

Written Representation - Ridgeway Users



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Glossary

BAT - Best Available Technique

BNG - Biodiversity Net Gain

CCS - Carbon Capture And Storage

CCF - Carbon Capture Facility

CEFAS - Centre for Environment, Fisheries & Aquaculture Science

Cory - The Applicant

DPSIR - Driver-Pressure-State-Impact-Response

EA - Environment Agency

EfW - Energy From Waste

EN-1 - Overarching National Policy Statement for Energy

EQS - Environmental Quality Standard

ExA - Examining Authority

ExQ1 - Examining Authority Question 1

MoU - Memorandum of Understanding

PFAS - Per- and poly-fluoroalkyl substances

PFHxS - Per- and poly-fluoroalkyl substances (PFAS) which are included under Persistent Organic Pollutant (POP) regulation.

PFOAs - Per- and poly-fluoroalkyl substances (PFAS) which are included under Persistent Organic Pollutant (POP) regulation.

PFOS - Per- and poly-fluoroalkyl substances (PFAS) which are included under Persistent Organic Pollutant (POP) regulation.

PFCAs - Per- and poly-fluoroalkyl substances (PFAS) which are included under Persistent Organic Pollutant (POP) regulation.

POPs - Persistent Organic Pollutants

SVOCs - Semi-Volatile Organic Compounds

VOCs - Volatile Organic Compounds

WLC - Whole Life Carbon

Executive Summary

As part of this written representation, Ridgeway Users will make the following points:

1. Further failure to properly engage with Ridgeway Users & PFAS pollution risks

We wish to outline failures to engage with Ridgeway users and propose a path going forward. Alongside this we seek to challenge Cory's assertions about the absolute primacy of permitting in pollution control. The guidance appears to show a more nuanced picture and allows the ExA to have at least some authority over this more broadly - similarly, there are international obligations which must be adhered to.

We are asking Cory to conduct new flue gas and rainwater discharge tests for the PFAS suite using a suitable method and sharing the results with us. If no PFAS pollution is found in properly conducted tests, we can drop this issue.

2. Romani Issues & Clarifications From Deadline 3

We wish to clarify our positions regarding responses from ExQ1 and emphasise a further need for proper references for Romani communities.

Written Representation

1. Further Failure To Properly Engage with Ridgeway Users and PFAS Pollution Risks

1.1 Site Inspection & Breakdown of Communication

1.1.1 At the site inspection, the ExA suggested that parties get together at another date to negotiate/talk and that they are shown around the site. In later conversations with one of the attending Cory party, we asked for both a discussion and a tour (one member has been asking for this since October 2023 both in writing and in person). Sadly, we have been told that neither is possible by the DCO deadline. We are unsure of where this puts the applicant in relation to its obligation to engage with stakeholders.

We suggested in person at the site visit that we would be willing to drop our environmental complaints in return for Cory commencing new testing of their flue gas and rainwater discharges for the full PFAS suite using a suitable, correct, method and sharing the results with us, allowing us to put this issue to bed.

Ultimately, this testing is the only way we can effectively eliminate Cory as a potential source of these harmful pollutants. Regrettably, they have refused to come to the table with us. We are unsure why the applicant is so resistant to making any meaningful concessions in this regard.

What data would we need to provide that would be plausible for us to attain for the applicant to take this issue seriously and test their flue gas and discharges directly?

1.1.2 We believe that, at present, this does not seem to indicate the position of a company that is serious about both engagement and protecting the nature reserve in the best possible condition for residents and wildlife. We note that the testing suite laid out in their rule 17 letter does seem to include a CEFAS suite, but we understand that does not include PFAS (as far as we are aware).

As we have noted previously, the diffuse effect of previously recorded PFAS emissions from other EfW facilities means that in other cases, these chemicals have been observed spreading widely, possibly impacting large areas.^{1 2} Thus flue gas tests make the most sense.

We would be very happy to have it proven to us that these PFAS come from another source and are likely historic in nature.

¹ Björklund, S., Weidemann, E., & Jansson, S. (2023). Emission of Per- and Polyfluoroalkyl Substances from a Waste-to-Energy Plant—Occurrence in Ashes, Treated Process Water, and First Observation in Flue Gas. *Environmental science & technology*, 57(27), 10089–10095.

² Meegoda, J. N., Bezerra de Souza, B., Casarini, M. M., & Kewalramani, J. A. (2022). *A Review of PFAS Destruction Technologies*. *International journal of environmental research and public health*, 19(24)

1.2 Permitting Regime Gaps & EN-1 Guidance Challenge

1.2.1 At the hearing, the applicant stated, when challenged by Ridgeway Users as to whether there are gaps in the permitting regime which could have harmful effects (specifically when we brought up the issue of potential unmeasured PFAS in flue gas) that:

'It's not that there is no gap, and I would just make the point that the position stated there is directly contrary to national policy statement or government policy. That may or may not be agreed with, but that is the policy position. And there is no doubt, because the permitting regime specifically covers air quality monitoring from industrial installations.'

This paired with conversations with the applicant at the site visit seems to indicate that Cory believes the permit negotiated with the EA and other licensing bodies will be almost entirely the sole arbitrator of their pollution considerations. Having looked at the position of national policy in EN-1, we are not entirely sure that is the case. Permits do not occur in a vacuum; they interact with a variety of other issues. In addition, the ExA appears to have at least some authority.

1.2.2 If that is what Cory is referencing, the guidance does indicate that the Secretary of State must indeed consider that permitting regimes work as intended at controlling the substances they are required to control. PFAS however, are currently outside the permit; it appears there is no such obligation presently. Similarly, according to guidance laid out in Section 4 of EN-1 The Secretary of State is also meant to consider that:

'The effects of existing sources of pollution in and around the site are not such that the cumulative effects of pollution when the proposed development is added would make that development unacceptable, particularly in relation to statutory environmental quality limits.'

We submit that our data shows there is current pollution (above the EQS for PFOS) and Cory's future works, without proper testing, remediation and mitigation strategies, could plausibly lead to greater cumulative pollution. It is incumbent on the applicant to prove that they can avoid this and that they are not currently contributing to it.

1.2.3 Section 4.3 in this same guidance clearly states that:

'The applicant must set out information on the likely significant environmental, social and economic effects of the development, and show how any likely significant negative effects would be avoided, reduced, mitigated or compensated for, following the mitigation hierarchy. This information could include matters such as employment, equality, biodiversity net gain, community cohesion, health and well-being.'

We believe we have put evidence forward of a probable and significant environmental impact. New work on avoidance, reduction, mitigation or compensation does not appear to have been added since we raised this concern. Again we suggest it is incumbent on the applicant, and not for us, to prove to the ExA that these effects are not caused by them or otherwise make suitable remediation if they are.

1.2.4 Similarly, alongside guidance for The Secretary of State, there is additional legal background to cast doubt on this assertion.

Section 4.12.4 states that:

'Larger industrial facilities undertaking specific types of activity are required to use Best Available Techniques (BAT) to reduce emissions to air, water, and land. Agreement on what sector-specific BAT standards are, will now be determined through a new UK-specific BAT process.'

Much of this guidance can be found in *Integrated Pollution Prevention and Control – The Developing and Setting of Best Available Techniques (BAT)*, a key government document on how to install best practices. This includes CCS and EfW. This facility will rely on both to function.

1.2.5 This document in Section 2: Relevant International Obligations states:

'International policy formulation will be developed in line with the current Devolution MoU and its accompanying International Relations (IR) Concordat. International obligations will be implemented in line with these agreements. In this respect, the Parties will automatically use any updated IR Concordat, and the wider outcomes 4 Best Available Techniques of the Joint Intergovernmental Relations (IGR) Review, as the basis for such international considerations...

...International obligations within the scope of the framework areas include three directions on control of emissions under the UNECE Convention on Long-range Transboundary Air Pollution (CLRTAP) that require consideration of BAT regarding Persistent Organic Pollutants (POPs), Heavy Metals and abatement acidification, eutrophication and ground-level ozone. The full list is provided in Annex C.'

POPs regulation constitutes part of these international obligations. PFOA, PFOS, PFHxS and PFCAs are all captured under The Stockholm Convention. We note that it seems that Cory already tests bi-annually for some POPs such as PCBs, but we have as of yet found no data on PFAS within their emissions data. This appears to match what they told us both in writing and in person previously about not testing for PFAS.

We have looked at 2018 Riverside 2 application testing submissions and could not find any PFAS results appended either but evidence of some testing for other POPs, which appears to back up what we have said previously.

1.2.6 Furthermore, whilst Environmental Permitting is a separate process, the guidance states it is complementary to the planning process and thus is well within its scope - especially where pollution is counter to the public interest.

Section 4.12.2 of EN-1 states that:

'The planning and pollution control systems are separate but complementary. The planning system controls the development and use of land in the public interest. It plays

a key role in protecting and improving the natural environment, public health and safety, and amenity, for example by attaching conditions to allow developments which would otherwise not be environmentally acceptable to proceed and preventing harmful development which cannot be made acceptable even through conditions. Pollution control is concerned with preventing pollution through the use of measures to prohibit or limit the releases of substances to the environment from different sources to the lowest practicable level. It also ensures that ambient air, water, and land quality meet standards that guard against impacts to the environment or human health.'

This statement indicates that it is up to the ExA to make decisions regarding the protection of public interest, public health, safety and other decisions - including the attachment of conditions for mitigation, testing etc.

1.2.7 An example of the broader interactions which must be considered is that PFAS pollution can harm wildlife and thus have an impact on Biodiversity Net Gain (BNG). This is a clear demonstration of how these interactions need to be properly worked out and discussed.

2. Romani Issues & Clarifications From Deadline 3

2.1 Responses To Deadline 3 & LaBARDS

2.1.1 The applicant states in its answers to ExA's written questions 9.18 that:

'Ridgeway Users misunderstands the Outline LaBARDS, and criticises language that it erroneously attributes to the Applicant. The Outline LaBARDS does not, and the Applicant would not, use deprecating language of any community. In fact, the reference given is from section 1.7.2 of the Crossness Nature Reserve Management Plan (2016-2020) that is appended to the Outline LaBARDS. This is a document prepared by TWUL, not the Applicant.'

We believe the applicant misunderstands us. It is easy, when discussing structural equalities issues, to believe that this is generalised rather than site-specific. We were using this reference to demonstrate that anti-Romani discrimination is specific to this site as well as institutional, regardless of who wrote it originally. Hence why we stated:

'This discriminatory language is present in this planning process and needs to be addressed.'

and:

'Cory have even published documents containing discriminatory language against Romani people...'

Our use of the term publish, rather than written, was intended to show that it was included but not written by Cory. We do not believe Cory is a racist company and to the extent that it may be considered discriminatory, it was unwitting on its part.

2.1.2 However, there is also a lack of understanding demonstrated by the repeated use of ‘Travellers’ (a separate ethnicity) or even ‘Gypsy’ (which can be considered a slur by some, but not all Romani) rather than ‘Romani’ or ‘Romany’ in other parts of Cory documentation, which indicates a plausible lack of understanding of cultural nuance.

2.1.3 The reason we decided to include this was because we saw that Cory stated earlier in the document that:

‘The existing management plan (see Appendix 2) for the Crossness LNR provides a sound framework for future management.’

Appendix 2 contains the disputed text. We believe that describing this document as a ‘sound framework’, indicates they overlooked this issue.

2.2 Responses To The Hearing

2.2.1 In the hearing, when Thames Water brought up a Romani Grazier’s opposition to the plans, we heard the following response from the applicant:

‘We have not made any secret of the fact in the statement of Common Ground that Miss Anderson is not in favour of the scheme. We have recorded that, so we would be willing to meet Miss Anderson on short notice. And I don’t think there is anything that we would do differently.’

2.2.2 We have located a statement of common ground with Mr Percy Anderson, but we cannot see a Statement of Common Ground from Miss Anderson. In the statement from Mr Percy Anderson, we could find no evidence recorded of Mr Anderson directly objecting to the scheme in principle, other than general questions regarding general matters. We would like clarity on where they have recorded this disagreement.

2.2.3 Likewise, we find a general absence of mention in other documentation of opposition to the scheme by Romani individuals. It is plausible we may have missed this, but we wish to be pointed in the correct direction if that is the case. This potential omission is important as exact and detailed information on the nature of Romani objections is necessary for the ExA to make an informed decision.

2.3 Other Issues In Deadline 3

2.3.1 Cory states in responses to ExQ1 that the Romani community are not unduly affected, but also that the licensed Romani graziers are the only ones who can access much of the land they will build on.

We find this argument contradictory. As a group with primary access, they surely are the ones primarily affected.

2.3.2 The applicant states in Document 9.17, 2.5.17 that -

'The Proposed Scheme does not include the relocation of grazing land. The outcome of the Outline LaBARDS would be to improve the habitat condition and overall biodiversity value of Floodplain Grazing Marsh and secure appropriate long-term management, including for graziers.'

We reiterate that the lack of relocation of grazing land and meeting Equalities Act obligations are not compatible. A reduction in land area is a reduction in land area. Our best understanding of the applicant's plan for the grazing marshes is they wish to raise water levels over some of the grasslands and plant trees. We believe it is unlikely this will serve any additional benefit to the horses as this seems to reduce their grazing area. In fact, it might compound this loss further.

Grazing horses have been found in ecological studies to play a key role in marshland habitat maintenance.^{3 4} This could reduce their ability to improve the quality of the marshland habitats and affect BNG - a key tenet of the application.

³ Lovász, L., Korner-Nievergelt, F., & Amrhein, V. (2021). Grazer density and songbird counts in a restored conservation area. PeerJ, 9, e10657.

⁴ Levin, P.S., Ellis, J., Petrik, R. and Hay, M.E. (2002), Indirect Effects of Feral Horses on Estuarine Communities. Conservation Biology, 16: 1364-1371.
<https://doi.org/10.1046/j.1523-1739.2002.01167.x>