

Planning Inspectorate
National Infrastructure Planning

Our ref: SL/2023/122661/07-L01
Your ref: EN010128

Sent via email

Date: 25 March 2025

Dear Examining Authority,

**Application by Cory Environmental Holdings Limited for an Order Granting
Development Consent for the Cory Decarbonisation Project Ref: EN010128**

**The Examining Authority's further written questions and requests for
information (ExQ2) Issued on 11 March 2025**

Thank you for your further written questions and requests for information (ExQ2) letter which we received on the 11 March 2025. Please see our response the relevant questions in the table below.

I hope you find this response helpful. If you have any questions please contact me.

Yours sincerely,

██████████
Planning Specialist

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Question	EA response
<p>Q2.4.2 Carbon cost of development platform vs disruption to CCF plant during flooding</p> <p>Having regard to the EA's response to ExQ1.4.0.2 [REP3-037] and noting that discussions between the EA and the Applicant are ongoing, please could the parties provide an update on this issue including any conclusions on an extended exercise 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>	<p>During a meeting between the Development Team and the EA on 13 February 2015 the Development Team explained more detailed work that they have now undertaken to assess the parts of the CCF that are tolerant and those that are vulnerable to being damaged during a flood. Some of the buildings and the equipment needs to be raised. Lower development platform levels have been worked up. The Environment Agency accept that it is reasonable for certain buildings to be raised to protect vulnerable elements from flood damage and have now agreed to revised wording for Design Principle DP_CL 1.5 to give affect to that which has been agreed. The applicant has confirmed that in the event of breach flooding from the River Thames the Power Stations Riverside 1 and 2 would not remain operational thereby limiting the importance of the CCF being protected from flooding. The link in question Q2.4.2 between the carbon cost of a raised development platform vs disruption to CCF plant during flooding therefore now has limited relevance.</p>
<p>Q2.4.3 Carbon cost of development platform vs disruption to CCF plant during flooding</p> <p>The EA are requested to advise whether the Applicant's response on pages 12/13 of [REP4-033] and Applicant's Flood Risk Technical Note - Breach Assessment Scenarios document [REP3-035] (Appendix C to Applicant's Response to Examining Authority's First Written Questions) have addressed the point about the extent to which the carbon capture equipment would be out of action and the opportunities to protect the different</p>	<p>The EA advise that the Applicant's response on pages 12/13 of [REP4-033] and Applicant's Flood Risk Technical Note - Breach Assessment Scenarios document [REP3-035] (Appendix C to Applicant's Response to Examining Authority's First Written Questions) have only partly addressed the point(s) about the extent to which the carbon capture equipment would be out of action and the opportunities to protect the different equipment from damage during flooding.</p> <p>The EA note the conclusion that, '<i>... the existing Riverside 1 and Riverside 2 facilities for which the Proposed Scheme serves are also unlikely to</i></p>

<p>equipment from damage during flooding.</p>	<p><i>remain operational should a breach occur meaning that the Carbon Capture Facility would not need to be operational itself.'</i></p> <p>Please also see the EA answer to Q2.4.2</p> <p>We recommend that if at the detailed design stage the area of buildings excluded from flooding and the areas where equipment will make the development platform hydraulically rougher increase above that which has been modelled that the development's impact on flooding is reassessed. .</p>
<p>Q2.9.1 Flood Risk</p> <p>The EA published new flood and coastal erosion risk data on 28 January 2025 following the release of its "National assessment of flood and coastal erosion risk in England 2024". Are there any implications for the relevant assessments for the proposed development, as a result of these updated data sets? The ExA is aware that further data updates are also expected to follow on 25 March 2025. If the EA considers that any updates to the relevant assessments are required, the ExA asks that it communicates this to the Applicant as soon as possible and ahead of Deadline 5, with an update provided at Deadline 5, in the interests of seeking a resolution of this matter prior to the close of Examination.</p>	<p>The new flood and coastal erosion risk data that has been published by the EA on 28 January, 2025, and the data that is planned to be published on 25 March 2025, is more high level than the assessments undertaken for the CCF. The EA confirms that for this development there are therefore no implications for the relevant assessments as a result of these updated data sets.</p>
<p>Q2.9.2 Ground raising – development platform in vicinity of watercourses</p> <p>Do the provisions in Revision C of the Design Principles and Design Code [REP3-007] address the EA's concern over what they considered to be "excessive flexibility created by the wording of the Design Principles and the Design Code in terms of how close</p>	<p>On Friday 21 March 2025, the EA agreed a further revision to the wording of Design Principle DP_PL 1.9 and Design Code DC_CCF 1.24 with the Applicant which addresses our concerns. We will work with the Applicant on the detailed design if the order is granted.</p>

<p>the ground raising and the works can extend towards the watercourses”?</p>	
<p>Q2.20.1 WFD assessment</p> <p>Further to the Applicant’s and the EA’s responses [AS-087][AS-088] to the ExA’s Rule 17 Questions (R17Q1.1 – R17Q1.8) [PD-013]. Given the outstanding disagreements between the Applicant and the EA relating to the Applicant’s WFD Assessment, the ExA is mindful of the duty on the SoS (as the appropriate authority under the 2017 WFD Regulations³) to secure compliance with the WFD. The EA’s position [REP3-037] regarding the applicant’s WFD Assessment currently before the ExA [APP-106] is that “WFD compliance cannot logically be demonstrated”. Whilst it is noted that work is ongoing to resolve the identified concerns, including production of a Technical Note by the applicant, the ExA notes comments from the EA [AS-088] that: “We required a revised WFD assessment. We have no knowledge of what the applicant means by a technical note nor do we anticipate it would be adequate to replace a revised WFD assessment”. The ExA also notes key differences of opinion in the responses to R17Q1.3 [PD-013] from the Applicant [AS-087] and the EA [AS-088], regarding whether additional baseline data is required to inform the assessment. The ExA has significant concerns about the amount of Examination time remaining to resolve this issue. In the event that compliance with the WFD cannot be demonstrated, the ExA would need information to give to the SoS regarding a derogation under Article 4.7 of the WFD - or in that absence of that information, would be</p>	<p>Consequently: i) Please can the Applicant and EA confirm whether there is a risk that a derogation case (without prejudice or otherwise) might be necessary?</p> <p>We have now met, and agreed that a technical note, provided that it addresses the fundamental questions of compliancy that remained outstanding (including incorporation of the new sediment data into any arguments for compliance and calculations to determine more quantitatively [using baseline water column data] whether compliance could be justified), would be an acceptable way forward to us, not necessitating a full revision of the previously submitted WFD assessment. Furthermore, we have received the technical note and find it to provide convincing evidence that the proposed dredge methodology and associated dredged material disposal will fully comply with the water quality element requirement of the Water Framework Directive.</p> <p>Compliance with WFD from a marine water quality perspective is now not in doubt and we have no objection to the grant of a DCO in this regard.</p> <p>While the applicant has demonstrated that the development will be WFD compliant from a water quality perspective we do however point out that the proposed maintenance dredging, whilst the case has been demonstrated for compliance under the existing regulatory framework during this cycle 3 (2021-27) River Basin Management Plan (RBMP) (by reference to the capital works as a (very) “worst case” version of a future maintenance dredge scenario which is a</p>

likely to have no alternative other than to recommend refusal of the application, irrespective of any other merits or demerits of the case. Consequently: i) Please can the Applicant and EA confirm whether there is a risk that a derogation case (without prejudice or otherwise) might be necessary? ii) Please can the Applicant and the EA provide an update on progress of matters against the timelines set out in their responses to the ExA's Rule 17 Questions? iii) The Applicant, the EA and the MMO are also invited to make any other comments they wish to at this stage.

Comments are requested by the deadlines set out in the Examination Timetable, however it would be helpful if any information which is exchanged between the parties and is available beforehand, is submitted into the Examination when available. The Applicant has confirmed it will submit the Technical Note at Deadline 5. Although Deadline 6 is the next identified deadline by which comments should be made, given its close proximity to the close of the Examination it would therefore be helpful if the EA and MMO could please submit any comments on this to the ExA as soon as they are available.

fair and reasonable argument to make), will probably take place under a slightly different regulatory scenario when maintenance dredging is actually needed, simply because beyond December 2027 there will be a new 6-year RBMP cycle (2028-34), the water column baselines will be reset (based on more recent monitoring results), and, if applicable, there may have been additional chemicals brought into regulation that would not have been considered of assessed in this current assessment, or revisions to the chemical limits used for existing chemicals. Whilst the sediment quality (chemical contaminant profile) of maintenance dredged material will be different from the material assessed for the capital dredge works, it is fairly unlikely (though not impossible) that the applicant's precautionary stance of using the capital dredge contamination levels as a proxy to assess maintenance dredging effect would not be sufficiently precautionary that it would invalidate their prediction of compliance against the chemical limits we do currently know about in this RBMP cycle.

Since the EA cannot predict government regulations ahead of the next RBMP cycle there is a small risk that some combination of changes in baselines, EQS limits for chemicals or additional chemicals we may not yet have considered might invalidate the compliancy prediction for future maintenance dredges. We have similar concerns in all dredge cases where a licence extends beyond the current RBMP period, as we cannot predict where the "goal-posts" will move to. Until we know what additional regulation will apply in another RBMP cycle it is not logically possible to predict compliance with that regulatory environment. The logical approach here

	<p>would be to re-assess for any additional WFD risk the proposed maintenance dredge at least once in every subsequent RBMP cycle to ensure that the activity has not fallen out of step with the prevailing regulation. If nothing much has changed in the regulatory environment between RBMP cycles then this is a rather undemanding check that sediment quality has not significantly worsened relative to previously assumed levels. If new chemical limits have been introduced (either entirely new chemicals requiring assessment or tightening of the existing standards to make compliance harder) then some additional numerical calculation may be required to demonstrate the activity will comply under the new circumstances. The applicant has satisfied us as far as they reasonably can that the risks of maintenance dredging being non - compliant in the future are small, and we know that they would be quite likely to continue to be able to demonstrate that to our satisfaction once any new regulatory requirements were known, by revision of the assessment within 6 months of the publication of the new RBMP , baselines and any additional regulatory requirements that might come into force at that time.</p> <p>ii) Please can the Applicant and the EA provide an update on progress of matters against the timelines set out in their responses to the ExA's Rule 17 Questions?</p> <p>As stated above, we have already reached the conclusion that the dredging will be likely to comply with WFD, and we are happy with the evidence provided to support that stance. It was slightly unfortunate that some of the proposed deeper sediment samples were unobtainable due to the nature of the underlying substrate being</p>
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	<p>too hard to grab, but this is also an indication that chemicals in the harder material are not likely to be very mobile. We do not consider this negates the conclusions of compliance with WFD water quality criteria.</p> <p>iii) The Applicant, the EA and the MMO are also invited to make any other comments they wish to at this stage.</p> <p>The applicant has been cooperative and swift to address our initial concerns and has used what we would consider to be best practice in their calculations. The matter of long term (eg 10 year MMO) dredge licences vs WFD assessments valid only for the current RBMP cycle (6 years maximum) is the subject of discussion between EA and MMO and is an internal DEFRA matter which should not be taken to be prejudicial to the compliance arguments provided by the applicant. Longer licences result in a lower administrative burden but can prevent reaction to changes in legislation that might be necessary to ensure WFD compliance for waterbodies. It may be worth noting that within the Thames Estuary the Port of London authority is a second licence issuing authority, and they have overcome the problem by issuing shorter term licences more often; generally a 1 year licence is issued for capital dredges, and maintenance dredges are licensed for up to 3 years (half a RBMP cycle). This does have the advantage for the EA that we can be sure that an ongoing maintenance dredge programme will require a licence renewal at least once within any RBMP cycle, and that provides the opportunity to re-align the WFD assessment with whatever changes have occurred in baselines , EQS limits , or sediment quality. Even if the licence is granted in the final year of a RBMP cycle we know</p>
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	that it will not run over more than two years into the next cycle (possibly risking being non-compliant due to the changed regulations) before the need to renew will force re-assessment and any non compliance would be spotted , and additional mitigation applied to render it compliant again. This allows a faster response to try to steer the waterbody back into compliance within the new cycle. If we agree in advance (complete guesswork- no evidence) that a licence would be compliant for a 10-year term, our hands are effectively tied for ten years if we've guessed wrong.
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Comments on other outstanding matters that go beyond the 4 set questions above

Proximity to the Great Breach station

The EA request that more granular information including cross-section drawings are provided now on the works close to Great Breach pumping station and also close to the Thames Tidal Defences to allow needed assessment of the acceptability of the principle of the works close to those flood risk assets. This can be seen as a parallel to the recently undertaken assessment of the parts of the CCF that are tolerant and those that are vulnerable to being damaged during a flood.

Removal of Old Power Station Jetty

In our opinion the removal of the Old Power Station Jetty should be undertaken as to mitigate for the impacts of the new in-channel works.

Disapplication of relevant legislation

We are concerned that the disapplication of legislation should not alter the ongoing requirement on the landowner to maintain the flood defences. We agree that if the EA are able to agree to the disapplication of the Land Drainage Byelaws and the Flood Risk Activity Permitting Regulations there would be no purpose in retaining a separate legal requirement to approve works under the 1879 Metropolitan flood act. However, the positive ongoing obligations on the landowner to maintain the flood defences on their land by virtue of the Metropolitan flood acts the needs to continue. The explanatory text on the topic of legislative disapplication within the WRITTEN SUMMARY OF THE APPLICANT'S ORAL SUBMISSIONS AT ISSUE SPECIFIC HEARING 2 (ISH2): 9.25', does not address our concerns. It is possible that we are

at cross purposes with the development team over this point. We will continue to discuss this with the applicant as part of the ongoing discussion of protected provisions.

Updated breach modelling

The EA have reviewed the breach flood modelling submitted by the Applicant in support of the proposal. There are some issues with the modelling which we believe will overestimate the absolute flood levels but not the comparison between the before and after scenarios. We can therefore accept the modelling, although the applicant may wish to further refine it to improve the design.