Deadline 5 - Interested Party Reference number: 20048684 - 25th March 2025

Written Representation - Ridgeway Users

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

WFD - Water Framework Directive

WLC - Whole Life Carbon

Executive Summary

We note Cory has still not reached out to engage with us. As part of this written representation, Ridgeway Users will make the following points:

1. PFAS Management Plan Failures & Further Details

Ridgeway Users highlight key issues with Cory's response to Deadline 3 responses.

Since Cory does not dispute that the land is contaminated with PFAS, we include a letter from a Hydrology Consultant, who is a classified competent person, drawing attention to Cory's failure to make adequate land management provisions for PFAS.

Furthermore, the Hydrology Consultant's opinion is that groundwater should be included in the WFD if the EA are to follow planning guidelines; that is worrying as currently there is very little time to examine an approved WFD assessment, as yet unpublished.

As a result, we are waiting on the results of some final, key, testing which we have undertaken. We believe they will shed further light on the sources and spread of contaminants.

2. Romani Graziers & Equalities Act Obligations

The Equalities Act guidance is very clear that new information must be taken into account. We have previously provided new information that seems to show that the land is used for a traditional way of life for Romani Graziers.

Ridgeway Users are concerned as to why the applicant is not adapting to this new information.

3. Doubts On Cory Achieving 95% As Emissions Rise

Cory's emissions are rising per kg of waste processed. Paired with what Ridgeway Users believe to be a poor application of guidance, indicates their plant is not designed to achieve 95% as is stated as a requirement.

We once again ask for data on recycling and plastics incinerated over time.

Written Representation

1. PFAS Management Plan Failures & Further Details

1.1 Groundwater Inclusion In The WFD

1.1.1 In the applicant's responses to our representations at deadline 3, they accept that, although PFAS are present in these water channels, we have not adequately followed full assessment methodologies.

Whilst we note that the applicant accepts that PFAS are present on the land, upon consultations with a Hydrologist, it appears that neither the applicant nor the EA have fully followed these methodologies for evaluating existing PFAS pollution in the soil themselves. That raises serious concern as to whether the WFD assessment will be fit for purpose.

1.1.2 Ridgeway Users enclose the following letter from a consulting Hydrologist regarding existing soil pollution:

> *We believe further clarification regarding EA's response (REP3-037) to Ridgeway Users previous representations on PFAS and Cory's WFD assessment process to date (APP-106) is required.*
>
> *While the site sits within the regulatory boundary of the Thames Middle Transitional Water Body (GB530603911402), this does not mean that the Thames itself is the only watercourse that should be considered under WFD, as the directive and the requirement for non-deterioration apply to all inland water bodies. There are several ordinary watercourses in the form of ditches and drains within the Crossness Marsh designated site that would likely not have been scoped out of the requirements for WFD if the site did not sit within the boundary of a transitional water body and instead of within the WFD area of a river.*
>
> *Following this we do not believe that Cory has sufficiently addressed the potential impacts of the scheme on the WFD status of the ordinary watercourses within the site boundary and within the zone of influence of the development. We have particular concerns in relation to potential deterioration of water quality from PFAS. While the EA states there is not an Environmental Quality Standard (EQS) for PFAS or PFOA, but only PFOS; the levels of PFOS in the ditch sampled exceed the EQS for PFOS by approximately 10 times, and it follows that there are likely high levels of PFOS contamination in the soils on site which is driving the PFOS levels in the ditch. This contamination pathway has not been evaluated by Cory in their assessments to date despite fire fighting runoff and offsite pollution incidents being cited as potential sources of PFAS in the preliminary land contamination risk assessment.*

Cory have not demonstrated beyond a reasonable scientific doubt that the development of the scheme will not cause further PFAS/PFOS to be mobilised from contaminated soils causing a deterioration of the water quality WFD status of the ordinary watercourses. Cory have also failed to consider the impacts of the scheme on the WFD status of the ordinary watercourses in relation to other WFD classification elements such as biological elements and hydromorphological elements. The impacts on which are likely to require significant mitigation to satisfy the requirement for non-deterioration.

Bryn Kearsey

Hydrologist

M.CIWEM / FGS

1.1.3 In light of this, we do not believe their proposed technical note/addendum to the WFD will be adequate. This needs to be comprehensively rewritten as the EA has previously suggested.

With the process fast coming to an end, we are worried about the timelines and whether all parties will have adequate time to examine any approved WFD assessment.

1.1.4 We have previously stated the applicant has not provided data on the nature or type of PFAS-containing material entering the site, nor the effect of their works on existing PFAS and how this will impact watercourses and the rare wildlife within them.

The applicant states in 9.23 section 2.8.1.4 that

Due to the nature of the Proposed Scheme, PFAS will not be introduced by the carbon capture process.

This blanket response is weak and once again dismissive of the risks. We know from widespread evidence that PFAS are in the components and are required as part of the scheme and yet the applicant is unwilling to discuss the risks. Why is that?

1.1.5 In addition to this, we have repeatedly asked for data both directly and in submissions on the nature and types of plastics they bring to the site, and specifically how much recycling they bring to the facility. We received a response that failed to answer this question and instead answered questions we did not ask.

We wish to be clear, does the applicant have data on the volume and type of recycling it brings to this facility? This data is vital if we are to understand the PFAS and pollution risks more comprehensively. It is also key to carbon accounting that forms a part of guidance for the CCS and whether any alternatives would make more sense. The applicant is obligated to adequately explore these alternatives. We explore this later in our representation.

As it has become clear, it does not appear that this has been done.

1.1.6 Ridgeway Users reiterate that Cory's proposed future ground investigation comes too late. The investigation needs to be done before the application concludes as part of a WFD.

As a result, we are following the consulting Hydrologist's guidance and have conducted some final testing on this issue to provide a better understanding of the source and risks. We will present this data by the next deadline.

1.2 Responses to Deadline 3

1.2.1 The applicant states in 9.23 section 2.8.1.3 that our points regarding obligations under the Stockholm Convention are not relevant to the application.

We wish to reiterate that as we stated in Deadline 4 in more detail, this is in fact not the case. Whilst it is correct that under guidance, permitting should be considered to be effective at limiting that which it is supposed to limit, PFAS do not appear to be within the permit.

Similarly, cumulative, pre-existing and other potential effects can be examined (or whether the permitted effects themselves are acceptable) and both the ExA and Secretary of State have the power to assess these risks appropriately.

Likewise, choosing less potentially polluting alternatives is indeed part of the assessment process. We are not the first party to bring this up. The Western Riverside Waste Authority has previously stated that it would prefer adequate sorting facilities as a tonic to the EfW facility emissions - this would also fit their strategic priorities more closely. However, this alternative has not been examined, apparently due to negative insurability risks.

Given the manifest risks of CCF and CCS and the limited insurance options for these facilities, we are unsure these would be any more negative and we have yet to see any reasons as to why an alternative in the form of a sorting facility must be located in the exact same space, or even why co-located facilities must be insured together.

Similarly, if this is the only reason for not pursuing this alternative, given the huge disadvantages of the current scheme, it appears this alternative appears rather good.

2. Romani Graziers & Equalities Act Obligations/Guidance

2.1 Failure By The Applicant To Take Into Account New Information

2.1.1 In 9.23 Section 28.2 Cory appears to once again dismiss our strong evidence, which includes direct interviews that the use of the land could be constituted as part of a traditional Romani way of life, stating:

> *The Romani community (as opposed to specific individuals, even if it 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.*

The applicant has not responded directly to the content of the interview evidence we provided previously, which directly contradicts what they say.

2.1.2 We believe the applicant appears to misunderstand how the Equalities Act works. New evidence cannot be dismissed so easily. In government guidance for equalities duties, it very clearly states that bodies carrying out public functions (this includes waste management/any future management of the nature reserve),[1] should:

> *Evaluate the outcomes of your decision and whether your assessment of the equality impact was correct. The duty is a continuing duty and you should take account of new evidence as it arises.*

The applicant has clearly not taken into account or adapted to the new evidence as it has been provided. Their policy and mitigation has remained unwavering since we first brought this issue up. They need to take into account this new information and adapt their scheme accordingly or they fail to adhere to this guidance.

2.1.3 We believe that the applicant's limp excuse that the reason they did not tackle Romani issues sooner in their submissions is that they forgot to submit part of their response to us initially is neither very plausible, nor very commendable if this is the case.

Ridgeway users believe that the likely case is that Cory simply did not take us or this issue seriously and we note this pattern has been repeated throughout. We are yet to see concessions for Romani issues, we are yet to even see them come to the table with us.

We reiterate that a failure to provide adequate and reasonable mitigation to Romani graziers that meets their needs for this scheme should be reasonable grounds to refuse it.

[1] Office for Equality and Opportunity. "Public Sector Equality Duty: guidance for public authorities." *Gov.uk*.

2.2 Misunderstanding Wider Community Ties To Land

2.2.1 In section 2.8.2.1 in response to our claims about wider ties to the land, the applicant states that

> *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.*

This misunderstands the principle of community ties to land. There are many places that are considered historically or culturally significant to protected identities/communities that one as an individual does not under ordinary circumstances have complete or even partial access to, but can reasonably under law claim community ties to, in order to assist in granting it some form of protection.

These might include (but are in no way limited to) the protected ruins of old places of worship (or even the structure itself of former places of worship that are no longer used for the same purpose and are under private ownership) and sites of historic significance that are under private ownership.

2.2.2 The applicant states the following in 9.2.3 section 2.8.2.3 that

> *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.*

Ridgeway users reiterate that it is not a cogent argument to state that Romani graziers are the ones who have sole access to much of the land that will be lost, but that they are not disproportionately affected. This is quite evidently contradictory.

2.2.3 When Ridgeway Users brought up there being no evidence of direct and targeted outreach to Romani communities and their affiliated civic organisations, the applicant has claimed that it requested a traveller liaison and grazier contact in rebuttal to this.

We reiterate that once again this misunderstands our point and is not an adequate response. A liaison officer does not have oversight over wider civic community ties, nor an in depth network of stakeholders who understand the significance of a parcel of land to a community. To claim otherwise would be implausible.

Our point stands, Cory has, as far as we are aware, not made any attempt to reach out to actual Romani civic bodies to understand how best to make appropriate mitigation. These bodies have expertise in understanding wider cultural nuances and they should have been consulted from the start.

2.2.4 Ridgeway Users believe these compounded and repeated misunderstandings of the Romani community and Equalities Act obligations add to a growing body of evidence that the applicant might not fulfil their Equalities Act duties if this permission is granted. We call for it to be refused.

3. Doubts On Cory Achieving 95% As Cory's Emissions Rise

3.1 Relevance To Planning Not Permitting

3.1.1 In 9.2.3 Section 2.8.3.1, the applicant states that

> *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.*

Ridgeway Users believe this appears to be a misinterpretation of the guidance. It is the planning, not the permitting guidance clearly states that 95% of emissions is a target that is to be aimed for.

We have read the permitting guidance for CCS and do not see in the permit guidance that it mentions percentages, let alone one of 95% needing to be achieved.[2]

It is thus a subject for planning not permitting.

We remind the applicant that the guidance states that the permit only can be deemed to be effective at controlling what it is supposed to control. That is its limit. To then say that a permit that does not rely on, or make mention of the achievement of 95%, can act as a guarantee on achieving 95% carbon capture rates, is nonsensical and cannot be seen to adhere to guidance.

It must be addressed here, not in permitting.

3.1.2 The applicant states in 9.2.3 Section 2.8.3.4 that

> *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.*

We once again state that contrary to what the applicant states, their reliance on permitting is flawed. If past examples are not relevant, we are unsure why the applicant cited them in the first place.

As we do believe that it is a subject for planning not permitting and the guidance appears to back this up, past examples are absolutely relevant and as we reiterate, have not achieved 95%.

[2] North Sea Transition Authority (2023) Guidance on Applications for a Carbon Storage Permit

3.1.3 Failure to provide this information is to fail to meet this guidance. Whilst we understand the applicant is incentivised to achieve greater rates of capture due to government grants, most energy/waste sector businesses are incentivised to achieve greater efficiencies. It does not always mean they do so, nor that their designs will achieve a specific percentage.

3.2 As Cory's Emissions Rise, 95% Appears Less Feasible

3.2.1 The emissions trend per tonnage of waste is alarming and has the potential to make any design calculation meaningless in the future.

From the data we have been able to find which contains raw emissions, we see the following alarming trend.

1. *In 2021 Cory burned 782,000 tonnes of waste and released 766,000 tonnes of CO2 (Ratio of 0.97)*
2. *In 2022 Cory burned 789,000 tonnes of waste and released 829,000 tonnes of CO2 (Ratio of 1.05)*
3. *In 2023 Cory burned 790,239 tonnes of waste and released 854,678 tonnes of CO2 (Ratio of 1.08)*

The guidance on 95% calculations should be based on normal operating conditions when it opens. 95% design specification will most certainly not be achieved if plastic percentages increase and the total volume of CO2 increases.

3.2.2 We once again reiterate the need for data on the volume of recycling over time that enters the facility as this will have a massive impact on emissions. Emissions per tonne of waste have increased by over 11% over just the last three years. We believe this is likely due to the changing constituents within the waste processed.

As we have previously stated, it has been reported that there is an escalating shortage of recycling processing capacity across London more broadly and this is only set to rise. Burning a greater volume of plastics, as the applicant has previously confirmed leads to higher emissions when compared to biogenic waste - this affects CO2 capture percentages.

This data is key to understanding if Cory has followed guidance, or if they need to explain why they will not achieve 95%.