid on site. The compulsory purchase and loss of Munster Joinery from the site would not only result in the loss of future employment and business output growth, but also the sunk costs of investment in the expansion of the facilities would become redundant.</p> <p>The Applicant has failed to recognise that Munster Joinery's products are highly specialised, and the business operates within a market</p>	<p>Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064) is based on professional judgement and is in accordance with best practice and industry standards. Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064) is in accordance with the EIA Scoping Report¹¹, EIA Scoping Opinion¹² and Appendix 4-2: Scoping Opinion Response of the Environmental Statement (Volume 3) (APP-076), which sets out the agreed assessment approach with statutory bodies.</p> <p>Chapter 14: Population, Health and Land Use of the Environmental Statement (Volume 1) (APP-063) concludes that there would be a significant adverse effect on Munster Joinery if a relocation site is not agreed. As identified in the chapter and above, the Applicant has offered to assist in relocating this business.</p>

			<p>characterised by a small number of firms. As highlighted at paragraph 3.30 of the Lichfields Report, the company is a supplier to several major housebuilders, and the loss of the Munster Joinery site could have knock-on implications for the construction sector and, ultimately, housing delivery in London and the South East. The Applicant notes that Greater London is a well-connected economy, which further highlights how the loss of Munster Joinery would have an adverse impact on a range of commercial businesses within the region. Following the defined sensitivity and magnitude criteria established within the Lichfields Report – based on an industry standard and best-practice approach – this impact is considered to be significant. No alternative magnitude and sensitivity criteria are proposed by the Applicant.</p>	<p>As set out in Paragraphs 3.1.9 and 3.1.10 of Applicant's Response to Landsul and Munster Joinery's Deadline 1 Submission (REP2-021), the Applicant does not consider that there would be a significant effect on the local study area (London Borough of Bexley) when considering the potential future jobs generated by the expansion of Munster Joinery, as set out in the Lichfields Report. Additionally, the planning application for the expansion of Munster Joinery has been in place for a number of years and there has been no previous indication that the facility would be built.</p> <p>Greater London is a well-connected economy and it is anticipated there is the opportunity for Munster Joinery customers to utilise other firms that provide similar products.</p>
<p>2.11.8</p>	<p>3.1.11</p>	<p>The Applicant sets out that they are seeking to reach an agreement on a relocation of the Norman Road site to support existing business operations and avoid job losses.</p>	<p>As outlined within the Lichfields Report and in the responses outlined above, the Applicant has not fully assessed the potential adverse effects on Munster Joinery resulting from the Proposed Scheme. As set out within Landsul Limited and Munster Joinery (U.K.) Limited's written representations [REP1- 059/REP1-060] relocation of the existing site facilities would not be a viable solution given the scale of investment that has been already made at the site and the plans for future expansion (which has extant planning permission) and the wider disruption to business operations and the local workforce.</p> <p>The distribution site at Norman Road is supplied from Munster Joinery's main manufacturing centre located in Wellesbourne, Warwickshire, and employs over 900 staff. The site in Wellesbourne has been recently expanded to accommodate increased demand in the products developed by Munster Joinery from the market in London and the South East. The compulsory purchase would not only have significant adverse effects at the site at Norman Road but would have significant knock-on effects for the wider business.</p> <p>In this context, it is incumbent upon the Applicant to have considered the job losses and wider business disruption resulting from the compulsory purchase of the Munster Joinery site on Norman Road as the central scenario within the impact assessment, and hence to provide evidence and justification for their assessment and consideration of the associated mitigation measures.</p>	<p>Chapter 14: Population, Health and Land Use of the Environmental Statement (Volume 1) (APP-063) concludes that there would be a significant adverse effect on Munster Joinery if a relocation site is not agreed. As identified in the chapter and above, the Applicant has offered to assist in relocating this business.</p> <p>Landsul Limited & Munster Joinery indicate that the relocation of the existing facility off Norman Road would not be a viable solution. The Applicant asks that Landsul Limited & Munster Joinery justifies this statement and provide proof that:</p> <ul style="list-style-type: none"> • a replacement facility is not viable, particularly given the nature of the facility (i.e. a warehouse), the facility does not rely on the characteristics of the site (e.g. it does not rely on access to the River Thames etc) and the facility services a large area (i.e. London and South East); and • there would be a disruption to the workforce given that Munster Joinery employs agency staff. <p>The Applicant's position has always been that it is willing to assist Landsul Limited & Munster Joinery in relocating, including within Belvedere; that offer has not been taken up to date. If a relocation site was found offering the same functionality as the existing site off Norman Road, the wider business would not be impacted by the Proposed Scheme.</p> <p>The Applicant has considered the loss of the Munster Joinery within Chapter 14: Population, Health and Land Use of the Environmental Statement (Volume 1) (APP-063) and Chapter 15: Socio-economics of the</p>

				<p>Environmental Statement (Volume 1) (APP-064). However, it should be noted Munster Joinery annual accounts show it employs no staff at the Norman Road premises.</p>
<p>2.11.9</p>	<p>N/A</p>	<p>In response to Lichfield Report submitted as part of Landsul Limited and Munster Joinery Submission (REP3-045 and REP3-046)</p>	<p>The Applicant has provided a formal response [REP2-021] to the Lichfields Report, submitted as Annex E to Landsul Limited's and Munster Joinery (U.K.) Limited's written representations to the Cory Decarbonisation Project DCO [REP1-059/REP1- 060]. This submission sets out Lichfields' responses to the matters raised by the Applicant, on behalf of Landsul Limited and Munster Joinery (U.K.) Limited, jointly. There are a number of areas where the Applicant has not provided sufficient further justification or evidence on the basis for their approach, and accordingly, fails to fully capture the extent of the potential significant adverse socio-economic effects and associated mitigation measures, including reasonable alternatives to compulsory purchase. The negative socio-economic impacts insofar as they relate to the Munster Joinery site and existing facilities are, therefore, significantly understated. Accordingly, Landsul Limited and Munster Joinery (U.K.) Limited maintain their position that the Applicant must revisit the assessment of socio-economic effects to ensure an appropriate range of impacts from the Proposed Scheme on Munster Joinery is considered and to provide an accurate, precise and justified evaluation. Consequently, as mitigation for the significant adverse effects identified within the Lichfields Report, the design and footprint of the Proposed Scheme should be reconsidered to avoid the compulsory purchase of the Munster Joinery site on Norman Road, and the resulting disruption to local labour markets and wider business stability.</p>	<p>Chapter 14: Population, Health and Land Use of the Environmental Statement (Volume 1) (APP-063) concludes that there would be a significant adverse effect on Munster Joinery if a relocation site is not agreed. As identified in the ES and above, the Applicant has offered to assist in relocating this business.</p> <p>Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064) is based on professional judgement and is in accordance with best practice and industry standards. Chapter 15: Socio-economics of the Environmental Statement (Volume 1) (APP-064) is in accordance with the EIA Scoping Report¹¹, EIA Scoping Opinion¹² and Appendix 4-2: Scoping Opinion Response of the Environmental Statement (Volume 3) (APP-076), which sets out the agreed assessment approach with the statutory bodies.</p> <p>As set out in Paragraph 3.1.2 of Applicant's Response to Landsul and Munster Joinery's Deadline 1 Submission (REP2-021), the Applicant's fundamental position is that pursuant to the Statement of Reasons (APP-020) and Planning Statement (APP-040):</p> <ul style="list-style-type: none"> • the compelling case in the public interest for the Proposed Scheme outweighs the worst case loss of Munster Joinery/Landsul's land and operations; and • that the benefits of the Proposed Scheme outweigh the socio-economic impacts of the loss of Munster Joiner's operations, no matter how they are characterised.



APPENDIX A: APPLICANT'S RESPONSE TO NATURAL ENGLAND AIR QUALITY POSITION LETTER

DECARBONISATION

Cory Decarbonisation Project

PINS Reference: EN010128

February 2025

Revision A

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1. INTRODUCTION

1.1. SUMMARY

- 1.1.1. This document has been prepared following written exchanges and oral discussions (most recently during a meeting held on 19th February 2025) between Natural England, the Applicant and WSP's Air Quality Team. It seeks to set out clearly the Applicant's position on the appropriateness of its methodology and answer questions that have been put to it by Natural England.
- 1.1.2. In relation to impacts on ecological sites, it must be emphasised that with the latest embedded mitigation taken into account, *the Proposed Scheme has a beneficial impact on air pollution impacts over all ecological sites with exception of Lesnes Abbey Wood Local Nature Reserve where there is a marginal disbenefit*. That is to say, the maximum consented contribution of the Riverside Campus¹ to nitrogen deposition, and nitrogen oxides and ammonia concentrations, will be lower with the Proposed Scheme than its contribution without the Proposed Scheme over all sites except Lesnes Abbey Wood.

1.2. BACKGROUND

- 1.2.1. **Figure 1** below provides an illustration of the definition of terms used in the air quality assessment presented in **Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)**.
- 1.2.2. The Process Contribution (PC) is defined by the Applicant as the contribution of the Riverside Campus to ground level pollutant concentrations and deposition. As such, in the Current Baseline scenario, this includes operation of Riverside 1 only whilst in the Future Baseline scenario both Riverside 1 and Riverside 2 are operating. Construction of Riverside 2 is progressing well (including the main building built and flue stacks erected and in place) and due to be operational in 2026.

¹ Riverside 1, Riverside 2 and the Proposed Scheme, inclusive.

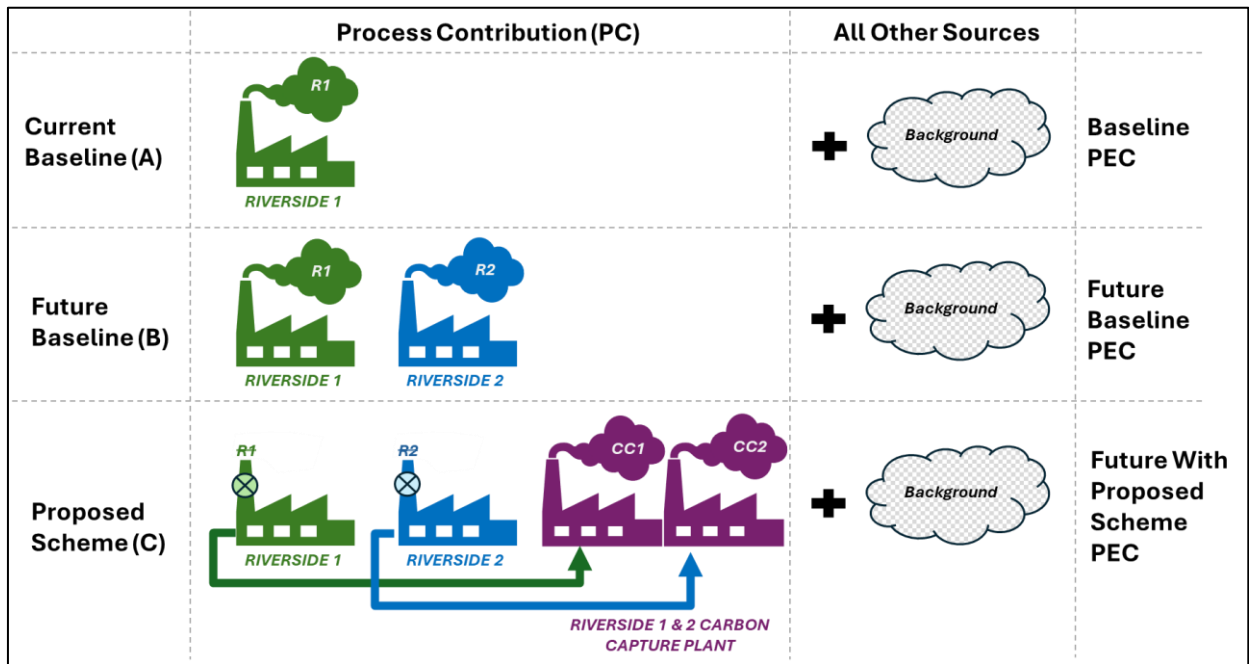


Figure 1: Illustration of the Definition of Terms Used in the Air Quality Assessment

1.2.3. With the Proposed Scheme, emissions from the existing Riverside 1 and 2 stacks will be wholly diverted to Stack(s) associated with the proposed Carbon Capture Facility. For both Riverside 1 and Riverside 2, emissions from their existing stacks and emissions from the Carbon Capture Facility Stack(s) are mutually exclusive; i.e. there will be no emissions from the corresponding existing stacks at Riverside 1 and Riverside 2 when the Carbon Capture Facility is operating.

1.2.4. The Applicant has defined the Air Quality Impact of the Proposed Scheme as:

$$\text{Impact of Proposed Scheme} =$$

$$\text{Proposed Scheme (Scenario C) minus Future Baseline (Scenario B)}$$

1.2.5. This is consistent with the other assessments presented in the Environmental Statement (Chapters 5: Air Quality (Volume 1) (APP-054) to Chapter 11: Water Environment and Flood Risk (Volume 1) (APP-060) and Chapter 13: Greenhouse Gases (Volume 1) (APP-062) to Chapter 20: Major Accidents and Disasters (Volume 1) (APP-069)), as explained in Section 4.8 and Section 4.9 of Chapter 4: Environmental Impact Assessment Methodology of the Environmental Statement (Volume 1) (APP-053).

1.2.6. The future operation of Riverside 2, and continued operation of Riverside 1, are inherent to the operation of the Proposed Scheme; i.e. the Carbon Capture Facility only operates when those plants are operating. The full benefits of the Proposed Scheme come from the amount of carbon captured from both energy from waste facilities. Therefore, the Applicant considers a comparison of the Proposed Scheme (Scenario C) and the Current Baseline (Scenario A) (as is currently being advocated by Natural England) to be a misrepresentation of the proposal for which consent is being sought, namely the installation of a Carbon Capture Facility within the Riverside Campus, with Riverside 1 and 2 both operational.

- 1.2.7. The total future concentration or deposition, termed Predicted Environmental Concentration (PEC), is the sum of the Process Contribution in any scenario and the contribution from all other sources (assumed to equate to the background deposition/ concentrations provided by the APIS website, without discounting any contribution of Riverside 1²).
- 1.2.8. Furthermore, no decrease in background concentrations/deposition has been assumed over time for ecological receptors. This is a conservative approach since APIS data show that a consistent decreasing trend over time. Therefore, the calculated 'impact' of the Proposed Scheme is the same whether calculated from future Process Contributions with and without the Proposed Scheme, or Predicted Environmental Concentrations with and without the Proposed Scheme.

² Background concentrations/deposition are provided by APIS on a 1 km x 1km grid. Whilst it would be possible to calculate the area averaged deposition/concentration from Riverside 1 using the ADMS model used for this assessment, this would not be directly comparable to the area averaged contribution calculated using the model (EMEP) used to generate the APIS data. To ensure a conservative approach, no discounting of existing contribution has been undertaken in the background. Given the relatively small contribution of Riverside 1 to total concentrations / deposition, this is not a significant constraint on the assessment.

2. RESPONSE TO NATURAL ENGLANDS' AIR QUALITY QUESTIONS

2.1. ASSESSMENT METHODOLOGY

- 2.1.1. Natural England has stated to the Applicant that it considers that: *“the methodology used does not follow established methods due to its novel nature, and the fact that parts of the existing Riverside development are consented but not yet built”*.
- 2.1.2. The Applicant's position is that the methodology does follow established methods and, specifically, the consideration of the impact of the Proposed Scheme as being the difference between (future) concentrations with the Proposed Scheme operating and the Future Baseline are consistent with the approach adopted throughout the Environmental Statement holistically.
- 2.1.3. For example, the relevant guidance documents include Institute for Air Quality Management guidance on Land-Use Planning and Development Control (2017)³.
- 2.1.4. Paragraph 6.21 of this guidance states that:
“The possibility of cumulative impacts should also be considered. Therefore, there may be a case for modelling another future scenario, with committed development excluded, to allow the cumulative impact of all such future developments with planning permission to be assessed as one combined impact at selected receptors. In most circumstances it is more likely that committed development would be included in the future baseline where the information exists to facilitate this.”
- 2.1.5. Paragraph 6.22, clauses k and i state:
“k. Cumulative impacts and effects: In many cases, the impact of the development being assessed will have a cumulative effect with other planned developments, which may or may not have planning permission. Where these developments have been granted planning consent and are therefore ‘committed’ developments, their impacts should be assessed cumulatively with those of the application site. The contribution of these committed developments should be accounted for in the ‘future baseline’, provided that their contributions can be quantified.”
“i. Assessment of impacts. Results of modelling the ‘with development’ scenario should be clearly set out in tables, and where appropriate as concentration contours on maps of the study area. Comparisons should be made with the ‘no development’ conditions. Differences in concentrations between ‘with development’ and ‘no development’ conditions should also be tabulated.”
- 2.1.6. That is to say, air quality assessments are typically and routinely undertaken as inherently cumulative, where the impacts of future developments are included in the future baseline. In

³ Environmental Protection UK and Institute of Air Quality Management. (2017). ‘Land Use Planning & Development Control: Planning for Air Quality’. Available at: <https://iaqm.co.uk/text/guidance/air-quality-planning-guidance.pdf>

this case, given the dependence of the Proposed Scheme on the operation of Riverside 2, and the fact that emissions from Riverside 1 and Riverside 2 are wholly redirected from their permitted stacks to the Stack(s) of the Carbon Capture Facility, it is most appropriate to consider the operation of Riverside 2 within the Future Baseline.

- 2.1.7. This does not mean that the Applicant is discounting the contribution of Riverside 2, or Riverside 1 for that matter, from the contribution of the Riverside Campus to future deposition and pollutant concentrations. The future PECs always include the future Process Contributions from both Riverside 1 and Riverside 2, whether or not the Carbon Capture Facility is operating. The impact of the Proposed Scheme merely reflects the switch of emission point and flue gas composition from the existing to the Carbon Capture Facility Stack(s), and the addition of emissions of amines/nitrosamines from the carbon capture process.
- 2.1.8. Natural England has no published guidance that is relevant to non-road schemes. Its guidance document, NEA001 (Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations⁴) specifically states, without caveat or reference to general principles being relevant to other project types, (paragraph 1.15):
- "This guidance is limited to plans or projects with road traffic emissions. It does not apply where the subject plan or project relates to non-road point sources or Environmental Permitting of intensive livestock units."*
- 2.1.9. Paragraph 1.16 of the guidance notes that it does not specifically cover nationally statutory nature conservation sites such as Sites of Special Scientific Interest. However, it then states that the principles are applicable to both European Sites (under The Conservation of Habitats and Species Regulations 2017 (as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019) ('the Habitats Regulations') 2017⁵) and for other designations. As noted above, no such reference to general principles is made with reference to non-road sources.
- 2.1.10. Notwithstanding this, the Applicant considers that the approach taken is consistent with both the principles of the NEA001 guidance⁴ and other guidance documents for the assessment of impacts from road schemes, such as the Design Manual for Roads and Bridges⁶, where the assessment of impacts is based on the changes in future traffic flows with inherent growth (commonly referred to as the Do Something and Do Minimum scenarios) and no direct comparison is made to baseline traffic flows.

⁴ Natural England. (2018). Natural England's approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations. Available at:

<https://publications.naturalengland.org.uk/publication/4720542048845824#:~:text=This%20internal%20operational%20Guidance%20Not%20describes%20how%20Natural,Regulations%E2%80%99%29%20likely%20to%20generate%20road%20traffic%20emissions%20t>

⁵ HMSO. (2017). 'The Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations)'. HMSO, London'. Available at: <https://www.legislation.gov.uk/uksi/2017/1012/contents/made>

⁶ Highways Agency. (2019). 'Design Manual for Roads and Bridges, LA 104 Environmental assessment and monitoring'. Available at: <https://www.standardsforhighways.co.uk/dmrb/search/0f6e0b6a-d08e-4673-8691-cab564d4a60a>

2.1.11. Within air quality assessments, comparisons to baseline concentrations are not generally made, since the aforementioned decreasing trends in air pollution levels means that such a comparison shows a retardation or acceleration of the future trend. It is very rare, and certainly not the case for the Proposed Scheme, that the impact of a project results in an absolute deterioration in conditions in comparison to the Current Baseline. As such, comparisons between the With Proposed Scheme scenario and the Current Baseline are not precautionary and we reiterate that the impacts presented in **Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)** and subsequent documents (which are listed below) robustly represent the impact of the retrofitting of a Carbon Capture Facility to the Riverside Campus.

- **Air Quality Contour Plots and Updated Tables (Appendix B of the Response to Relevant Representations Appendices (AS-044))**, dated September 2024.
- **Ammonia Emissions Limits Technical Note (Appendix B of the Applicant's Response to Interested Parties Deadline 1 Submissions (REP2-019))**, dated December 2024.

Natural England Requests for Information

2.1.12. In the following section, the information requested by Natural England (as shown in bold) is set out with commentary.

Please set out the baseline data on Nitrogen, NOx and NH3

2.1.13. In the following tables, Baseline and Future Baseline data are provided for the Inner Thames Marshes SSSI and the Epping Forest SAC/SSSI since these are the sites that were the subject of discussions between the Applicant and Natural England (as described in the **Natural England Statement of Common Ground (as updated alongside this submission)**). The location of the data within information already provided within **Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)** and/or the **Ammonia Emissions Limits Technical Note (Appendix B of the Applicant's Response to Interested Parties Deadline 1 Submissions (REP2-019))** is indicated where appropriate.

Table 1: Current Baseline and Future Baseline Nitrogen Deposition (R1 = Riverside 1 alone; R2 = Riverside 2 alone; R1+R2 = Combined process contribution)

Scenario	Habitat Site	Source	Max PC 2018 (kgN/ha/yr)	Max PC 2019 (kgN/ha/yr)	Max PC 2020 (kgN/ha/yr)	Max PC 2021 (kgN/ha/yr)	Max PC 2022 (kgN/ha/yr)	Maximum Over 5 Years (kgN/ha/yr)	Background Nitrogen Deposition (kgN/ha/yr)	Maximum PEC over 5 Years (kgN/ha/yr)
Current Baseline	Epping Forest	R1 PC	0.04	0.03	0.03	0.03	0.04	0.04	32.22	32.26
		R2 PC	0.00	0.00	0.00	0.00	0.00	0.00		
		R1+R2 PC	0.04	0.03	0.03	0.03	0.04	0.04		
	Inner Thames Marshes	R1 PC	0.61	0.71	0.84	0.56	0.61	0.84	14.37	15.21
		R2 PC	0.00	0.00	0.00	0.00	0.00	0.00		
		R1+R2 PC	0.61	0.71	0.84	0.56	0.61	0.84		
Future Baseline	Epping Forest	R1 PC	0.04	0.03	0.03	0.03	0.04	0.04	32.22	32.28
		R2 PC	0.02	0.02	0.02	0.02	0.02	0.02		
		R1+R2 PC	0.06	0.05	0.04	0.04	0.06	0.06		
	Inner Thames Marshes	R1 PC	0.61	0.71	0.84	0.56	0.61	0.84	14.37	15.57
		R2 PC	0.26	0.30	0.36	0.26	0.26	0.36		
		R1+R2 PC	0.86	1.01	1.20	0.81	0.87	1.20		

Table 2: Current Baseline and Future Baseline Concentrations of Ammonia (NH₃)

Scenario	Habitat Site	Source	Max PC 2018 (µg/m ³)	Max PC 2019 (µg/m ³)	Max PC 2020 (µg/m ³)	Max PC 2021 (µg/m ³)	Max PC 2022 (µg/m ³)	Maximum Over 5 Years (µg/m ³)	Background NH ₃ (µg/m ³)	Maximum PEC over 5 Years (µg/m ³)
Current Baseline	Epping Forest	R1 PC	0.00	0.00	0.00	0.00	0.00	0.00	2.04	2.04
		R2 PC	0.00	0.00	0.00	0.00	0.00	0.00		
		R1+R2 PC	0.00	0.00	0.00	0.00	0.00	0.00		
	Inner Thames Marshes	R1 PC	0.09	0.11	0.13	0.09	0.10	0.13	1.43	1.56
		R2 PC	0.00	0.00	0.00	0.00	0.00	0.00		
		R1+R2 PC	0.09	0.11	0.13	0.09	0.10	0.13		
Future Baseline	Epping Forest	R1 PC	0.00	0.00	0.00	0.00	0.00	0.00	2.04	2.04
		R2 PC	0.00	0.00	0.00	0.00	0.00	0.00		
		R1+R2 PC	0.01	0.00	0.00	0.00	0.01	0.01		
	Inner Thames Marshes	R1 PC	0.09	0.11	0.13	0.09	0.10	0.13	1.43	1.62
		R2 PC	0.04	0.05	0.06	0.04	0.04	0.06		
		R1+R2 PC	0.14	0.16	0.19	0.13	0.14	0.19		

Table 3: Current Baseline and Future Baseline Concentrations of Nitrogen Oxides (NOx)

Scenario	Habitat Site	Source	Max PC 2018 (µg/m ³)	Max PC 2019 (µg/m ³)	Max PC 2020 (µg/m ³)	Max PC 2021 (µg/m ³)	Max PC 2022 (µg/m ³)	Maximum Over 5 Years (µg/m ³)	Background NOx (µg/m ³)	Maximum PEC over 5 Years (µg/m ³)
Current Baseline	Epping Forest	R1 PC	0.04	0.03	0.03	0.03	0.05	0.05	40.01	40.06
		R2 PC	0.00	0.00	0.00	0.00	0.00	0.00		
		R1+R2 PC	0.04	0.03	0.03	0.03	0.05	0.05		
	Inner Thames Marshes	R1 PC	1.13	1.33	1.57	1.05	1.15	1.57	32.68	34.26
		R2 PC	0.00	0.00	0.00	0.00	0.00	0.00		
		R1+R2 PC	1.13	1.33	1.57	1.05	1.15	1.57		
Future Baseline	Epping Forest	R1 PC	0.04	0.03	0.03	0.03	0.05	0.05	40.01	40.08
		R2 PC	0.02	0.01	0.01	0.01	0.02	0.02		
		R1+R2 PC	0.06	0.05	0.04	0.04	0.07	0.07		
	Inner Thames Marshes	R1 PC	1.13	1.33	1.57	1.05	1.15	1.57	32.68	34.71
		R2 PC	0.33	0.38	0.45	0.32	0.33	0.45		
		R1+R2 PC	1.46	1.70	2.02	1.37	1.48	2.02		

- 2.1.14. As set out in the **Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)**, in both the Current and Future Baseline (both referred to as the Baseline in the chapter and associated appendices), nitrogen deposition over designated sites widely exceeds the critical load over ecological sites whether Riverside 1 alone (Current Baseline) or Riverside 1 and 2 (Future Baseline) are operating. Moreover, the Riverside Campus makes a relatively small contribution to total deposition over the sites.
- 2.1.15. Nitrogen oxides concentrations are elevated and exceed their critical level where road traffic impacts are significant, including over Epping Forest SAC/SSSI. Elsewhere they lie within the critical level. For ammonia, concentrations exceed the critical level where that level is set for the protection of lower plants (lichen/bryophytes), including Epping Forest, but are otherwise within the critical level. As for nitrogen deposition, these conclusions are determined by background concentrations of nitrogen oxides and ammonia and are independent of the contribution from the Riverside Campus.

Please set out clearly the PC of Riverside 1 alone. If the assessment will consider that these emissions would cease to be generated once the proposed development is operational, an assessment against the APIS background would also be acceptable as this should include Riverside 1 emissions in its values. Riverside 2 is not constructed/ operational, so consented emissions would not form part of the current background and would not be “replaced” by emissions from the proposed scheme.

- 2.1.16. The contribution of Riverside 1 alone is provided in **Tables 1 to Table 3** above for the Baseline and Future Baseline scenarios.

The PC of Riverside 2 is based on modelled data. Case law is clear that assessments must be made in light of the existing environmental conditions of the site. Plans and Projects not yet operational/unimplemented portions of permissions should be considered in the cumulative/in-combination assessment. Please set out why the assessment methodology has deviated from this approach.

- 2.1.17. The rationale for the methodology is set out above in **Paragraph 2.1.1 to Paragraph 2.1.11** of this Technical Note.
- 2.1.18. It is also noted that whilst Natural England states that the PC of Riverside 2 is based on modelled data, it is also true that the PC of Riverside 1 and the background concentration/deposition from APIS are also based on modelled data.

Please clearly set out what has changed between the ES predicted emissions and the updated emissions in the Ammonia Emissions Limits technical note; i.e. is the change in data from the implementation of ELVs alone, or are there other factors which led to the reduced emission predictions?

- 2.1.19. The change to the Emission Limit Value for ammonia is the only change that was made between the data presented in **Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)** (as updated for nitrogen deposition in the **Air Quality Contour Plots and Updated Tables (Appendix B of the Response to Relevant Representations Appendices (AS-044))** and the **Ammonia Emissions Limits Technical Note (Appendix B of the Applicant's Response to Interested Parties Deadline 1 Submissions (REP2-019))**).
- 2.1.20. To be clear, the revised emission limit values proposed for ammonia result in a reduction in the consented mass emissions of ammonia from the Riverside Campus.
- 2.1.21. These revised emissions limit values are embedded mitigation within the Proposed Scheme relating to SSSI impacts and will be proposed to the Environment Agency during the permitting process. The revised emission limit values proposed for ammonia has been incorporated at 1.12 of the **Mitigation Schedule (REP1-010)** as embedded mitigation and is secured via Requirement 14 of the **Draft DCO (updated alongside this submission)**.
- 2.1.22. They have been derived in consultation with potential technology providers and represent an achievable emission level with post carbon capture emissions abatement.

The methodology uses a screening distance of 2km for cumulative effects. The Environmental Statement says that a distance of 15km will be used. Please justify the use of the 2km assessment zone?

- 2.1.23. **Paragraph 5.5.5 of Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)** states that the Study Area for the Proposed Scheme extends 15km in all directions from the Carbon Capture Facility, located within the Site Boundary. For ecological receptors, following Environment Agency guidance⁷, **Paragraph 5.5.9 to Paragraph 5.5.11** of the chapter describes the designated sites (sensitive receptors) that have been included within the assessment, which differs depending on the type of designated site (internationally, nationally and locally designated). A Study Area of 2km has been applied for locally designated ecological sites only.
- 2.1.24. For ecological impacts, the approach to limiting the distance within which cumulative impacts are considered is consistent with that adopted for the Riverside 2 Environmental Statement.

⁷ Environment Agency. (2021). 'Air emissions risk assessment for your environmental permit'. Available at: <https://www.gov.uk/guidance/air-emissions-risk-assessment-for-your-environmental-perm>

2.2. IN-COMBINATION ASSESSMENT

Given NE is no longer confident that the cited percentage from the Project alone is based on the true emissions from the proposed scheme itself, a reconsideration of the in-combination assessment should be made.

- 2.2.1. **Table 4 to Table 6** set out the impact of the Proposed Scheme, including a breakdown of the contribution of Riverside 1 and Riverside 2 when emitting via the existing stacks (denoted R1 and R2) or via the Stack(s) of the Carbon Capture Facility (denoted CC1 and CC2). Values shown in bold in the tables have previously been presented in Tables A2 and A4 of **Ammonia Emissions Limits Technical Note (Appendix B of the Applicant's Response to Interested Parties Deadline 1 Submissions (REP2-019))** and **Table 23 of Appendix 5-3: Detailed Model Pollutant Results of the Environmental Statement (Volume 3) (APP-079)**.
- 2.2.2. It is important to note that the maximum process contributions to concentrations and deposition from R1 alone, R2 alone and R1+R2 combines (and similarly with the Carbon Capture Facility, and impacts) do not necessarily occur in the same location.
- 2.2.3. The beneficial impacts of the Proposed Scheme over Epping Forest SAC/SSSI and Inner Thames Marshes SSSI can clearly be seen for nitrogen deposition and ammonia concentrations. Both are driven by the impact of the embedded mitigation of reducing the consented emissions of ammonia from the Riverside Campus.
- 2.2.4. The tables also show the comparison of the future concentrations/deposition with the Proposed Scheme against the Current Baseline.
- 2.2.5. Before considering the results, it is re-emphasised that the comparison to the Current Baseline does not take into account the anticipated decrease in concentrations/deposition over time. **Figure 2** below shows the trend in nitrogen deposition over Epping Forest SAC. A similar trend is seen over Inner Thames Marshes SSSI. Since 2003, nitrogen deposition has decreased by 1.6% per annum; since 2013 it has decreased by 2.8% per annum. Furthermore, the deposition for 2021 is markedly lower than the deposition for 2020 (as a central year of 3 years) presented within **Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)**. These decreases are significantly greater than the impact of the Proposed Scheme and demonstrate that a robust comparison to the Current Baseline in terms of the PEC (total deposition/ concentration) would show that an improving trend, irrespective of the operation of R2, or of the Proposed Scheme. The comparison should therefore be interpreted as a comparison of the Process Contributions only and, as set out previously, does not equate to the impact of the Proposed Scheme, namely the installation of carbon capture within the Riverside Campus.

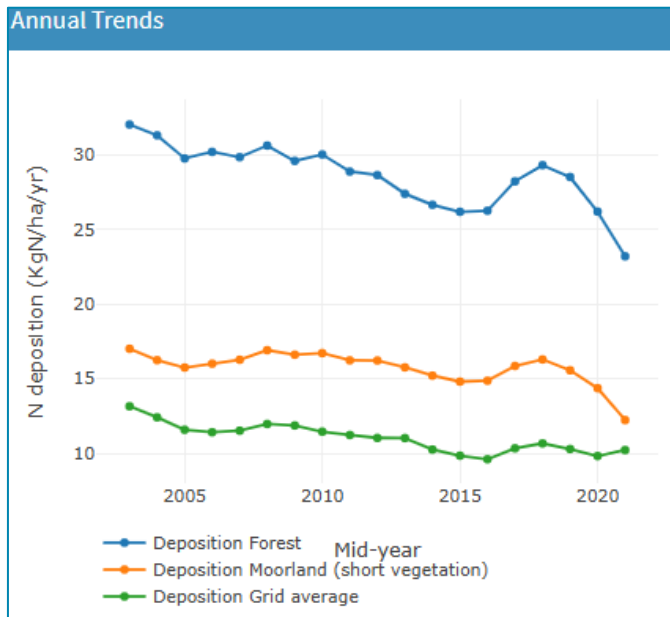


Figure 2: APIS Trends in Maximum Background Deposition over Epping Forest

- 2.2.6. Notwithstanding this, the data show that over Inner Thames Marshes SSSI the impact of the Proposed Scheme on nitrogen deposition is beneficial and a maximum (least beneficial) of -0.24% of the critical load; over Epping Forest SAC, the impact is also beneficial and a maximum of -0.02% of the critical load.
- 2.2.7. Even before application of the embedded mitigation for ammonia emissions, the Applicant and Natural England had previously agreed that, with a maximum impact of 0.35% of the critical load over Epping Forest SAC (**Natural England Written Representation (REP1-038)**) (and so, in the context of the People over Wind judgment, the measure is not one introduced for the purposes of reducing effects to that designated site), there was no requirement for an in-combination assessment of impacts.
- 2.2.8. Importantly, over Epping Forest SAC, the comparison of the Riverside Campus PC with the Proposed Scheme to the Current Baseline PC (Riverside 1 alone) is a maximum impact of +0.33% of the critical load and 0.09% of the critical level for ammonia. These impacts are within the 0.35% impact presented previously agreed as not requiring an in-combination assessment.
- 2.2.9. It therefore remains the Applicant's position that there is no scientific rationale for an in-combination assessment and that to undertake such an assessment at significant distance from the Site remains impractical and unproportionate.

Table 4: Impacts on Nitrogen Deposition at Epping Forest and Inner Thames Marshes (kgN/ha/yr)

Habitat Site	Scenario		Max PC 2018	Max PC 2019	Max PC 2020	Max PC 2021	Max PC 2022	Max over 5 Years	Back-ground	Maximum PEC
Epping Forest	Future Baseline	R1 PC	0.04	0.03	0.03	0.03	0.04	0.04	32.22	32.28
		R2 PC	0.02	0.02	0.02	0.02	0.02	0.02		
		R1+R2 PC	0.06	0.05	0.04	0.04	0.06	0.06		
	With Proposed Scheme	CC1 PC	0.03	0.02	0.02	0.02	0.03	0.03	32.22	32.27
		CC2 PC	0.02	0.01	0.01	0.01	0.02	0.02		
		Marine PC	0.00	0.00	0.00	0.00	0.00	0.00		
		CC1+CC2+M PC	0.05	0.04	0.04	0.03	0.05	0.05		
	Impact	PC (CC1+CC2+M) - PC (R1+R2)	0.00	0.00	0.00	0.00	0.00	0.00		
		As % of Critical Load	-0.07%	-0.06%	-0.04%	-0.02%	-0.04%	-0.02%		
	Comparison With Baseline	PC (CC1+CC2+M) - PC (R1)	0.01	0.01	0.01	0.01	0.02	0.02		
As % of Critical Load		0.24%	0.20%	0.22%	0.22%	0.33%	0.33%			
Inner Thames Marshes	Future Baseline	R1 PC	0.61	0.71	0.84	0.56	0.61	0.84	14.37	15.56
		R2 PC	0.26	0.30	0.36	0.26	0.26	0.36		
		R1+R2 PC	0.86	1.00	1.19	0.81	0.87	1.19		
	With Proposed Scheme	CC1 PC	0.41	0.48	0.56	0.40	0.42	0.56	14.37	15.35
		CC2 PC	0.31	0.37	0.42	0.30	0.32	0.42		
		Marine PC	0.01	0.01	0.01	0.01	0.01	0.01		
		CC1+CC2+M PC	0.73	0.86	0.98	0.71	0.75	0.98		
	Impact	PC (CC1+CC2+M) - PC (R1+R2)	-0.02	-0.01	-0.01	-0.02	-0.02	-0.01		
		As % of Critical Load	-0.39%	-0.30%	-0.24%	-0.36%	-0.43%	-0.24%		
	Comparison With Baseline	PC (CC1+CC2+M) - PC (R1)	0.13	0.15	0.16	0.16	0.13	0.16		
As % of Critical Load		2.57%	2.97%	3.11%	3.11%	2.70%	3.11%			

Table 5: Impacts on NH3 at Epping Forest and Inner Thames Marshes (µg/m3)

Habitat Site	Scenario		Max PC 2018	Max PC 2019	Max PC 2020	Max PC 2021	Max PC 2022	Maximum Across 5 Years	Back-ground	Maximum PEC
Epping Forest	Future Baseline	R1 PC	0.003	0.003	0.003	0.002	0.004	0.004	2.038	2.044
		R2 PC	0.002	0.002	0.002	0.002	0.003	0.003		
		R1+R2 PC	0.006	0.005	0.004	0.004	0.006	0.006		
	With Proposed Scheme	CC1 PC	0.002	0.002	0.002	0.002	0.002	0.002	2.038	2.042
		CC2 PC	0.002	0.001	0.001	0.001	0.002	0.002		
		CC1+CC2+M PC	0.004	0.003	0.003	0.003	0.004	0.004		
	Impact	PC (CC1+CC2) - PC (R1+R2)	-0.001	-0.001	-0.001	-0.001	-0.001	-0.001		
		As % of Critical Level	-0.09%	-0.07%	-0.06%	-0.06%	-0.09%	-0.06%		
	Comparison With Baseline	PC (CC1+CC2) - PC (R1)	0.001	0.000	0.001	0.001	0.001	0.001		
		As % of Critical Level	0.06%	0.04%	0.06%	0.06%	0.09%	0.09%		
Inner Thames Marshes	Future Baseline	R1 PC	0.095	0.110	0.131	0.087	0.096	0.131	1.433	1.624
		R2 PC	0.044	0.050	0.060	0.043	0.044	0.060		
		R1+R2 PC	0.138	0.161	0.191	0.130	0.140	0.191		
	With Proposed Scheme	CC1 PC	0.050	0.058	0.068	0.049	0.051	0.068	1.433	1.563
		CC2 PC	0.046	0.055	0.062	0.046	0.048	0.062		
		CC1+CC2 PC	0.096	0.113	0.130	0.094	0.099	0.130		
	Impact	PC (CC1+CC2) - PC (R1+R2)	-0.008	-0.007	-0.007	-0.008	-0.008	-0.007		
		As % of Critical Level	-0.25%	-0.25%	-0.22%	-0.26%	-0.28%	-0.22%		
	Comparison With Baseline	PC (CC1+CC2) - PC (R1)	0.006	0.007	0.008	0.009	0.006	0.009		
		As % of Critical Level	0.21%	0.24%	0.26%	0.31%	0.20%	0.31%		

Table 6: Impacts on NOx at Epping Forest and Inner Thames Marshes (µg/m3)

Habitat Site	Scenario		Max PC 2018	Max PC 2019	Max PC 2020	Max PC 2021	Max PC 2022	Maximum Across 5 Years	Back-ground	Maximum PEC
Epping Forest	Future Baseline	R1 PC	0.04	0.03	0.03	0.03	0.05	0.05	40.01	40.08
		R2 PC	0.02	0.01	0.01	0.01	0.02	0.02		
		R1+R2 PC	0.06	0.05	0.04	0.04	0.07	0.07		
	With Proposed Scheme	CC1 PC	0.05	0.04	0.04	0.04	0.06	0.06	40.01	40.09
		CC2 PC	0.02	0.01	0.01	0.01	0.02	0.02		
		Marine PC	0.00	0.00	0.00	0.00	0.00	0.00		
		CC1+CC2+M PC	0.07	0.06	0.05	0.05	0.08	0.08		
	Impact	PC (CC1+CC2+M) - PC (R1+R2)	0.01	0.01	0.01	0.01	0.02	0.02		
		As % of Critical Level	0.04%	0.03%	0.04%	0.04%	0.06%	0.06%		
	Comparison With Baseline	PC (CC1+CC2+M) - PC (R1)	0.03	0.02	0.02	0.02	0.03	0.03		
As % of Critical Level		0.09%	0.08%	0.08%	0.07%	0.11%	0.11%			
Inner Thames Marshes	Future Baseline	R1 PC	1.13	1.33	1.57	1.05	1.15	1.57	32.68	34.71
		R2 PC	0.33	0.38	0.45	0.32	0.33	0.45		
		R1+R2 PC	1.46	1.70	2.02	1.37	1.48	2.02		
	With Proposed Scheme	CC1 PC	1.20	1.40	1.62	1.17	1.23	1.62	32.68	34.98
		CC2 PC	0.42	0.50	0.57	0.42	0.44	0.57		
		Marine PC	0.08	0.09	0.10	0.09	0.09	0.10		
		CC1+CC2+M PC	1.71	2.00	2.29	1.68	1.76	2.29		
	Impact	PC (CC1+CC2+M) - PC (R1+R2)	0.31	0.35	0.40	0.33	0.32	0.40		
		As % of Critical Level	1.04%	1.18%	1.34%	1.10%	1.05%	1.34%		
	Comparison With Baseline	PC (CC1+CC2+M) - PC (R1)	0.58	0.67	0.73	0.63	0.61	0.73		
As % of Critical Level		1.94%	2.24%	2.42%	2.11%	2.03%	2.42%			

2.3. EMISSIONS LIMIT VALUES (ELVS) AS MITIGATION

Please clarify the legislative context of ELVs i.e. why can they be relied upon to be included in a precautionary impact assessment?

Please clarify which kind of 'mitigation' terminology has been used when referring to the use of ELVs?

- 2.3.1. As described above, further to detailed discussions with potential technology providers, it has been agreed that the emission limits for ammonia post carbon capture, can be reduced from those initially assumed within the dispersion modelling.
- 2.3.2. These reduced emission limits are embedded mitigation, and form part of the Proposed Scheme for which consent is being sought. They will be guaranteed, in the way in which all emissions from the Proposed Scheme will be guaranteed, through the permitting process.
- 2.3.3. The revised emission limits (10mg/Nm³ in post carbon combustion gases, at reference conditions) will be embedded within the permit application. The revised emission limit values proposed for ammonia has been incorporated at 1.12 of the **Mitigation Schedule (REP1-010)** as embedded mitigation and is secured via Requirement 14 of the **Draft DCO (updated alongside this submission)**.

3. CONCLUSION

3.1.1. In summary, it is the Applicant's position that:

- The methodology followed for the assessment is robust and consistent with best practice and relevant guidance.
- The proposed emissions limits for ammonia are achievable and can be enacted via the permitting process.
- Over the most sensitive ecological sites i.e. those designated at national and international levels, the installation of the Carbon Capture Facility within the Riverside Campus will result in reduced process contributions to nitrogen deposition and ammonia concentrations in comparison to the Future Baseline.



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