

Cory Decarbonisation Project **DCO**

LB Bexley Deadline 5 Response

25th March 2025.

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INTRODUCTION

This document is being submitted in response to documents submitted by Cory at Deadline 4.

UPDATE SINCE DEADLINE 4

Since Deadline 4 the Council and Cory have been in discussion following the Council's submission of its Deadline 4 response and the updated Statement of Common Ground.

Since Deadline 4 the Council and Cory have been focusing primarily on agreeing further matters in the Statement of Common Ground. Through these discussions the Council now agrees that the benefits of the proposal outweigh the harm caused to the Metropolitan Open Land (MOL) and the Site of Importance for Nature Conservation (SINC), Crossness Nature Reserve, to which part of the proposed development would be located on.

The reason for this agreement and in turn the reason why the Council believes that very special circumstances exist which would outweigh the harm caused by this development on by the MOL and SINC are as follows:

- 1.3 million tonnes (per annum) of carbon would be captured- This is a material planning consideration; and
- The Department for Energy Security & Net Zero has a document called "Overarching National Policy Statement for Energy (EN-1). The following paragraphs are considered relevant:
 - 3.5.1- *There is an urgent need for new carbon capture and storage (CCS) infrastructure to support the transition to a net zero economy.*
 - 3.5.2- *The Climate Change Committee states that **CCS is a necessity not an option** (our emphasis). As well as its role in reducing emissions associated with generating electricity from natural gas (see paragraph 3.3.44), CCS infrastructure will also be needed to capture and store carbon dioxide from hydrogen production from natural gas, industrial processes, the use of BECCS and DACCS. CCS infrastructure could be new or repurposed infrastructure.*
 - 3.5.9- *The alternatives to new CCS infrastructure for delivering net zero by 2050 are limited. Producing hydrogen through water electrolysis with low carbon power ('green' hydrogen) does not rely on CCS but the government's view is that this method alone will not achieve the scale of low carbon hydrogen production required for net zero. Alternative methods of decarbonising industry include improving energy efficiency, electrification of heat, and fuel switching to hydrogen or biomass as fuel or feedstock. However, these alternatives are limited as many emissions are process emissions. CCS therefore has an essential role to play, either on its own or in combination with measures such as electrification and fuel switching.*
 - 5.11.37- *Very special circumstances are not defined in national planning policy as it is for the individual decision maker to assess each case on its merits and give relevant circumstances their due weight. However, when considering any*

planning application affecting Green Belt land, the Secretary of State should ensure that substantial weight is given to any harm to the Green Belt when considering any application for such development, while taking account, in relation to renewable and linear infrastructure, of the extent to which its physical characteristics are such that it has limited or no impact on the fundamental purposes of Green Belt designation. Very special circumstances may include the wider environmental benefits associated with increased production of energy from renewables and other low carbon sources.

As a result of the above it is now considered by the Council that given the very special circumstances coupled with the appropriate location for the majority of the application site in a Strategic Industrial Location (SIL) that the application site, as a whole, is an appropriate location for this development.

RESPONSE TO EXAMINERS QUESTIONS

On Tuesday 11th March 2025 the Examiner issued his second set of written questions of which seven require a response from the Council. Both the questions and the Councils response are provided below:

Q2.0.1- Having regard to the Applicant's response to ExQ1.0.1.1 [REP3-029] what provision(s) and mechanism(s) will be put into the Design Principles and Design Code [REP3-007] or other certified document, to specify the Design Champion's brief, ensure their role continues throughout the design phases and ensure continuity by requiring that the role is occupied should the current holder of the position change? If not considered appropriate to include within a certified document the parties' views are sought on whether a Requirement specifying the arrangement or requiring it to be approved would be a suitable alternative.

It is understood by the Council that the Design Champion for the Project Board would be Richard Wilkinson, continuing on from his role as the Project Director. The Council raises no objection to Mr Wilkinson taking the role as Design Champion. In the event that Mr Wilkinson were not able to continue that role, then it would be in the Applicants best interest to choose a suitably qualified individual with the right level of experience.

Notwithstanding this the Design Principles and Design Codes would ensure continuity for whomever is Design Champion as the principles and codes would ultimately define the final detailed design of the project.

This approach has been agreed between the Applicant and the Council.

Q2.0.2- The Applicant, at their response to ExQ1.0.1.2 [REP3-029] and provided orally at ISH2, does not anticipate that independent design review(s) of the developing design of the scheme would be required. Nevertheless, the value of independent design peer review would appear to have been underestimated. Without prejudice, should it be considered necessary for independent design review(s) to be carried out

to add value to the design development of the scheme and assist parties in ensuring that it reflects good design, the parties' views are sought on what provision(s) or mechanism(s) might be put in place to provide for independent design review of the project at appropriate stages in the development of detailed design and the results of any such review to be taken into consideration in design development in i) the Design Principles and Design Code [REP3-007] or other certified document and ii) the dDCO including any Requirement(s)?

By reason of the nature of the development, the Council is of the view that an independent peer review of the scheme is not necessary.

As has been agreed in the Statement of Common Ground it is accepted that the proposed development will not wholly conform to the Council's tall buildings policy (DP12 of the Bexley Local Plan, 2023) due to operational requirements which are determined outside of the planning process. The Council would take this view on the overall appearance of the development.

Furthermore, it should be noted that the Design Principles and Design Code have been agreed and this is reflected in the Statement of Common Ground.

Q2.1.1- i) The Applicant's Response to Interested Parties' Deadline 1 Submissions [REP2-019] Table 2-3-2 identified a New Design Principle (then referred to as DP_PL 1.10 but that number has since been used for a different design principle) and an amendment to Design Code DC_CCF 1.9 to specify a minimum 25m distance between any back-up generators and the CLNR boundary being maintained. However these changes have not been implemented in Revision C of the Design Principles and Design Code [REP3-007]; please can the Applicant provide the updated document. ii) In light of LBBC's response to ExQ1.1.0.1 [REP3-038] rather than DC_CCF 1.9 stating "...where practicable..." the Applicant's and LBBC's views are sought on whether it would be clearer to include the same caveat providing for the exact position of generators that forms the second sentence of the suggested Design Principle DP_PL 1.10 (sic) referred to above?

Whilst it is preferred that the back-up generators are located 25 metres away from the boundary of the site with Crossness Nature Reserve, it is accepted that there would be times when back-up generators would need to be placed within 25 metres of the boundary of Crossness Nature Reserve due to the location of the equipment they are powering. Once power is no longer required from the back-up generators it is understood that they would be removed from where they were needed and essentially "put away".

Q2.3.1- i) Having regard to LBBC's response to ExQ1.3.1.1 [REP4-035] and the Applicant's written Summary [REP4-035] how will the specification for the LaBARDS [REP4-012] set out in R12. (3) ensure the submission of an Ecological Monitoring Strategy that provides for Ecological Monitoring Reports at least every five years (or an alternative suitable timeframe) following the approval of the LaBARDS? ii) Given the limited detail in chapter 14 of the LaBARDS, should R12 include a clause to require the submission of an Ecological Monitoring Strategy and the results of monitoring and

**how these will influence management activities at set intervals, as part of R12.-(3)? iii)
In the absence of such a provision mentioned in ii) above, how would this aspect be controlled with sufficient effectiveness and certainty for all parties?**

- (i) The Council would expect that an Ecological Monitoring Strategy is secured via R12. In addition to this periodic Ecological Monitoring Reports would need to be submitted and these periodic reports should lead to updates to the LaBARDs.

The periodic 'Ecological Monitoring Reports' would need to be submitted to the Council at regular intervals, for example in years 1, 2, 3, 5 of the development and then every 3 or 5 years (or less). The report should be produced, reviewed and agreed by the stakeholders and submitted to the Council for approval within 2 months of the end of each monitoring period.

- (ii) With regard to part two of this question, it is the view of the Council that Ecological Monitoring Strategies and Ecological Monitoring Reports would influence the LaBARDs and therefore management activities.
- (iii) With regard to part three of this question it is the view of the Council that the absence of Ecological Monitoring Strategies and Ecological Monitoring Reports would mean that there is no control and therefore a lack of effectiveness. In this regard Ecological Monitoring Strategies and Ecological Monitoring Reports are essential in order to achieve the best outcome for ecology.

Q2.3.2- Having regard to the Applicant's response to ExQ1.3.1.2 [REP3-029], if there is no mechanism either within the LaBARDS [REP4-012] itself or in the specification for the LaBARDS in R12 for review, updating and approval, how can necessary changes be identified, implemented and verified, and compliance effectively monitored and enforced?

The Council is of the view that if there are no mechanisms for reviews, updates and Council approvals then the proposed development via the LaBARDS could not achieve a net gain in biodiversity.

Paragraphs 14.2.5 of the LaBARDS(s) say that '*Once in place a review of the full LaBARDS(s), and any detailed habitat management and monitoring plans derived from it, should be carried out not less than every 3 years (or less frequent if agreed by LBB), for the lifetime of the Proposed Scheme, to ensure that the document, and the expanded Crossness Local Nature Reserve, remains fit for purpose and delivers on desired landscape, biodiversity, access and recreation outcomes. This review will be undertaken alongside engagement with Thames Water, Buglife, graziers, LBB and the Friends of Crossness LNR*'. Paragraphs 14.2.6 of the LaBARDS(s) goes on to say that '*Any updates to the full LaBARDS(s) as a result of that review will be issued to LBB for record purposes and form the basis for ongoing management from that point.*'

The Council would expect periodic 'Ecological Monitoring Reports' to be submitted, as discussed in the Council LBBC's response to ExQ 1.3.1.1 REP3-038. This would need to include details of management activities that have taken place during the monitoring period; results of monitoring and how these will influence management activities going forward; recommendations for ongoing management including a review of implications for the full LaBARDS(s) and detailed habitat management and monitoring plans derived from it; details and engagement undertaken with stakeholders - Thames Water, Buglife, graziers, LBB and the Friends of Crossness LNR. The report should confirm it has been reviewed and agreed by the stakeholders. Any updates to the full LaBARDS(s) as a result of that review shall be issued to the Council with the monitoring report.

Q2.3.8- Further to LBBC's Deadline 4 Response [REP4-036], for the avoidance of doubt, please can LBBC confirm: i) Whether the planning permissions for Veridion Park Phases 2 and 3 have been implemented? ii) That any conditions or obligations relating to Phases 2 and 3 have not been discharged yet or have not had schemes presented that affect any land within the Order Limits? iii) Where ecological mitigation, compensation and enhancement anticipated to discharge that any conditions or obligations relating to Phases 2 and 3 would be located and that land within the Order Limits has not been identified as performing that role?

For the avoidance of doubt the Council can confirm that Phases 2 and 3 of the Viridion Park planning permission have not been implemented and that there are outstanding conditions which would require discharging. Notwithstanding that, the Council would revert the Examiner back to the final three paragraphs of its Deadline 4 response which state...

*"It is important to note that it is the Council's view that the above four conditions imposed relate to Phases 2 and 3 of the Veridion Park development **and not** Phase 1. This is because Phase 1 had been implemented, and the mitigation works to the Norman Road Field had been undertaken with relevant conditions discharged.*

Furthermore, it is also important to note that any condition referenced above prior to the 2010 application does not include an on-going obligation and that words such as "in perpetuity" or "for the lifetime of the development" were not included.

This means that the Council is of the view that there is no on-going management of the Norman Road field beyond the 10 years stipulated in the Ecological Master Plan approved in 2005 or the conditions approved relating to the 2005 (02/03373/OUTEA) or 2008 (08/01834/FUL) permissions. Any further management plans would be produced once the other phases of the Veridion Park development come forward. These management plans however would relate to the wider Veridion Park only and not the Norman Road Field. "

Q2.7.1- In their response to ExQ1.7.0.1 LBBC [REP3-038] raised concerns that the proposed development could delay the Riverside District Heat Network. In response, the Applicant has stated [REP4-033] that R25 of the dDCO would ensure this will continue to be delivered as the CCF is brought forward, and has also provided Appendix H - Heat Note [REP4-034]. Please can LBBC confirm whether the Applicant's responses address its concerns?

The Council is of the opinion that that Appendix H- Heat Note [REP4-034] addresses the concerns previously raised.

Q2.8.1- The ExA notes the Applicant's response to ExQ1.8.2.1 [REP3-029] that the intention is that ancillary works would be approved pursuant to R3, as part of the detailed design of the relevant parts of Work No 1, and other Rs. However, given how R3 is constructed it would appear that as currently worded there is some ambiguity around whether the detailed design of ancillary works would require approval and/or what the mechanism for doing so would be. It may be more appropriate to make it explicit in R4 (Detailed Design) that the Works it lists include those works ancillary to those work packages in order to ensure that the layout, scale and appearance of ancillary works are approved. The Applicant's and LLBC's views are sought and if changes are not considered appropriate to the dDCO a full explanation of how the issue would alternatively be addressed is requested.

The Council has raised no ambiguity regarding this matter and therefore raises no objections to the changes made.

Q2.8.2- The Applicant's response to ExQ1.0.1.2 [REP3-029] indicates that their intention is that "a Statement of Compliance will be prepared for each relevant requirement submission to support and enable the relevant planning authority's scrutiny and assessment of design outcomes developed during the post consent design process". However, R4 is not worded to reflect that, rather it requires "...a statement to confirm how the design principles and design code have been taken into account" rather than complied with. Should the requirement be changed to reflect this? If not revised, please provide details of an alternative approach or a full explanation of why that would not be considered necessary.

The Council is of the view that compliance with the design principles and design codes would be required in all instances. The design principles and design codes have been agreed in the SOCG between the Council and the Applicant and therefore an alternative approach is not required.

Q2.8.3- Having regard to responses from NE [REP3-040] and EA [REP3-037] to ExQ1.8.3.10, and in particular that the Outline Lighting Strategy (OLS) [APP-123], whilst mentioning some sensitive species the OLS does not specifically cater for impacts on water voles. For the Applicant's approach set out in their response to ExQ1.3.1.5 and ExQ1.8.3.10 [REP3-029] that the strategy would be effective, the ExA considers that this aim should either specifically be included in the OLS or R11 should be explicit that the Lighting Strategy it requires must provide details of how lighting impacts on water voles will be avoided or mitigated. The Applicant is requested to action this point or provide an alternative, or a full explanation as to why it would not be necessary.

The Council has not raised any concerns in relation to the Outline Lighting Strategy (OLS) and therefore it is considered that this is a matter which needs to be addressed by the Environment Agency and/or Natural England, especially given that Water Voles fall

outside of the remit of the Council. As a point of clarity it this matter could be agreed between the Applicant, Environment Agency and Natural England, then the Council would not disagree with that agreement.

Q2.8.4- The Applicant's response to ExQ1.6.0.1 [REP3-029] is noted, however given the nature of the recording that would be necessary should the Former Belvedere Power Station Jetty be altered or demolished and the other provisions in the Outline Code of Construction Practice (CoCP), it would appear to be more appropriate to include this as part of a relevant requirement rather than as a provision in the CoCP. The Applicant's views are sought on adding wording to the following effect in R16 or R22. "No demolition or alteration of the former Belvedere Power Station Jetty shall take place until: a) a descriptive record specified and carried out to Level 2 as specified in Historic England guidance: Understanding Historic Buildings: A Guide to Good Recording Practice has been undertaken in accordance with that guidance and written confirmation provided to the relevant planning authority that it has been completed, and b) within six months of the date of the commencement of the demolition or alteration the completed record must have been deposited with the Greater London Historic Environment Record and the Archaeology Data Service, and confirmation of the deposit provided in writing to the relevant planning authority.

The Council is of the view that the obligation to incorporate a descriptive record should the former Belvedere Power Station Jetty be demolished or altered into either Requirement 16 or 22 of the draft DCO is not necessary.

Requirement 16 of the draft DCO relates to the submission and approval of Jetty Works- Environmental Design Scheme which is separate in its scope and intention to producing a historical record of the jetty. Requirement 22 relates to the submission and approval of Archaeological Mitigation Strategy or strategies for buried heritage assets rather than for above ground heritage assets such as the jetty there it would not be appropriate to conflate these two elements in Requirement 22.

Notwithstanding the above, there is an obligation to produce an Historic England Level 2 Historic Building Recording is already set out in Paragraph 7.2.1 in the Outline Code of Construction Practice (CoCP) (REP4-008) and this is already secured via Requirement 7 of the draft DCO. In order for Requirement 7(1) to be discharged the full CoCP has to be 'substantially in accordance' with the Outline CoCP which means that the obligation in Paragraph 7.2.1 will need to be replicated in the full CoCP. Requirement 7(3) is clear that the authorised development 'must be undertaken in accordance' with the approved CoCP otherwise the undertaker will be in breach of the DCO. As such, the obligation (in the event the Applicant decides it needs to demolish the jetty) is already secured by requirement via the CoCP.

Furthermore, it would not be appropriate to create a requirement in the dDCO which may never be capable of being discharged (in the event of the jetty remaining undemolished).

Notwithstanding the above it is understood that the Applicant will be submitting an updated Outline CoCP which would incorporate the timescales envisaged in the

Examining Authority's point b) for the record to be deposited within six months of the date of commencement of the demolition.

Q2.8.5- The Applicant's response to ExQ1.8.3.21 [REP3-029] is noted and in light of their approach would it be more straightforward and comprehensive for the first part of R23 to relate to the operation of the authorised development rather than just during operation of Work No. 1? . The Applicant's and LLBC's views are sought and if changes are not considered appropriate to R20, a full explanation of how the issue would alternatively be addressed is requested.

With regard to noise, the Council has not raised any objection to this proposal in relation to noise. The nearest residential neighbour is located 270 metres away to the south of the application site and therefore this distance should mitigate against any noise. Furthermore, sited between the application site and the nearest residential neighbour is the A2016, a heavily used London Distributor Road which generates significant noise in of its own right.

In addition to the above, it should be noted that during the construction of Riverside 2, no noise complaints have been received and therefore it is unlikely that excessive noise would be generated during the construction phase of this project.

If during the operation of the development there were to be excessive noise, the Council could via Environmental Health legislation could investigate and where necessary undertake relevant enforcement action.

Q2.11.2- Having regard to LBBC's Deadline 4 Response [REP4-036], please can LBBC confirm whether the latest version, Revision G, of dDCO [REP4-004] has addressed their matter relating to the undertaking of works in the highway?

The Council confirms that the latest version, Revision G of the dDCO addresses the matters previously raised with regard to the undertaking of works in the highway.

Q2.16.1- i) Should new clause 8.3 [REP4-029] refer to 'party(s)' rather than 'party' so as to cover the possibility that Peabody's interests might be assigned to more than one party? ii) It appears that the word 'the' may be missing in the fourth line of clause 8; "...the Developer that the third party shall observe...". iii) Should paragraph 2.1 of Schedule 1 refer to "the Developer" rather than "the Applicant", the latter term not being defined elsewhere in the Obligation?

Whilst it is noted that this question is for the Applicant to answer, the Council notes that this Deed is still not expressed to be made pursuant to S106 and is of the opinion that it should be to adequately secure the obligations on the part of Peabody Trust in relation to the BNG Opportunity Area Land. If the deed is amended in this manner, paragraph 8.3 can then be deleted as its provisions will not be required because S106 will apply and bind successors in title to the BNG Opportunity Area Land or any part of it. The Council agrees with the issues raised in the examiner's questions in iii in relation to Deed of Obligation A.

Q2.16.2- It is noted that the applicant's approach is to provide a Deed of Obligation under s106 of the Town and Country Planning Act 1990 [REP4-031]. Without prejudice, should any of the obligations be found by the ExA or SoS not to be planning obligations under s106, for example because they were not considered to meet one or more of the three legal tests, then there wouldn't be a legal power cited for them to be entered into. Has the Applicant considered whether the Deed of Obligation should be drafted to also cite other relevant powers, for example s111 of the Local Government Act 1972, to cover such a possibility?

It is the Council's view that other powers should be added to the provisions of the draft agreement. These should include the Local Government Act 1972, the Greater London Council (General Powers) Act 1974, and the Localism Act 2011.

Q2.16.3- Schedule 1, Clause 2 [REP4-031] seeks to undertake that TWUL will continue to employ the CLNR Manager which is defined in Clause 1 as the manager currently employed by TWUL. The Applicant advised in their response to ExQ1.16.0.2 [REP3-029] that the definition would be updated to ensure that should the current post holder leave that the Obligation would ensure that a subsequent post holder would continue to be employed but this does not appear to have been changed in Revision B of the Deed of Obligation. Please can this be updated accordingly.

Whilst it is noted that this question is for the Applicant to answer, the Council is also of the view that this should include any future CLNR Manager and not just the existing one.

Q2.16.5- Are the parties satisfied that the Deed of Obligation [REP4-031] has been drafted in a legally satisfactory manner and meets the tests for such obligations?

The Council is of the view that the draft needs to be amended to require the financial payments to be made to the Council to comply with the provisions of S106. The Council will then ensure that the funds are applied for the purposes received. In addition, a monitoring sum should be paid to the Council to ensure that the provisions of the deed are able to be appropriately managed.

Q2.16.6- LBBC's views are sought on whether they consider the latest drafts of the Obligations address their concerns about the effectiveness of the purpose of the obligations, and any other comments they may have.

The Council is of the opinion that if the issues raised by the Council in its comments on Q2.16.1, Q2.16.2, Q2.16.3 and Q2.16.5 are addressed then the Council will be satisfied.