

Planning Inspectorate
National Infrastructure Planning
Temple Quay House (2 The Square)
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Our ref: SL/2023/122661/08-L01
Your ref: EN010128
Date: 29 April 2025

Dear Examining Authority

**The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended)
– Rule 17 Application by Cory Environmental Holdings Limited (CEHL) for an
Order Granting Development Consent for the Cory Decarbonisation Project
Request for further information following deadline 5 submissions**

Belvedere

Please find attached our response to the Request for further information following deadline 5 submissions on behalf of the Environment Agency in relation to the application for an Order Granting Development Consent for the Cory Decarbonisation Project

I hope this is helpful.


Planning Specialist

Direct e-mail  [@environment-agency.gov.uk](mailto:_____@environment-agency.gov.uk)

Question	EA response
<p>R17Q2.3</p> <p>The Ridgeway Users' submission at D5 [REP5-054] included comments about the applicant's WFD Assessment, although it is noted that some of their concerns relate to ongoing potential for pollution from existing facilities. However, the ExA notes that the EA confirmed in their D5 responses to ExA's questions [REP5-043] that "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". In light of Ridgeway Users' comments please could the applicant and the EA either confirm that the scope and conclusions of the WFD assessment remain acceptable or explain whether the consideration and conclusions may have changed in light of Ridgeway Users' comments, and in either case provide an explanation for their response.</p>	<p>We confirm that scope and conclusions of the WFD assessment remain acceptable. As stated in our previous response to the to the Examining Authority's First Written Questions dated 17 January 2025 (SL/2023/122661/05-) The chemicals found have no implications for WFD which relate to the main water body. There is only an Environmental Quality Standard (EQS) for PFOS, not PFAS or PFOA. These standards apply to the main water body, not discharges. The RSC standard quoted is a drinking water standard and not relevant. Should these discharges reach the main water body, dilution would reduce these values to below the limits of detection. The water discharge activities from the site to ground and to water will be regulated by a permit to prevent deterioration of the environment.</p> <p>The Environment Agency welcomes that further sampling and analysis will be carried out by the applicant as part of a future ground investigation.</p> <p>We are satisfied with the applicant submission 5 response stating that the Applicant has committed to testing for a range of contaminants including PFAS during ground investigation within soils, groundwater and surface water post-determination for the Proposed Scheme. These results will be assessed and provided to the Environment Agency. Should risks be identified to any sensitive receptors a remediation strategy will be produced, as specified in the Outline Construction Code of Practice (CoCP) (as updated alongside this submission) and secured by a requirement of the Draft DCO (as updated alongside this submission).</p>

R17Q2.4

The ExA is mindful of avoiding creating a possibly unfair and additional burden on the applicant, in respect of the potential implications of an as-yet unpublished River Basin Management Plan (RBMP) for the 2028-34 cycle. The ExA

further notes that the EA states [REP5-043] that “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...”

The EA pointed out [REP5-043] that proposed maintenance dredging would be likely to take place under a different RBMP than the one under which the EA advise the proposed development would be WFD compliant. Consequently the EA advised that “The logical approach here 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

ii)

We can confirm that we consider the activity to be WFD compliant under the current WFD/WER regulatory environment in force within this River Basin Management Plan, which ends in December 2027. As the capital dredge is anticipated to be a removal dredge, the bulk of the material which contains contaminants will be removed from the waterbody altogether, so the residual load entering by accident as “losses” back to water during dredging is likely to be relatively small. Thames Middle waterbody has a relatively large volume, so any uplift on baseline concentrations at waterbody scale would be anticipated to be of a very small order. Realistic changes in waterbody baseline or sediment quality in the next RBMP would probably not be large enough to alter the conclusion of compliance on their own, so unless much harsher EQS limits were to come into force it is hard to see that a dredge of this size and method would become non-compliant in the foreseeable future. A change in regulation would however be a strong trigger to re-assess WFD risk of non-compliance in the light of that change.

With respect to the future maintenance dredge activity, we are looking further forward into the future, and there are more chances that something in the regulatory environment may have changed by the time the dredge is required. Water column baseline will be different (probably not very much different) and sediment chemistry will be different (on balance it might even be a little cleaner than the capital dredge material, but this is slightly speculative). If the removal method were adhered to, then one may anticipate that unless there were additional or new EQS limits to meet (which we cannot predict) the expectation would be one of compliance in the next RBMP cycle. If a more dispersive dredge method were proposed for maintenance dredging (eg water injection dredging) then the impact may be higher on the water column as more of the total dredge volume is mobilised to water (none is “removed” from the waterbody then). If that eventuality were considered under today’s regulation it might still be WFD compliant, but it might be less compliant if the rules change, but one would need to consider water baseline, sediment chemistry, total volume of dredge released to water and any WFD EQS limits in force at the time (all in combination) to reach a judgement over whether that dredge activity would comply with WFD when it was going to be carried out. That is why we would prefer a WFD assessment(s) for the maintenance dredge to be submitted within the RBMP cycle(s) in which the dredge was intended to be carried out. That way we do not make

<p>the prevailing regulation.”</p> <p>i) In light of the above the applicant is asked if it considers it appropriate for any provisions to be added to the draft Deemed Marine Licence (dDML) (schedule 11 of the dDCO) [REP5-005], or indeed any certified documents, to address this.</p> <p>ii) In light of its position, can the EA confirm that there are no implications in terms of the drafting of the dDML or the dDCO in this regard or alternatively the EA (and as appropriate the MMO) are requested to advise of any particular wording in the dDML in this respect that would be appropriate.</p> <p>iii) The EA noted [REP5-043] that “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.” For</p>	<p>the error of assuming the risks as assessed under today’s circumstances will be equal to those we would calculate under a different set of circumstances which will be present at a future dredge date.</p> <p>ii) We confirm that this does refer to wider ongoing discussions which have a much wider bearing than the DCO.</p> <p>The EA are the competent authority to advise on WFD compliance matters, and we are constrained in what advice we may reasonably give to the marine regulator(the MMO, and in the Thames, also the PLA) by the facts. There are three key variables whose values must be known before any prediction of the impact of an activity on water quality can be made (and these factors influence whether an activity is WFD compliant or not):</p> <ol style="list-style-type: none"> 1. Which chemicals have mandatory chemicals standards under WFD that must be met, and the concentration standards for each of those chemicals.*1 2. The chemical load present within the dredged material that may pose a risk to water quality; this is a cocktail of different regulated substances at different concentrations , and the risk posed by them is proportional to how much of each chemical will enter the waterbody, and how much of those chemicals are already present in the watercolumn of the waterbody (point 3 below) since their effect is additive. 3. The baseline concentration of each of the regulated chemicals in the waterbody prior to the addition of additional loading from the dredged material. 4. A fourth factor is the volume of the waterbody, since this has a major influence on how much dilution any added chemical load will receive. Whilst the waterbody volume in tidal waters is not strictly constant (it is in fact constantly changing with the tide, in a relatively cyclical pattern, and in estuaries it may also be affected by the seasonality of freshwater inputs volumes), broad assumptions have to be made about the volume of the receiving waterbody at the time a dredge occurs, and indeed timing of individual dredge campaigns can influence their predicted compliance, as pollutants may be “flushed out” of a waterbody faster at higher winter
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the avoidance of doubt, can the EA (and as appropriate the MMO) confirm that this refers to wider ongoing discussions having a wider bearing and implications than the DCO application under consideration.

freshwater flows than they might in lower summer flows. Very large waterbodies have a bigger capacity to absorb additions without much overall change in concentrations of pollutants, smaller waterbodies will have less capacity to absorb an addition (without registering more significant concentration changes).

It is the combination of all the above factors which affect the ability of an activity to comply with WFD/WER. The point we are making to the MMO is that changes in one or more of these factors during the course of a marine licence WILL alter the risk to compliance posed by an activity. It is impossible to say by how much the risk will alter, and whether this is enough to alter an initial WFD assessment's conclusion of compliance, without getting into specific detail on the size of the changes in each variable...and these are not known ahead of when the change occurs.

Applicants for marine licenses are only required to even consider the implications of such changes when they are required to provide an updated WFD assessment, which is why the EA are requesting of the MMO that they condition periodic WFD re-assessments (once in every 6 year RBMP cycle) into their long 10-year licenses.

The MMO are currently taking a position that a condition to require the applicant to provide an updated WFD compliance assessment within a reasonable timeframe (6 months) following the publication of each new RBMP and classification (which is when re-baselining of the water column concentrations occurs) does not fit the test of being "reasonable", their argument being that the applicant is unable to plan their activity, or may be faced with possible cessation should the activity then prove non-compliant. We this is way we prefer to retain the ability to require WFD re-assessment as we should not be permitting non-compliant activities, and where there are reasons to suspect that the level of compliance may have changed due to circumstances (even if these circumstances are beyond the control of the applicant) we reserve the right to seek confirmation from the applicant that they still comply by means of an evidence-based re-assessment of WFD risks.

We believe that ten years is far too long to allow a non-compliant activity to continue, or to wait to find out IF circumstances have changed sufficiently to render the original assessment invalid and that the ongoing activity

	<p>has been non-compliant for quite some time. The precautionary route is to ensure that activities are kept in alignment with the regulations (as they evolve) by regular checks at appropriate junctures throughout a licence's term. Short licences pose very little risk of becoming non-compliant, and, even if they do, non-compliance is soon picked up when the licence is renewed. But if the licence term is long, then without reconsultation we have our hands tied.</p> <p>A much more workable licence term is operated by the PLA on the Thames; their licences are generally no longer than three years, even for maintenance dredge activities. This equates broadly to half a RBMP cycle..and virtually guarantees that the vast majority of all their dredge licences never fall into a state where the accompanying WFD assessment has become so out of step with actual measured sediment quality, the waterbody baseline concentration as we understand it to be, or any new regulations that may have come into force, that the activity is running in non-compliant mode for a whole RBMP cycle. Applicants are required to update their WFD assessment if their previous assessment was under the umbrella of a different RBMP cycle, at which point they will necessarily consider how baseline changes, changes in their sediment quality, or changes in the regulatory hoops they must jump through (the EQS standards) conspire to affect the compliance of their proposed "renewed" activity. This shorter term also provides for a quick response to alter a dredge method to the most appropriate form whilst maintaining compliance. In some circumstances this may provide the evidence an applicant needs (eg sediment has become significantly "cleaner" in the last three years) to justify significantly cheaper dispersive dredge methods may be used safely without endangering compliance. The reverse can also be true when sediment quality has deteriorated, a revised dredge method can then be devised that adapts to realign the activity back into compliance within a three year period. Making the necessary adjustments within a RBMP cycle provides much more confidence that the whole WFD process remains on track and is not derailed by allowing a dredge activity to continue unchecked, beyond the first RBMP cycle in which it was assessed (as compliant at that time) .</p>
R17Q2.5 The EA's comments [REP5-043] in response to ExQ2.4.3	No provision has been, made within the dDCO and/or certified documents submitted to cater for such a re-assessment following detailed design.

<p>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”. What provision has been, or should be, made within the dDCO and/or certified documents to cater for such a re-assessment following detailed design?</p>	<p>The EA do not normally raise a concern over an increased building footprint within the residual risk floodplain in London. That is because there is typically no opportunity to offset increases in built footprint which would lead to an unsustainable blanket opposition to most developments in the London defended floodplain. The scale of the change created by the CCF including over 7 hectares of ground raising, led to our concern over increasing residual flood risk off-site.</p> <p>The undertaker has expressed the view that the reasonable and proportionate worst-case scenario that they have modelled must <u>not</u> be seen as a design limitation/threshold, other than the maximum development platform levels.</p> <p>When we agreed the upper limits of the ground raising across the development platform with the undertaker limits on the building footprint and areas made hydraulically rougher in the floodplain were not set.</p> <p>As a middle ground we instead chose to include an advisory statement over re-assessing the flood risk if there was a significant change to the design between there being no limit on the building footprints excluded from the floodplain and requiring a reassessment at the detailed design stage.</p> <p>We believe that the applicant will re-visit the flood modelling at the detailed design stage to ensure that they have efficiently achieved their desired protection to the flood vulnerable equipment / buildings.</p> <p>The Environment Agency would be happy to accept a requirement in the dDCO for the approval of the detailed design with supporting flood modelling including the buildings excluding floodwater, the areas that are hydraulically rougher in concert with the final raised development platform levels, or not as the Examining Authority sees fit.</p>
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