



# APPLICANT'S CLOSING STATEMENT: 9.33

DECARBONISATION

## Cory Decarbonisation Project

PINS Reference: EN010128

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Revision A

## TABLE OF CONTENTS

<b>TABLE OF CONTENTS .....</b>	<b>1</b>
Executive Summary .....	1
<b>1. INTRODUCTION.....</b>	<b>4</b>
1.1. Purpose of the Document .....	4
1.2. Structure of the Document .....	4
<b>2. NEED CASE .....</b>	<b>5</b>
2.1. Context.....	5
Critical National Priority Infrastructure .....	6
2.2. Policy Driven Decarbonisation .....	7
2.3. Need for the Proposed Scheme .....	8
2.4. Interested Parties' Submissions .....	10
2.5. Conclusion .....	12
<b>3. SITE SELECTION AND OPTIONEERING.....</b>	<b>13</b>
3.1. Context and Process.....	13
Context.....	13
Process .....	14
Outcomes.....	16
3.2. Jetty Site Alternatives Report .....	17
3.3. Interested Parties' Submissions .....	18
3.4. Conclusions.....	19
<b>4. CARBON CAPTURE FACILITY LAND TAKE .....</b>	<b>20</b>
4.1. Carbon Capture Facility Land Take.....	20
<b>5. PROJECT DESIGN.....</b>	<b>22</b>
5.1. Overview .....	22
5.2. Additions and Amendments to the Design Principles and Design Code .....	23
New Design Principles.....	23
New/Amended Design Codes.....	24
5.3. Implementation.....	25
<b>6. DIRECT AND INDIRECT ECOLOGICAL IMPACTS .....</b>	<b>26</b>
6.1. Direct Ecological Impacts .....	26

Overview .....	26
Survey data .....	27
Water Vole .....	27
Mitigation, Compensation and Biodiversity Net Gain (BNG) .....	28
6.2. Indirect Ecological Impacts.....	29
<b>7. THE LANDSCAPE, ACCESS, BIODIVERSITY AND RECREATION DELIVERY STRATEGY (LABARDS).....</b>	<b>31</b>
7.1. Purpose of the Outline LABARDS and its development.....	31
7.2. Key outcomes to be achieved through the LaBARDS(s).....	32
Ecological.....	32
Landscape.....	33
Access and Recreation.....	33
Delivering Additional benefit .....	34
7.3. Delivering the LaBARDS .....	34
<b>8. METROPOLITAN OPEN LAND AND THE MITIGATION HIERARCHY .....</b>	<b>44</b>
8.1. Metropolitan Open Land and Accessible Open Land .....	44
8.2. The Policy Tests.....	45
CNP infrastructure and the Mitigation Hierarchy .....	45
Harm by inappropriate development.....	46
Other Harm .....	47
8.3. Very Special Circumstances .....	47
<b>9. OTHER ENVIRONMENTAL MATTERS .....</b>	<b>49</b>
9.1. Flood Risk .....	49
9.2. Water Framework Directive Assessment .....	51
9.3. Construction Traffic Impacts.....	52
9.4. Air Quality Impacts .....	56
9.5. Marine Biodiversity Impacts .....	58
<b>10. CONCLUSION .....</b>	<b>60</b>

## FIGURES AND TABLES

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Figure 2-2 Interaction of the Design Principles and Optioneering Principles.....	15
Table 1 Flood Risk: Summary of Applicant's Response to Key Matters Raised .....	49
Table 2 Relevant Documents.....	50
Table 3 WFD Assessment: Summary of Applicant's Response to Key Matters Raised.....	51
Table 4 Relevant Documents.....	52
Table 5 Construction Traffic Impacts: Summary of Applicant's Response to Key Matters Raised .....	53
Table 6 Relevant Documents.....	55
Table 7 Air Quality Impacts: Summary of Applicant's Response to Key Matters Raised .....	56
Table 8 Relevant Documents.....	57
Table 9 Marine Biodiversity Impacts: Summary of Applicant's Response to Key Matters Raised .....	58
Table 10 Relevant Documents.....	59

## EXECUTIVE SUMMARY

The context for the Proposed Scheme is set by rapidly escalating global concern about climate change, the long-term shift in the Earth's average temperatures and weather conditions. The policy background reflects the recognised global urgency for action, with the UK being the first major economy to legislate for a 2050 net zero GHG target in 2019; which was revised in 2021 to require a reduction in GHG emission of at least 78% relative to 1990 levels by 2035; bringing forward the previous target by 15 years. Time is of the essence.

NPS EN-1 is the primary policy for the Secretary of State's decision making on projects such as the Proposed Scheme, which are recognised as critical national priority (CNP) infrastructure. One of the reasons given by the Secretary of State in making the Section 35 Direction is that:

*'The carbon capture element of the Proposed Project would provide and support the decarbonisation of energy from waste derived CO<sub>2</sub> emissions in the UK, delivering over a million tonnes of CO<sub>2</sub> savings per annum, and supporting the achievement of a fully decarbonised district heating network that crosses local authority areas ...'*

In its Seventh Carbon Budget, the CCC reaffirmed that *'whilst its role is limited to sectors where there are few, or no, alternatives, we cannot see a route to Net Zero that does not include CCS.'* Carbon capture technology applied to EfW facilities is a key element of the Balanced Pathway for waste set out in the Seventh Carbon Budget, seeking to achieve a 90-95% capture rate.

With both facilities operating, the Riverside Campus will be the largest EfW capacity in the country, providing nearly half of London's residual waste treatment capacity with a combined throughput of some 1.5 million tonnes each year. The Proposed Scheme will take that strategic, sustainable management infrastructure to the next level, delivering a material contribution (nearly 1% even after operational emissions) to meeting the national net zero targets of the Sixth Carbon Budget and some 17% of the London Carbon Budget.

By capturing the fossil carbon, Cory's residual waste treatment operations will achieve net zero, i.e. no new carbon will be released into the atmosphere. By also capturing carbon from biogenic materials, the operations at Riverside will be carbon negative, because carbon that is part of the natural carbon cycle will also be permanently removed from the atmosphere.

The Applicant recognises that with the presumption in favour of CNP infrastructure comes the responsibility to apply the mitigation hierarchy and demonstrate it has been applied. It has appropriately applied the mitigation hierarchy throughout the evolution of the Proposed Scheme and this, not least, demonstrably evidenced by the agreement achieved with the relevant planning authority and all statutory nature conservation bodies.

There has been little objection to the need for the Proposed Scheme; that which has been raised has been substantially driven by misunderstanding of the carbon capture process and the complementary, but different, roles of the planning and permitting regimes. The Applicant has provided clear and positive responses to all such submissions.

With the Carbon Capture Facility operating as part of the Riverside Campus, not only would society's residual waste be decarbonised, but the energy and byproducts recovered – in the

form of electricity, heat and aggregates for the construction sector – would be decarbonised too, bringing the environmental, social and economic benefits sought in NPS EN-1, the London Plan, and Bexley Local Plan. Not least of those benefits will be realised by incorporating heat recovery infrastructure, optimising this affordable, decentralised, zero carbon energy source for Londoners; a matter not lost on the Secretary of State in making the Section 35 Direction. The benefits of heat, and the expectation for delivery, is reinforced in the consultation draft NPS EN-1 and EN-3.

The Proposed Scheme also demonstrates that shipping at scale, a non-pipeline transport (NPT) option for carbon dioxide sought by Government in the CCUS Vision, is deliverable and will deliver economic benefits. The Applicant has demonstrated leadership investment in new sectors, providing the catalyst for sustainable growth within Bexley and across the UK.

The Applicant has undertaken a structured, iterative and proportionate optioneering process that has correctly identified the preferred site and layout for the Proposed Scheme. It has been guided by Optioneering Principles that have been rigorously applied and recorded. The optioneering process has evolved during the life of the project development process and has enabled the assessment to be refreshed at appropriate times, whilst remaining rooted in the Project Objectives and Optioneering and Design Principles.

Each of the elements of NPS EN-1 policy (at paragraph 4.3.22) - the proportionate response to legislative and policy requirements and identification of the key principles for an alternative to meet the objectives of the Proposed Scheme - have been rigorously considered within the terrestrial site assessment process set out above and undertaken by the Applicant since early 2022. The process has demonstrated that South Zone 1 is the only site that can meet the objectives of the Proposed Scheme and is an appropriate site for the Carbon Capture Facility. This is a conclusion agreed with the relevant planning authority.

Responding to criticism raised about the extent of land taken for the Carbon Capture Facility, the Applicant has demonstrated that it is not possible to avoid acquisition of any of the plots of land included in the development footprint, including the Landsul/Munster Joinery Land. The Applicant has demonstrated that it has limited its acquisition of land to what is strictly necessary (under the s122 test) and its land take cannot be considered 'excessive'.

Not least this outcome has been achieved through good design processes and outcomes throughout the evolution of the Proposed Scheme. 'Good Design' has been implemented through use of Project, Optioneering and Design Principles that have been structured to accord with the NIC's guidance and were consulted upon prior to submission. The Design Principles have been actively used to validate site selection. The Design Principles and Design Code (intended to be a certified document) have been updated throughout the Examination and include a process, agreed with the relevant planning authority, to ensure ongoing design influence and control through implementation of the project.

Environmental and technical matters in relation to terrestrial and marine biodiversity, flood risk, water quality, air quality and traffic have all been resolved. The net loss of, and impacts to, the

Erith Marshes/ Crossness LNR and MOL is acknowledged. It is also fully mitigated, not least through the extensive mitigation, compensation and BNG measures set out within the Outline LaBARDS and secured through requirement 12 of the draft DCO.

Whilst this harm cannot be avoided, it has been minimised, approximately 70% of the Carbon Capture Facility is to be located on land allocated as SIL. Through careful design, openness of the MOL is maintained and urban sprawl is prevented, with no loss of Accessible Open Land. Through the Proposed Scheme that remaining open land is enhanced, with improved habitats, access routes and connections.

Notwithstanding the CNP infrastructure presumption in favour of the Proposed Scheme, very special circumstances have been presented by the Applicant, and agreed by the relevant planning authority. The very substantial benefits of the Proposed Scheme outweigh the identified harms.

The Applicant considers that its Application and subsequent Examination submissions have demonstrated that:

- the Proposed Scheme meets all the tests set out in NPS EN-1;
- the concerns set out in LBB's Local Impact Report have been dealt with where it has been possible to do so;
- no concerns arise under the matters set out in the Infrastructure Planning (Decisions) Regulations 2010;
- section 104(4) – (6) and (8) are not engaged;
- in respect of section 104(7), the material benefits associated with the Proposed Scheme outweigh the identified limited harm; and
- its compulsory acquisition proposals meet the tests under section 122 and 127 of the Planning Act 2008, the MHCLG Guidance on compulsory acquisition and case law.

The Proposed Scheme is a critical national priority infrastructure project that will reduce greenhouse gas emissions and directly contribute to the UK moving closer towards net zero, in alignment with the NPS EN-1 (and the consultation draft) and the Seventh Carbon Budget (2025). It supports the UK's transition to a low-carbon economy. It is a project demonstrably sought by Government to deliver CCUS as part of the urgent drive to meet Net Zero targets.

This Closing Submission has been prepared by the Applicant to summarise its position on the key issues discussed during the Examination of the proposed Development Consent Order ("DCO") for the Cory Decarbonisation Project. Its purpose is to provide the Examining Authority and the Secretary of State with a clear understanding of the Applicant's stance on these matters. With the exception of Section 7.3, the document does not present new material but rather offers clarification of the Applicant's final position on issues that have been addressed by the Examining Authority and/or Interested Parties, drawing on the Applicant's previous submissions.

## 1. INTRODUCTION

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### 1.1. PURPOSE OF THE DOCUMENT

- 1.1.1. This Closing Statement has been prepared by the Applicant to provide a consolidated summary of its position on the key issues raised during the Examination of the Development Consent Order (DCO) for the Cory Decarbonisation Project (the Proposed Scheme). It is provided to ensure that the Examining Authority and, the Secretary of State, have a clear understanding of the Applicant's position on these matters.
- 1.1.2. With the exception of Section 7.3, this document does not introduce any new material but serves to clarify the Applicant's final position on matters that have been the subject of discussion by the Examining Authority and/or Interested Parties, with reference to the Applicant's previous submissions. It should be read with the updated **Policy Accordance Tracker**, submitted at Deadline 7 to reflect Examination submissions.

### 1.2. STRUCTURE OF THE DOCUMENT

- 1.2.1. This Closing Submission is structured as follows:
- Section 2: Need Case
  - Section 3: Site Selection Optioneering
  - Section 4: Carbon Capture Facility Land Take
  - Section 5: Project Design
  - Section 6: Direct and Indirect Ecological Impacts
  - Section 7: The LaBARDS
  - Section 8: Metropolitan Open Land and the Mitigation Hierarchy
  - Section 9: Other Environmental Matters
  - Section 10: Conclusion



## 2. NEED CASE

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### 2.1. CONTEXT

- 2.1.1. As noted in the **Project Benefits Report (PBR) (APP-042)** the context for the Proposed Scheme is set by rapidly escalating global concern about climate change, the long-term shift in the Earth's average temperatures and weather conditions. The International Panel on Climate Change (IPCC) is the leading international body for the assessment of climate change. Its Sixth Assessment Report (AR6) published in 2023, stated:
- 'Climate change is a threat to human well-being and planetary health (very high confidence). There is a rapidly closing window of opportunity to secure a liveable and sustainable future for all (very high confidence).'*
- 2.1.2. Not least as discussed with the relevant planning authority, London Borough of Bexley (LBB) the Applicant wholly acknowledges there is a level of tension between policy intended to address global warming and climate change priorities and that seeking to maintain sites locally designated for ecology in projects such as this. However, the IPCC's assessment conclusions are clear, as is the Climate Change Committee's (CCC) statement: that carbon capture and storage is a *'necessity not an option'*; a phrase repeated in National Policy Statement for Energy (NPS EN-1, at paragraph 3.5.2).
- 2.1.3. As is made clear in the **Planning Statement (APP-040)** NPS EN-1 is the primary policy for the Secretary of State's decision making on projects in the field of energy for which a direction has been given under section 35 of the Planning Act 2008. The **Planning Statement (APP-040)** considers NPS EN-1 and all other relevant planning policy in some detail and consequently is not repeated here. In its **Response to ExA's Rule 17 Letter of 25 April (REP6-040)** the Applicant has also reviewed the updated draft NPS EN-1, issued for consultation by the government in April 2025, which reasserts, or reinforces, the policy support for critical national priority (CNP) infrastructure such as the Proposed Scheme.
- 2.1.4. Paragraph 2.2.7 of the **PBR (APP-042)** confirms that, by way of letter dated 6th October 2022, the Secretary of State made a Direction, under Section 35(1) of the Planning Act 2008, that the Proposed Scheme should be treated as development for which development consent under the Planning Act (as amended) is required and therefore a Project of National Significance.
- 2.1.5. One of the reasons given by the Secretary of State for making this Direction is that:
- 'The carbon capture element of the Proposed Project would provide and support the decarbonisation of energy from waste derived CO2 emissions in the UK, delivering over a million tonnes of CO2 savings per annum, and supporting the achievement of a fully decarbonised district heating network that crosses local authority areas. ...'*

- 2.1.6. Consequently, the Proposed Scheme, incorporating the Carbon Capture Facility to support Riverside 1 and 2 (when operational) is CNP infrastructure as confirmed by NPS EN-1 at paragraph 3.5.8.
- 2.1.7. This position has been recently reaffirmed through the CCC's Seventh Carbon Budget:
- 'CCS allows continued use of fossil fuels in limited circumstances, but plays a key role in capturing process emissions, as well as contributing to electricity generation, hydrogen production and engineered removals.'* (page 13)
- 'Whilst its role is limited to sectors where there are few, or no, alternatives, we cannot see a route to Net Zero that does not include CCS.'* (page 14)
- 2.1.8. The current policy background reflects the recognised global urgency for action, with the UK being the first major economy to legislate for a 2050 net zero greenhouse gas (GHG) target in 2019. In 2021, revised legislation requires a reduction in GHG emissions of at least 78% relative to 1990 levels by 2035; bringing forward the previous target by 15 years. The consultation draft NPS EN-1 additionally makes clear that the Government intends to deliver the Clean Power 2030 Mission.

### **CRITICAL NATIONAL PRIORITY INFRASTRUCTURE**

- 2.1.9. At section 4.2, the NPS sets out how it has concluded on the need for CNP infrastructure:
- '4.2.1 Government has committed to fully decarbonising the power system by 2035, subject to security of supply, to underpin its 2050 net zero ambitions. More than half of final energy demand in 2050 could be met by electricity, as transport and heating in particular shift from fossil fuel to electrical technology.'*
- 4.2.2 Ensuring the UK is more energy independent, resilient and secure requires the smooth transition to abundant, low-carbon energy. The UK's strategy to increase supply of low carbon energy is dependent on deployment of renewable and nuclear power generation, alongside hydrogen and CCUS. Our energy security and net zero ambitions will only be delivered if we can enable the development of new low carbon sources of energy at speed and scale.'*
- 4.2.3 With smart and strategic planning, the UK can maintain high environmental standards and minimise impacts while increasing the levels of deployment at the scale and pace needed to meet our energy security and net zero ambitions.'*
- 4.2.4 Government has therefore concluded that there is a critical national priority (CNP) for the provision of nationally significant low carbon infrastructure.'*
- 2.1.10. NPS EN-1 makes clear the case for CNP infrastructure, and that, given the level of urgency for such development, the Secretary of State will start with a presumption in favour of granting consent. This includes taking as a starting point that CNP infrastructure will meet other relevant policy tests. This principle remains in the consultation draft NPS EN-1.

- 2.1.11. However, this in principle support comes with responsibility and the requirement that applicants for such development must continue to show how their application meets the requirements in the NPS, applying the mitigation hierarchy and any other legal and regulatory requirements. At paragraph 4.2.11 NPS EN-1 is clear:

*'Applicants must apply the mitigation hierarchy and demonstrate it has been applied.'*

- 2.1.12. The Applicant wholly recognises this responsibility and has, comprehensively, applied the mitigation hierarchy and proactively engaged with the appropriate statutory nature conservation bodies and local planning authority. Not least this is demonstrated by having gained agreement with all of them on their respective subjects, as has been highlighted in the following sections of this report. Through effective discussion throughout the Examination, LBB has moved from offering support in principle to wholly supporting the Proposed Scheme.

## 2.2. POLICY DRIVEN DECARBONISATION

- 2.2.1. Section 4 of the **PBR (APP-042)** presents decarbonisation policy in more detail; whilst this is led by NPS EN-1, delivering national commitments made on a global scale (see section 3 of the PBR) it is also a driving force in regional and local policy.

- 2.2.2. Policy SI 2 of the London Plan requires major development should be net zero and that they should demonstrate how the zero-carbon target will be met. The supporting text at paragraph 9.2.1 makes clear:

*'The Mayor is committed to London **becoming a zero-carbon city**. This will require reduction of all greenhouse gases, of which carbon dioxide is the most prominent. London's homes and workplaces are responsible for producing approximately 78 per cent of its greenhouse gas emissions. If London is to achieve its objective of becoming a zero-carbon city by 2050, new development needs to meet the requirements of this policy. Development involving major refurbishment should also aim to meet this policy.'*

- 2.2.3. Adopted in April 2023, the Bexley Local Plan is an up-to-date development plan. Its principles of sustainable development recognise that:

*'Sustainable development is synonymous with good growth: ensure lasting places are created that work economically, socially, and environmentally in the long term to the lasting benefit of their residents and businesses.'* (Principles of Sustainable Development, page 9)

- 2.2.4. The Bexley Local Plan makes clear its contribution to delivering climate change priorities and that this has been a long-standing commitment, noting (at paragraph 7.5) that the Council signed up to the Nottingham Declaration in 2021. Policy DP14 provides explicit support for zero carbon projects:

*'1. The Council will actively pursue the delivery of sustainable development by:*

*a. supporting developments that achieve zero-carbon and demonstrate a commitment to drive down greenhouse gas emissions to zero;*

- 2.2.5. These policies, and others relevant to the Proposed Scheme are considered elsewhere in the Applicant's submissions, not least the **Planning Statement (APP-040)**. What is clear is that the policy imperative of addressing climate change and meeting net zero targets is not an imposition from higher tiers with no presence at the local level. It is as present, and urgent, at the local level as it is globally, and can only be delivered through local action that makes nationally significant change.

## 2.3. NEED FOR THE PROPOSED SCHEME

- 2.3.1. Energy from waste (EfW) facilities such as Riverside 1 and 2 (due to be operational in early 2026) are required to move into a new operational phase. It is no longer enough that they provide hygienic, effective and efficient treatment of residual waste recovering low carbon energy and secondary materials. They are now also required to make the step change to proactively contribute to meeting Clean Power 2030 Mission and net zero targets.
- 2.3.2. Post-combustion carbon capture on EfW facilities treating residual waste is a key element of the Balanced Pathway set out in the Seventh Carbon Budget:
- 'The largest share of emissions reduction in the Balanced Pathway for waste comes from reducing waste sent to landfill and to EfW. This is achieved by resource efficiency, increased recycling rates and a reduction in food waste. In addition, CCS is installed to capture 90-95% of emissions from EfW (Figure 7.8.2)' (page 247)*
- 2.3.3. Even with a reduction in waste creation and increase in recycling and composting activities there remains a role for energy from waste, and this should be fitted with carbon capture technology. This position is reinforced within the consultation draft NPS EN-1 and EN-3 (see **Response to ExA's Rule 17 Letter of 25 April (REP6-040)**).
- 2.3.4. With both facilities operating, the Riverside Campus will be the largest EfW capacity in the country, providing nearly half of London's residual waste treatment capacity with a combined throughput of some 1.5 million tonnes each year. The Proposed Scheme will take that strategic, sustainable waste management infrastructure to the next level, delivering a material contribution (nearly 1% even after operational emissions are accounted for) to meeting the national net zero targets of the Sixth Carbon Budget and some 17% of the London Carbon Budget (see section 5.2, **PBR (APP-042)**).
- 2.3.5. Cory's 2022 Sustainability Report (appended to the PBR) confirms that in 2022 Cory *'delivered an overall carbon benefit of 465,399 tonnes of CO<sub>2</sub>e to the UK.'* Whilst the company is actively pursuing activities across its business to reduce its carbon footprint (eg reviewing energy use at operational sites, installing electric vehicle charging points, and using biofuels in its tugs) *'99 per cent of Cory's CO<sub>2</sub>*

*emissions were emitted from the stack at Riverside 1' in 2022. The only method available to materially address the CO2 emissions from energy recovery facilities is through post-combustion carbon capture.*

- 2.3.6. As set out at section 5.3 of the **PBR (APP-042)** by capturing the fossil carbon (from fossil fuel-based plastics) Cory's residual waste treatment operations will achieve net zero, i.e. no new carbon will be released into the atmosphere. By also capturing the carbon from biogenic materials (paper, card and wood) the operations at Riverside will be carbon negative, because carbon that is part of the natural carbon cycle will also be permanently removed from the atmosphere.
- 2.3.7. With the Carbon Capture Facility operating as part of the Riverside Campus, not only would society's residual waste be decarbonised, but the energy and byproducts recovered – in the form of electricity, heat and aggregates for the construction sector – would be decarbonised too, bringing the environmental, social and economic benefits sought in NPS EN-1, the London Plan, and Bexley Local Plan.
- 2.3.8. Not least of those benefits will be realised by incorporating heat recovery infrastructure, optimising this affordable, decentralised, zero carbon energy source for Londoners; a matter not lost on the Secretary of State in making the Section 35 Direction. The benefits of heat, and the expectation for delivery, is reinforced in the draft NPS EN-1 and EN-3 (see **Response to ExA's Rule 17 Letter of 25 April (REP6-040)**).
- 2.3.9. The Oxford Institute for Energy Studies also recognises the benefits of post-combustion carbon capture at EfW facilities. Its May 2024 report 'Carbon capture from energy from waste: A low hanging fruit for CCS deployment in the UK?' (submitted to the Examination as **Appendix E to the Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)**) states:  
*'In fact, the significance of EfW+CCS in meeting climate change objectives cannot be overstated, as the practice can contribute at least three different climate benefits.'* (Executive Summary)
- 2.3.10. Elsewhere the Executive Summary confirms that *'not only can CCS help decarbonise EfW facilities, but the EfW sector is also key in ensuring the timely and large-scale deployment of CCS itself as a national decarbonisation solution.'*
- 2.3.11. The Proposed Scheme also demonstrates that shipping at scale, a non-pipeline transport (NPT) option for carbon dioxide sought by Government in the CCUS Vision, is deliverable and will deliver economic benefits (**PBR (APP-042)** section 5.3 and paragraph 6.1.4).
- 2.3.12. This approach leads to fewer vehicles on the public highway, reduced land take, and economic benefits as the Proposed Scheme can act as a catalyst to growth of the UK shipping sector. The ability to demonstrate the viability of NPT options for carbon dioxide, making carbon capture more attractive to other CO2 emitters who do not have access to pipelines is a benefit at the national level.



- 2.3.13. In the 'CCUS: non-pipeline transport and cross border CO2 networks – call for evidence consultation' (submitted to the Examination as **Appendix G to the Applicant's Response to Relevant Representations (AS-044)**) the previous government advised that *'NPT will unlock CCS as a potential decarbonisation route for capture projects outside the CCUS industrial clusters or in clusters without direct access to an offshore pipeline. Unlocking CCS in these locations will be essential for the UK to reach its decarbonisation goals.'*
- 2.3.14. From paragraph 5.2.15, the **PBR (APP-042)** explains Cory's membership of the Viking CCS Cluster. The Viking reservoirs provide a storage capacity for some 300 million tonnes of CO2, and the Viking CCS project plans to capture and store 10 million tonnes of CO2 per annum by 2030. The Viking CCS Carbon Dioxide Pipeline Project DCO application was granted consent on 9 April 2025, demonstrating its future ability to sequester the carbon dioxide captured at Riverside. Whilst this and the Cory Decarbonisation Project are two separate DCO applications, together they demonstrate the ability for the private sector to respond quickly to meeting Government's aspiration for carbon capture and storage to achieve net zero targets.
- 2.3.15. Following the grant of the Liverpool Bay CCS DCO on 20 March 2025, the Government awarded the carbon dioxide and storage licence to Liverpool Bay CCS Limited on 22 April (<https://www.gov.uk/government/publications/award-of-carbon-dioxide-transport-and-storage-licence-liverpool-bay-ccs-limited>) and financial close between the Government and the Developer (ENI) was confirmed on 24 April 2025. The UK Secretary of State for Energy Security and Net Zero, Ed Miliband, said: *"Today we keep our promise to launch a whole new clean energy industry for our country - carbon capture and storage - to deliver thousands of highly skilled jobs and revitalise our industrial communities. This investment from our partnership with Eni is government working together with industry to kickstart growth and back engineers, welders and electricians through our mission to become a clean energy superpower. We are making the UK energy secure so we can protect families and businesses and drive jobs through our Plan for Change."* (<https://www.eni.com/en-IT/media/press-release/2025/04/eni-and-uk-reach-financial-close-for-the-liverpool-bay-ccs-project.html>).
- 2.3.16. These significant milestones, for ENI, the Hynet Cluster and for CCUS deployment in the UK, demonstrate the Government's commitment to carbon capture technology to deliver the Clean Energy 2030 Mission and net zero.
- 2.3.17. Playing its role in delivering carbon capture, the Proposed Scheme can act as a catalyst for growth to the UK shipping sector, opening up a whole new market.

## 2.4. INTERESTED PARTIES' SUBMISSIONS

- 2.4.1. There has been little objection to the fundamental need for carbon capture and storage as a key element of decarbonisation priorities. The Proposed Scheme has been scrutinised on relevant matters of detail (with key elements discussed in

the following sections of this report). However, in relation to need, there has been some representation, particularly from Save Crossness Nature Reserve (SCNR) and Ridgeway Users questioning whether the technology will work, and whether the stated carbon capture performance can be met and how it should be regulated.

- 2.4.2. Through the Examination the Applicant has responded to each of these representations in detail and confirms that the Proposed Scheme will operate efficiently and there are existing plants that do so; and will capture a minimum of 95% carbon dioxide emissions from the Riverside EfW facilities being appropriately regulated by the Environment Agency. Key references for these elements are set out below.
- 2.4.3. The Applicant reiterates that it has worked with leading technology providers to develop the Proposed Scheme and that it is progressing discussions with a technology contractor. Not least in its **Response to Relevant Representations (AS-043)** (see particularly paragraph 4.2.5) the Applicant sets out some notable examples of other projects designed to capture a comparable amount of carbon dioxide. As confirmed in its press release of 8 April 2025 (see Table 2.4.5 of the **Applicant's Response to Interested Parties' Deadline 5 Submissions (Document Reference 9.31, submitted alongside this report)**). Cory has partnered with Imperial College London *'to drive research and innovation in carbon capture technology, as well as encouraging entry into carbon capture and storage related career pathways and raising wider awareness of STEM subjects.'*
- 2.4.4. Not least due to the efficacy of the environmental permitting regime, there is no definitive threshold for carbon capture within the planning regime. Section 2.8.3.1 of the **Applicant's Response to Interested Parties' Deadline 3 Submissions (REP4-033)** confirms that *'the Carbon Capture Facility will be designed to capture at least 95% of the emissions from carbon dioxide at 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.'*
- 2.4.5. Substantive responses to the representations questioning the efficacy of carbon capture and the appropriateness of the environmental permitting regime have been provided at Table 2.8 of the **Applicant's Response to Interested Parties' Deadline 3 Submissions (REP4-033)**, Table 2.5 of the **Applicant's Response to Interested Parties' Deadline 4 Submissions (REP5-032)** and pages 22 and 23 of the **Written Summary of the Applicant's Oral Submissions at CAH1 (REP1-028)**.

- 2.4.6. Paragraph 13.8.24 of **Chapter 13: Greenhouse Gases of the ES (APP-062)** confirms that the payback period '*the time it would take for carbon emissions calculated for the construction and operation phases to be offset by the savings in carbon emissions from the Proposed Scheme*' is less than five weeks.

## **2.5. CONCLUSION**

- 2.5.1. There has been little objection to the need for the Proposed Scheme; that which has been raised has been substantially driven by misunderstanding of the carbon capture process and the complementary, but different, roles of the planning and permitting regimes. The Applicant has provided clear and positive responses to all such submissions.
- 2.5.2. Further, following detailed discussion about the need for the Proposed Scheme and consideration of the potential for impacts from it, the London Borough of Bexley now supports the development, including its provision for heat.
- 2.5.3. The Proposed Scheme is recognised as CNP infrastructure in the primary policy document for its determination, NPS EN-1. Carbon capture is recognised by Government and its adviser, the CCC, as the solution for EfW facilities such as Riverside 1 and 2 that are playing their role in the waste hierarchy, taking sustainable residual waste management on the next step to be decarbonised and play its important role in meeting Clean Power 2030 Action Plan and net zero priorities.



### 3. SITE SELECTION AND OPTIONEERING

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#### 3.1. CONTEXT AND PROCESS

##### CONTEXT

3.1.1. There is no prescribed methodology for site selection and optioneering. However (and as agreed with LBB early in the Examination (reported in **SoCG, Rev B (REP2-010)**) it is appropriate to undertake a site assessment process on a proportionate basis, focussing on policy matters that can differentiate between options and the ability for the options considered to meet project objectives. This has been the approach used by the Applicant throughout its consideration of alternative sites and in establishing the Optioneering Principles.

3.1.2. Section 2.2 of the **Terrestrial Site Alternatives Report (TSAR) (APP-125)** establishes the concept of reasonable alternatives in terms of CNP infrastructure such as the Proposed Scheme, referencing paragraph 4.3.22 of NPS EN-1 which states:

*'Given the level and urgency of need for new energy infrastructure, the Secretary of State should, subject to any relevant legal requirements (e.g. under the Habitats Regulations) which indicate otherwise, be guided by the following principles when deciding what weight should be given to alternatives:*

- *the consideration of alternatives in order to comply with policy requirements should be carried out in a proportionate manner; and*
- *only alternatives that can meet the objectives of the proposed development need to be considered.'*

3.1.3. Paragraph 2.2.3 of the **TSAR** confirms that each of the NPS EN-1 elements - the proportionate response to legislative and policy requirements and identification of the key principles for an alternative to meet the objectives of the Proposed Scheme - have been considered.

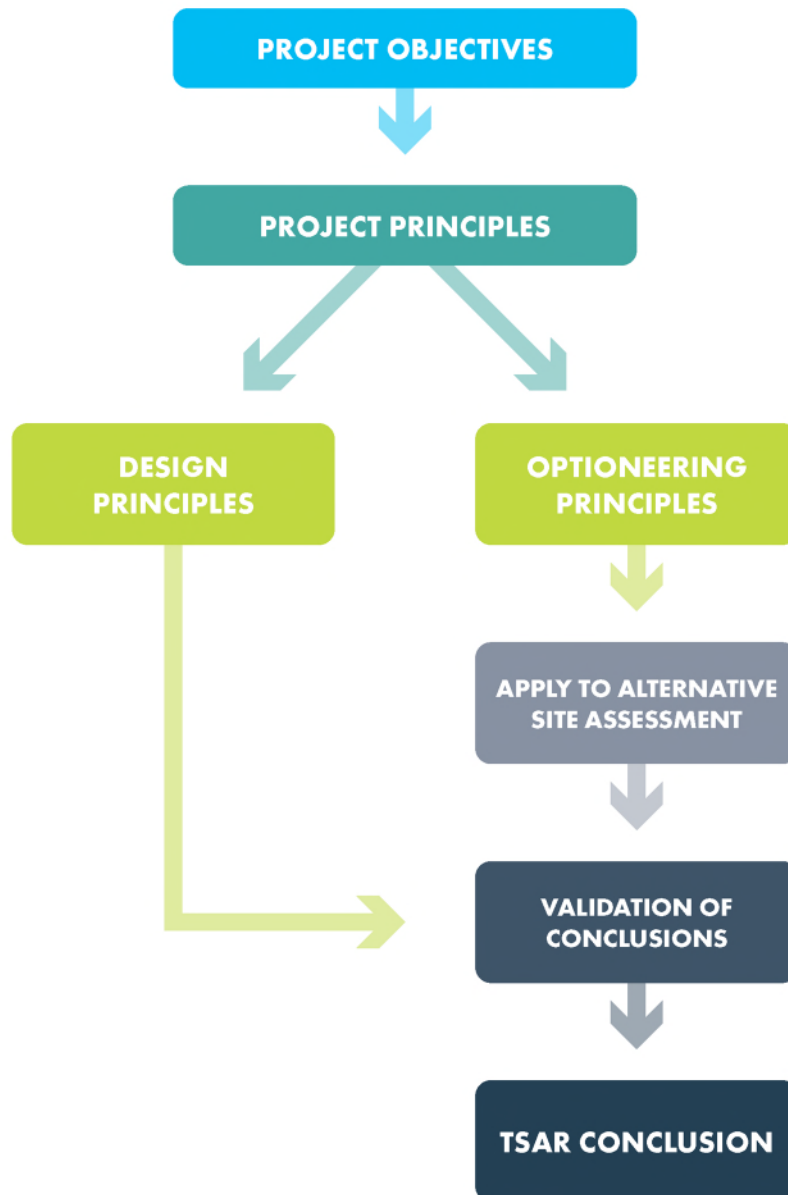
3.1.4. The protective policies in NPS EN-1 that are relevant to a proportionate assessment of site alternatives for the Proposed Scheme are consequently identified at paragraph 2.2.7 of the **TSAR (APP-042)**:

- *'the need for the mitigation hierarchy to be followed;*
- *the presence of Metropolitan Open Land, which is treated in the London Plan and London Borough of Bexley (LBB) Local Plan terms (and in previous DCO applications) as having the same status as Green Belt, and thus the need to demonstrate very special circumstances for building on it;*
- *the Accessible Open Land being both designated as, and used as, public open space, which has not been deemed surplus to requirements by LBB; and*
- *the 'due consideration' to be given to impacts to local nature designations such as LNRs and SINCs, both of which are present in the Site.'*

- 3.1.5. It is also recognised that the Proposed Scheme will need third party land. Paragraph 2.2.6 of the TSAR (APP-125) notes that in the absence of successful negotiations, the land would need to be compulsory acquired under the DCO, an action that is subject to the legal requirement to demonstrate a 'compelling case in the public interest'. As part of demonstrating that this test is satisfied, Government policy provides that a prospective acquiring authority must be able to demonstrate that acquisition of the land is necessary and that all reasonable alternatives to compulsorily acquiring the land proposed have been explored.
- 3.1.6. The remainder of section 2.2 of the **TSAR (APP-125)** sets out the context relevant to undertaking the alternatives exercise in a 'proportionate manner' (as per NPS EN-1, paragraph 4.3.22, first bullet point), including the context relevant to the Project Objectives, which are set out at paragraph 2.2.26:
- *'located in the vicinity of the Riverside Campus and the River Thames, for efficient connection to EfW facilities and the Proposed Jetty;*
  - *of sufficient size to accommodate the Carbon Capture Facility, including its Supporting Plant and Associated Infrastructure in order to capture and process the carbon created by both Riverside 1 and Riverside 2;*
  - *and deliverable in a timely manner.'*

## PROCESS

- 3.1.7. As one element of its participation in the Planning Inspectorate's Early Adopter Programme, the Applicant prepared the **Design Approach Document (DAD) (APP-044 to APP-046)** to provide a narrative of the design approach implemented throughout the evolution of the Proposed Scheme.
- 3.1.8. The **DAD (APP-044 to APP-046)** *'outlines the vision for the Proposed Scheme; presents a description of the site, its physical/environmental and planning/ policy context; provides an explanation of the project design process and how its operational brief has responded to consultation outcomes, sustainability and context; and describes the framework and the governance of design from concept to delivery, outlining the nature of the submitted design (expressed in the Project Description and Parameters), the role and nature of Project Principles, Optioneering Principles and Design Principles and the role of the Design Code to guide the development of detailed design.'* (page 9)
- 3.1.9. The interaction of the Project Objectives and the key principles are reflected in Figure 2-2 of the **TSAR (APP-125)**.



**Figure 2-2 Interaction of the Design Principles and Optioneering Principles**

3.1.10. Six optioneering principles are established as relevant to the Proposed Scheme (explained at section 2.5 and 2.8 of the **TSAR (APP-125)**):

- **Principle 1:** Seek to avoid or minimise adverse impact to locally important biodiversity sites.
- **Principle 2:** Seek to avoid or minimise adverse impact to protected species.
- **Principle 3:** Seek to avoid or minimise the level of adverse impact on existing businesses/third party landowners.
- **Principle 4:** Seek to avoid or minimise land take within the MOL Accessible Open Land, and impacts on PRow.

- **Principle 5:** Ease of required connections with the Riverside Campus and the Proposed Jetty.
- **Principle 6:** Seek to minimise engineering complexity and consequent cost.

- 3.1.11. The function of the Optioneering Principles is to identify how each development zone would deliver the Project Objectives through considering both policy priorities and practical matters (use of third party land and project delivery) as relevant and helpful to differentiate between the options.
- 3.1.12. Consequently, the Optioneering Principles expressly (as explained at paragraph 2.8.1 of the TSAR) do not include all policy priorities. This approach would not help to differentiate between the development zones as either: it would be the same outcome for all locations considered; or it would be a very similar outcome at all locations and a matter that has a readily available design/technical remedy, for example noise and vibration effects or air quality effects. The detailed consideration of all policy requirements relevant to the Proposed Scheme is presented (as appropriate to its function) in the **Planning Statement (APP-040)**.
- 3.1.13. The Optioneering Principles have been purposefully focussed on those matters that will differentiate between the alternatives being considered, pursuant to the important and relevant policy imperatives and practical matters that enable the Project Objectives to be met.
- 3.1.14. The Optioneering Principles were applied to eight, 8ha development zones, located to the north, east, south and west of the Riverside Campus. The applied process, as reported in the **TSAR (APP-125)** identified the preferred development zone, South Zone 1, with the Design Principles used to validate the process.
- 3.1.15. The **TSAR Addendum (Appendix H to Applicant's Response to Relevant Representations (AS-044, and its Annex A (AS-062))** were subsequently prepared in direct response to the relevant representations received (particularly from LBB and the GLA). Seven additional development zones (all 8ha in size) were considered. None met the Project Objectives and were demonstrated not to be reasonable alternatives.
- 3.1.16. Following this, in response to challenges principally from TWUL and LBB, a further examination of land at Veridion Park was undertaken and is set out in the **Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)** (from page 94). It was clearly demonstrated that Veridion Park would be an unsuitable site to accommodate the Proposed Scheme and was also not a reasonable alternative.

## OUTCOMES

- 3.1.17. South Zone 1 has consistently and robustly been demonstrated appropriate to be the Applicant's preferred location and the only reasonable alternative that meets the Project Objectives.

- 3.1.18. Having appropriately applied the mitigation hierarchy the Applicant has demonstrated that it is not possible to avoid policy designations for ecology and Metropolitan Open Land (MOL), but, importantly, that it has minimised impact on these designations through a dominant use (c.70%) of land allocated in the Bexley Local Plan as Strategic Industrial Location (SIL).
- 3.1.19. Development at South Zone 1 enables delivery of the required connections between the Carbon Capture Facility and the EfW facilities at Riverside, enables efficient connection to the proposed Jetty and minimises engineering complexity and cost, enabling its delivery in a timely manner. There is no reasonable alternative to development of the Carbon Capture Facility at South Zone 1.
- 3.1.20. This conclusion has been reaffirmed through all subsequent exploration of issues raised throughout the Examination and reported in:
- Applicant's Response to Relevant Representations (AS-043);
  - TSAR Addendum (AS-044);
  - Written Summary of the Applicant's Oral Submissions at Issue specific Hearing 1 (REP1-025);
  - Appendices A – E of the Written Summary of the Applicant's Oral Submissions at Issue specific Hearing 1 (REP1-026);
  - Appendix F of the Written Summary of the Applicant's Oral Submissions at Issue specific Hearing 1 (REP1-027);
  - Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019); and
  - Applicant's Response to Interested Parties' Deadline 2 Submissions (REP3-034);
  - Applicant's Response to Interested Parties' Deadline 3 Submissions (REP4-033); and
  - Applicant's Response to Interested Parties' Deadline 4 Submissions (REP5-032).
- 3.1.21. Within **SoCG, Rev D (REP4-016)** LBB agreed that: an appropriate method had been used for site optioneering; that Veridion Park was not a reasonable appropriate; that the mitigation hierarchy had been appropriately applied; and that all reasonable alternatives had been assessed. In March 2025, LBB '*agreed that an appropriate location has been selected for the Proposed Scheme.*' (**SoCG, Rev E, REP5-019**).

## 3.2. JETTY SITE ALTERNATIVES REPORT

- 3.2.1. The **Jetty Site Alternatives Report (APP-126)** presents the same process applied to identifying the chosen location of the Proposed Jetty.

- 3.2.2. Discussion of the location and design of the Proposed Jetty has been substantially limited to the Port of London Authority, with whom the Applicant has agreed all relevant matters.

### 3.3. INTERESTED PARTIES' SUBMISSIONS

- 3.3.1. Site optioneering, in terms of both location and size, has been a dominant matter raised within Interested Parties' submissions, with agreement failing to be reached with SCNR and Munster Joinery/Landsul.
- 3.3.2. SCNR has consistently portrayed the East Zone as an alternative location and relied upon many of Munster Joinery/Landsul's submissions to criticise the Proposed Scheme. However, the Applicant has demonstrated (through the submissions identified above) that the East Zone is not a reasonable alternative and fails to deliver the Project Objectives; not least in that there is no readily available option that would provide a site of 8ha without substantial adverse impacts.
- 3.3.3. Munster Joinery/Landsul's submissions focus less on the choice of South Zone 1 as on the protection of the land interests on Norman Road. The alternative layouts proposed by Munster Joinery/Landsul have been robustly rebutted by the Applicant for operational/engineering reasons (as discussed at section 4 of this report). They are demonstrated also to not be a reasonable alternative.
- 3.3.4. Both SCNR and Munster Joiner/Landsul have questioned the site area required for the built footprint of the Carbon Capture Facility. **Appendix B to the Written Summary of the Applicant's Oral Submissions at ISH1 (REP1-026)** explains the area requirement for this element of the Proposed Facility and how it has changed over time, both as the project has evolved and a greater understanding of the site topography and constraints was understood. The Applicant has only considered sites of an appropriate size that will enable timely delivery of the Proposed Scheme, limiting land take to what is necessary.
- 3.3.5. As set out at section 4 of this report and particularly in the **Written Summary of Oral Submissions at CAH2 (REP4-048)**, the **Indicative Equipment Layout (AS-070)** is a carefully considered and appropriately informed scheme that uses the minimum amount of land for the Carbon Capture Facility, whilst retaining a necessary level of flexibility. Along with South Zone 1 being demonstrated to be the only reasonable alternative, the Applicant has demonstrated that acquisition of the land as sought for the Proposed Scheme is necessary and that all reasonable alternatives to compulsorily acquiring the land proposed have been explored.
- 3.3.6. The Carbon Capture Facility has to be located in the vicinity of the Riverside Campus and the River Thames, of sufficient size, and deliverable in a timely manner. These are the Project Objectives, which SCNR agrees to be appropriate. The Proposed Scheme would, necessarily, build upon land owned by third parties:



- TWUL - the East and Stable Paddocks are non-operational land designated as MSINC, LNR and MOL;
- Riverside Resource Recovery Limited (part of the Cory Group) - SIL allocated land used as temporary construction compounds for Riverside 2;
- Mr Gannon and Creek Side – SIL allocated land used as temporary construction compounds for Riverside 2; and
- Landsul Ltd – SIL allocated land occupied in part by Munster Joinery Ltd.

3.3.7. As set out in **Appendix E to ISH1 (REP1-026)** the effects to these existing businesses and third party landowners will be less than those of the East Zone. Further, as confirmed by Miss Clutton during CAH1 (**CAH1 page 3 (REP1-028)**) this represents the option with the least land take from third parties, because of the inclusion of land owned by the Cory Group.

### 3.4. CONCLUSIONS

- 3.4.1. The Applicant has undertaken a structured, iterative and proportionate optioneering process that has correctly identified the preferred site and layout for the Proposed Scheme. It has been guided by Optioneering Principles that have been rigorously applied and recorded.
- 3.4.2. Having established the relevant Project Objectives, recognising (as advised in NPS EN-1) that site options that cannot meet these objectives are not reasonable alternatives, section 2.3 of the **TSAR (APP-125)** confirms the terrestrial site assessment process undertaken has been iterative, using various points along the way to review current understanding and to test assumptions
- 3.4.3. The optioneering process has evolved during the life of the project development process and has enabled the assessment to be refreshed at appropriate times, whilst remaining rooted in the Project Objectives and Optioneering and Design Principles.
- 3.4.4. Each of the elements of NPS EN-1 policy (at paragraph 4.3.22) - the proportionate response to legislative and policy requirements and identification of the key principles for an alternative to meet the objectives of the Proposed Scheme - have been rigorously considered within the terrestrial site assessment process set out above and undertaken by the Applicant since early 2022. The process has demonstrated that South Zone 1 is the only site that can meet the objectives of the Proposed Scheme and is an appropriate site for the Carbon Capture Facility. This conclusion is agreed with the relevant planning authority.

## 4. CARBON CAPTURE FACILITY LAND TAKE

### 4.1. CARBON CAPTURE FACILITY LAND TAKE

- 4.1.1. The Applicant has followed a robust and industry-standard approach to developing the **Indicative Equipment Layout (AS-070)** and establishing the Order limits for the Proposed Scheme. This approach is detailed in the **Applicant's Written Summary of the Applicant's Oral Submission at CAH2 (REP4-048)**. Throughout this process, the Applicant has sought to minimise the overall development footprint and confirms that the **Indicative Equipment Layout (AS-070)** as submitted represents the minimum overall development footprint required for the Carbon Capture Facility, whilst retaining necessary flexibility for detailed design.
- 4.1.2. The development of the footprint requirements shown on the **Indicative Equipment Layout** (and which has ultimately led to the development zoning provided for in the Works Plans for which consent is sought) has been informed by requirements specified by world-leading carbon capture technology providers, equipment suppliers and the Applicant's technical advisors. It takes into consideration the specific constraints of the Site, including its irregular shape, the presence of existing ditches and watercourses, and the requirements for stand-off separation between site boundaries/ditches and process equipment, while maintaining the necessary design flexibility for a project at a relatively early stage of design development. This level of development is typical of the approach taken on energy DCO projects across the UK as illustrated by the examples previously identified in the Applicant's **Written Summary of the Applicants Oral Submissions at Compulsory Acquisition Hearing 2 (CAH2) (REP4-034)** Section 3.1.8 and Appendix B, including:
- Drax Bioenergy Carbon Capture and Storage Project Indicative Equipment Layout Drawing;
  - Net Zero Teesside Indicative PCC Site Layout Drawing;
  - Keadby 3 Carbon Capture Power Station Indicative Layout drawings; and
  - Riverside Energy Park Illustrative Site Layout Plan.
- 4.1.3. Therefore, the Applicant has limited acquisition of land to what is strictly necessary (under the s122 test) and its land take cannot be considered to be 'excessive'.
- 4.1.4. With reference to specific elements of the Carbon Capture Facility for which the land take/ footprint has been challenged during the Examination, the Applicant has presented its rationale and justification for the land take identified in the Application in its **Written Summary of the Applicant's Oral Submissions at both ISH1 and CAH1 and associated Appendices (REP1-025, REP1-026 and REP1-028), Written Summary of the Applicant's Oral Submissions at CAH2 (REP4-048)**, in the **Applicant's Response to Landsul and Munster Joinery's**



**Deadline 1 Submission (REP2-021) and in the Applicant's Response to Landsul and Munster Joinery Deadline 5 Submission (REP6-038).** In response to the specific items raised in Landsul and Munster Joinery's Deadline 5 Submission, the Applicant notes the following key points:

- The Applicant's approach to electrical distribution, and particularly the import of electrical power to the Carbon Capture Facility at 132kV, is unavoidable given the physical and technical constraints of the existing and proposed 11kV installations on the Riverside 1 and Riverside 2 plants respectively. Hence, the electrical infrastructure proposed within the Carbon Capture Facility, including 132kV switchgear and transformers to step down the 132kV to voltages appropriate for distribution and supply around the site, is essential.
- The provision of heat distribution pipework and a heat transfer facility within the built footprint of the Carbon Capture Facility is driven by both local and national policy for decarbonisation of heat and reinforced through the consultation draft NPS. This obliges developers of energy infrastructure to pursue district heating opportunities where practicable. The Applicant has also demonstrated that there is sufficient and immediate demand for supply of heat to make the provision of heat from the Carbon Capture Facility, in addition to that available from the Riverside 1 and 2 facilities, a practicable and commercially viable proposition. It has therefore been demonstrated that the land take required to support deployment of heat recovery and transfer infrastructure is an essential part of the Carbon Capture Facility.
- Where the Applicant has allowed for flexibility in scheme design (specifically a single v two train layout and the amount of CO<sub>2</sub> storage vessels) it has demonstrated that even the minimum usage of that flexibility would not enable Landsul and Munster Joinery's land to be avoided.
- There are a number of limitations in the development of the Alternative Site Layout proposed by Landsul/Munster Joinery that mean that it does not represent a valid, like-for-like alternative arrangement of the necessary equipment items, buildings and supporting infrastructure necessary for the safe and efficient operation of the Carbon Capture Facility. The Alternative Site Layout therefore does not demonstrate that the overall land requirement in the Indicative Equipment Layout is excessive. It is also considered that the benchmarking comparison made by Landsul/Munster Joinery in their Deadline 5 submission is not directly comparable with the land take developed by the Applicant using more detailed, project-specific data derived specifically for the Proposed Scheme and its appropriate location.

4.1.5. It is therefore not possible to avoid acquisition of any of the plots of land included in the development footprint, including the Landsul/Munster Joinery land.

## 5. PROJECT DESIGN

### 5.1. OVERVIEW

- 5.1.1. The Applicant's approach to securing 'Good Design' processes and outcomes is detailed within the **Design Approach Document (DAD) (APP-044, 045 and 046)**. It has been implemented through the use of Principles (Project, Optioneering and Design) that have been structured to accord with the National Infrastructure Commission's guidance under the thematic headings of: Climate, People, Places and Value. The Design Principles were consulted on prior to submission of the DCO Application, have been used to validate site selection, informed the configuration of the **Indicative Equipment Layout (AS-070)** and the evolving Proposed Scheme design. Importantly, the **Design Principles and Design Code (REP5-009)** will direct future detailed design and delivery.
- 5.1.2. As illustrated in the **DAD (APP-044, 045 and 046)** the four key spatial influences on the developed illustrative masterplan remain:
- direct connections with the EfW facilities Riverside 1 and 2, and the proposed export strategy via a new Jetty on the River Thames;
  - access from Norman Road into the land parcels contained by the existing ditch network;
  - layout that prioritises buffering the impact of the operational facility on adjacent open land to the west; and
  - improving the public's main point of arrival to the open land and controlling the impact of built development on communities to the south.
- 5.1.3. The losses resulting from the Proposed Scheme are acknowledged and it responds with integrated opportunities to improve the local environment, accessibility and connections. The Proposed Scheme, including mitigation strategies, was established through an iterative process including consideration of consultation outcomes, technical design development; and environmental interactions. The **Outline LaBARDS (AS-094)** (informed by the **Design Principles and Design Code (REP5-009)**) provides the framework necessary to deliver the committed mitigation and enhancements, including resources to ensure long-term management, primarily through the creation of an expanded Crossness Local Nature Reserve with an enhanced water environment to support the improvement of the characteristic flood plain grazing marsh.
- 5.1.4. The Examination process, and ongoing engagement, has driven the development of further detail for certain aspects of the Proposed Scheme, including the illustrative design of access routes for the CLNR, EA and graziers, and measures to reduce waste and promote circular economy practices. Further detail was also requested on the approach to the development platform levels and main river buffer zones, the detail of which has been refined in response to EA flood and watercourse concerns (detailed in Section 9.1 of this report). These changes have

been secured within the **Design Principles and Design Code (REP5-009)** and/or the **Outline Landscape Biodiversity Access and Recreation Delivery Strategy (AS-094)**, as appropriate.

## 5.2. ADDITIONS AND AMENDMENTS TO THE DESIGN PRINCIPLES AND DESIGN CODE

5.2.1. The extent of design flexibility sought for the Proposed Scheme is appropriate and based on the nature of the emerging technology associated with carbon capture and in advance of the involvement of the technology provider at detailed design for the Proposed Scheme. In any event, it is controlled, not least by the **Design Principles and Design Code (REP5-009)** that have been developed throughout the Examination process in response to concerns raised and to capture these changes as commitments, enabling control/certainty during the detailed design phase.

5.2.2. Below is a list of significant changes/additions to the **Design Principles and Design Code** since its original submission.

### NEW DESIGN PRINCIPLES

5.2.3. **DP\_CL 1.5** Minimise, where practicable and accounting for drainage design, the results of ground investigation and assessment, predicted flood levels and a review of the vulnerability of the proposed plant and equipment to inundation in the event of flooding, raising ground levels in the creation of the development platform for the CCF and ensure that the design provides sufficient shelter for workers in a flood event.

5.2.4. **DP\_PE 1.7** Circular economy practices should be identified and considered to prioritise action in the highest tiers of the waste hierarchy to design out wastes, reduce wastes and to divert materials from landfill into other productive uses through recovery, reuse and recycling.

5.2.5. **DP\_PL 1.9** Allow for a minimum 5m offset, up to 8m or greater where practicable, from the top of bank on existing retained watercourses to allow for maintenance, to protect habitats and for the delivery of flood compensation. The exact dimension for offset to be established during detailed design pursuant to **Appendix 11-2: Flood Risk Assessment of the Environmental Statement (Volume 1)**, responding to location specific constraints and seeking to achieve the LaBARDS, operational requirements and process safety for the CCF.

5.2.6. **DP\_PL 1.10** Existing points of access and vehicular routes should be maintained in their current locations where practicable, including the Thames Water Access Road to Norman Road. Where temporary diversions or minor changes to alignment are required, full remediation of habitats and compensatory planting should be provided.

5.2.7. **DP\_PL 1.11** Provide separation between CCF back-up generators and the Crossness Local Nature Reserve boundary to as far as practicable reduce the

impact of noise and emissions. The exact positions for generators within the CCF and distance offsets from boundaries will be established during detailed design stage, pursuant to **Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)** and **Chapter 6: Noise and Vibration of the Environmental Statement (Volume 1) (APP-055)**, responding to location specific constraints and giving consideration to achieving the **Outline LaBARDS (APP-129)**, operational requirements, and process safety for the CCF.

## **NEW/AMENDED DESIGN CODES**

(Amendments to existing codes are underlined)

- 5.2.8. **DC\_CW 1.16** The height of Flue Gas Supply Ductwork, LCO<sub>2</sub> Above Ground Pipelines, other elevated process pipes, duct bridges and racking shall be of sufficient height to allow the safe and unimpeded access of all necessary vehicular traffic requiring access under these structures, depending on the location this may include HGVs, mobile cranes, other mobile plant, and emergency services vehicles. The LCO<sub>2</sub> Above Ground Pipework should be no higher than the minimum that is necessary to fit technical requirements, including meeting connection points to the Carbon Capture Facility and the Proposed Jetty (including the Access Trestle).
- 5.2.9. **DC\_CCF 1.7** The reusing of resources shall be explored at construction, operation and decommissioning phases, with the identified measures implemented wherever practicable. Circular economy practices shall be identified and considered, and the identified practices implemented wherever practicable to maximise action in the highest tiers of the waste hierarchy to design out wastes, reduce wastes and to divert materials from landfill into other productive uses through recovery, reuse and recycling.
- 5.2.10. **DC\_CCF 1.9** Allow for a minimum 25m offset between back-up generators and the Crossness Local Nature Reserve boundary where practicable, to minimise the impact of noise and emissions.
- 5.2.11. **DC\_CCF 1.13** Minimise, where practicable and accounting for drainage design, the results of ground investigation and assessment, predicted flood levels and a review of the vulnerability of the proposed plant and equipment to inundation in the event of flooding, raising ground levels in the creation of the development platform for the CCF and ensure that the design provides sufficient shelter for workers in a flood event.
- 5.2.12. **DC\_CCF 1.24** The CCF will have a maximum platform level of 1.3m AOD to the north of the Thames Water Access Road, and a level of 1.5m AOD to the south of the Thames Water Access Road.
- 5.2.13. **DC\_LNR 1.5** Watercourses must be accessible on one side as a minimum with a clear 5m width, up to 8m or greater where practicable, as offset for a working zone provided from top of bank.

### 5.3. IMPLEMENTATION

- 5.3.1. In response to Examination questions around implementation of the Proposed Scheme, the **Design Principles and Design Code (REP5-009)** has been updated to reinforce controls and delivery of Good Design processes and outcomes post consent.
- 5.3.2. Section 4 of the **Design Principles and Design Code (REP5-009)** was drafted to set out the practicalities of application of the **Design Principles and Design Code** through the defined role of the board level Design Champion and independent review to be carried out by suitably appointed master planning consultancy as recommended in the NIC guidance (Project Level Design Principles). This approach has been agreed with LBB.
- 5.3.3. The design of the Proposed Scheme is an evidence based, positive response to project requirements, context, communities and policy guidance. It balances the delivery of an operationally efficient Carbon Capture Facility, with the expectations of NPS EN-1 in relation to design ambition, environmental improvement, placemaking outcomes and minimising potential development impacts.
- 5.3.4. Requirements 4(3) and 12(3)(k) of the **draft DCO (as submitted at Deadline 7)** requires that the authorised development must be designed and constructed in accordance with the **Design Principles and Design Code (REP5-009)** and that submissions made on this matter must be accompanied by a statement setting out compliance.

## 6. DIRECT AND INDIRECT ECOLOGICAL IMPACTS

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### 6.1. DIRECT ECOLOGICAL IMPACTS

#### OVERVIEW

- 6.1.1. The Applicant has addressed direct impacts of the Proposed Scheme on designated sites, important habitats and protected/notable species within **Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056)**. Habitat loss within Crossness Local Nature Reserve (LNR) is necessary to deliver the Proposed Scheme; it cannot be avoided, as demonstrated by the optioneering process described in Section 3 of this report and **Chapter 3: Consideration of Alternatives of the Environmental Statement (Volume 3) (APP-052)**, and subsequent supporting documentation submitted into the Examination. The mitigation hierarchy was appropriately implemented through the optioneering process; not least, the Optioneering Principles prioritised avoiding loss of/minimising harm to ecological features. The process has demonstrated there is no reasonable alternative to deliver the Proposed Scheme without loss of habitat within the Crossness LNR.
- 6.1.2. Following optioneering, a process of rationalisation was undertaken to reduce the footprint of the Proposed Scheme and minimise effects on ecological features, implementing the mitigation hierarchy. This has resulted in the direct loss of some 2.5ha of floodplain grazing marsh with associated wet ditch and reedbed within the Crossness LNR (designated as Erith Marshes MSINC) primarily comprising floodplain grazing marsh, with ditch habitat and associated reedbeds, for the purposes of the Proposed Scheme.
- 6.1.3. The Applicant's optioneering and rationalisation processes have been the subject of substantial scrutiny through the Examination. The processes have robustly withstood the questioning and criticisms made on them, to justify the residual habitat loss and demonstrate that there is no reasonable alternative to construct the Carbon Capture Facility without the use of this land.
- 6.1.4. However, the Applicant has recognised the importance of the Erith Marshes MSINC and the ecological features it supports (both its habitats and associated species) through the impact assessment process and subsequent development of mitigation and compensation for the Proposed Scheme's effects. It is recognised that significant compensatory habitat creation is required to offset the losses within the Crossness LNR, and that species-specific mitigation is also required to ensure the wildlife the Crossness LNR supports is not subject to significant adverse residual effects.
- 6.1.5. Impacts on ecological features have, given the above need for land take within Erith Marshes MSINC/Crossness LNR, understandably been a focus of submissions made by Interested Parties. In particular, there has been consistent criticism of the assessment of effects on ecological features by SCNR and



Thames Water Utilities Limited, including assertions: that baseline data (i.e. from surveys) is inadequate or incorrect; that the evaluation of ecological features has not been conducted properly (in particular that certain features, such as water voles, should be of National importance, where the Applicant has evaluated them as being of County importance); and that mitigation and compensation have been conflated.

- 6.1.6. The Applicant has responded to these points, defending the approach and conclusions of **Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056)**, and providing further documentary supporting evidence where necessary to confirm the data and assessments are robust<sup>1</sup>. Unfortunately, it has not been possible to find common ground with SCNR on the majority of its points. However, the Applicant has reached agreement with the relevant planning authority, LBB, and a signed Statement of Common Ground (**AS-096**) has been finalised including agreement on ecological impacts and their mitigation.

### **SURVEY DATA**

- 6.1.7. Botanical survey reports have been submitted by the Applicant (**Environmental Statement - Appendix 7-6 - Botanical Survey Report (APP-093)**) and by SCNR (Mark Spencer botany report dated 26 November 2024 (REP1-050)). Both parties' submissions highlight that habitats at Crossness support important botanical species, as reflected in the assessment of impacts within **Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056)**, and that compensatory habitat creation and enhancement is required to mitigate effects on them.
- 6.1.8. Detailed design of the Thames Water Access Road and its interactions with Lagoon Field have been subject to discussion through the Examination. The exact alignment of the Access Road is not yet known and will be determined as part of the detailed design process. The Applicant has confirmed that consideration of ecological features, including ground nesting bird habitat and ditches used by water voles, and other ecologically sensitive areas within Lagoon Field, will be given careful consideration and any compensation measures that may be required provided to the satisfaction of LBB. The defined process for which is secured through requirement 12 of the **draft DCO (submitted at Deadline 7)** and the submission of full LaBARDS(s).

### **WATER VOLE**

- 6.1.9. In **Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056)** the Applicant has evaluated water voles as of County importance. The reasoning for this is that, although in decline, the species

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<sup>1</sup> REP2-019, Table 2-4-6; REP4-033, Table 2-7; REP5-032 Table 2-6.

remains widely distributed throughout the UK in both lowland and upland environments. The population at Crossness is one of relatively few within the Greater London area that supports disconnected population centres of water voles at locations such as Barnes Wetland Centre and the Lee Valley Regional Park.

- 6.1.10. Consequently, the conservation status of water voles at the National scale (or indeed Regional scale) is not dependent on the fate of the Crossness population alone, whereas effects could affect their status at the scale of Greater London. Therefore, County importance is the correct evaluation.
- 6.1.11. SCNR has challenged this reasoning, asserting that water voles should receive an evaluation of National importance. Although water voles are under threat, being at one time a common and widespread species now with a much-reduced range in the UK, County importance is the appropriate evaluation for this species.
- 6.1.12. The arguments made by SCNR (and not accepted by the Applicant<sup>1</sup>) to raise the evaluation to National importance, have ignored the significant value placed on water voles by the Applicant and the extensive mitigation proposals for this species, including compensatory habitat creation (that are subject to approval by Natural England through a Letter of No Impediment (**Appendix A to the Applicant's Response to ExA's Second Written Questions (REP5-033)**)).
- 6.1.13. The arguments also trivialise the evaluation process in an attempt to undermine the assessment of impacts on ecological features, when the assessment has been undertaken following best practice guidelines as issued by the Chartered Institute of Ecology and Environmental Management.

#### **MITIGATION, COMPENSATION AND BIODIVERSITY NET GAIN (BNG)**

- 6.1.14. Compensatory habitat creation and enhancement will be undertaken within Erith Marshes MSINC and Crossness LNR through, primarily, restoration of ground water levels such that floodplain grazing marsh does not dry out as much as it currently does, alongside ditch creation and improvement. Landscaping within the Carbon Capture Facility will also provide additional habitat creation.
- 6.1.15. Due to space limitations, reedbed and open mosaic habitat creation will be undertaken off site, intended to be the BNG Opportunity Area (the former Thamesmead Golf Course), alongside habitat enhancement to achieve a Biodiversity Net Gain of 10% above baseline. The measures at former Thamesmead Golf Course would be undertaken in partnership with Peabody whom the Applicant is working with to deliver the required ecological improvements.
- 6.1.16. The distinctions between mitigation measures, compensation measures and those measures undertaken to achieve a net gain have been the subject of Examination, particularly at Issue Specific Hearing 1 (as described within **Written Summary of the Applicant's Oral Submissions at Issue Specific Hearing 1**



**(ISH1) (REP1-025) and the Applicant's Response to Examining Authority's Second Written Questions (REP5-033)).**

- 6.1.17. Contrary to the representations made, the Applicant has not changed its position with regards those measures being provided for the compensation of habitat loss and those that will deliver a net gain. The Applicant's proposals (and associated documentation) have been shown to be robust in this regard despite the scrutiny of Interested Parties.
- 6.1.18. Delivery of compensatory habitats through landscape proposals is secured by requirement 12 of the **draft DCO (as submitted at Deadline 7)** and described within the **Outline Landscape, Biodiversity, Access and Recreation Delivery Strategy (LaBARDS) (AS-094)** and discussed in more detail in Section 7 below.
- 6.1.19. During the Examination, the Applicant has engaged with Natural England on the subject of mitigation for protected and notable species. In light of commentary by Natural England, proposals for water vole mitigation were changed from one based around capture and captive breeding before release into newly prepared receptor sites, to one based around direct displacement of water voles without a period of captive breeding. This change has been agreed with Natural England who has provided a Letter of No Impediment (**Appendix A of the Applicant's Response to the Examining Authority's Second Written Questions (REP5-033)**) to the licence documentation (including a method statement). This demonstrates ecological mitigation for this species achieves legislative compliance.
- 6.1.20. It should also be noted that Natural England is satisfied that the Applicant's documentation has addressed the environmental issues within its statutory remit, within **Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056)**, as described in the **Natural England Statement of Common Ground (REP6-035)**.
- 6.1.21. In conclusion, whilst habitat loss will be incurred by the Proposed Scheme, its effects will be fully mitigated and compensated, with further provisions included to achieve a net gain for biodiversity.

## **6.2. INDIRECT ECOLOGICAL IMPACTS**

- 6.2.1. The key indirect ecological impact considered in Examination has related to air quality matters. Analysis of air quality modelling data and continued refinement of this data has been used by the Applicant to draw conclusions on ecological effects from the change in emissions from the Riverside Campus arising as a result of the introduction of the Proposed Scheme.
- 6.2.2. The conclusions of this work are that designated sites would receive only a negligible change in airborne pollutants, and thus there would be no significant adverse effects (in EIA terms)/adverse effects on integrity (in HRA terms) on Epping Forest Special Area of Conservation, the Inner Thames Marshes Site of Special Scientific Interest, or other sites within the zone of influence of the

Proposed Scheme. This is true also for important habitats, including Habitats of Principal Importance.

- 6.2.3. This position applies to both the Proposed Scheme alone, and when considering cumulative (in EIA terms) or in-combination (in HRA terms) impacts.
- 6.2.4. Engagement with Natural England in relation to the air quality impacts of the Proposed Scheme has been undertaken throughout the Examination and its agreement with the above conclusions is noted within the **Natural England Statement of Common Ground (REP6-035)**.
- 6.2.5. Other indirect impacts of the Proposed Scheme such as noise and lighting will be controlled through the implementation of the **Outline Code of Construction Practice (REP5-013)** during the construction phase and the **Outline Lighting Strategy (REP5-013)** during the operation phase, as well as by operational controls of the Proposed Scheme itself as described in the **Mitigation Schedule (REP1-011)**. In particular, lighting effects on water voles during the construction and operation phases were the subject of questioning by several Interested Parties, but the conclusions of **Chapter 7: Terrestrial Biodiversity of the Environmental Statement (Volume 1) (APP-056)** and receipt of the Letter of No Impediment have shown this species would not be adversely affected by lighting as a result of the Proposed Scheme.
- 6.2.6. Throughout the Examination, the Applicant has demonstrated that the conclusions of **Chapter 7: Terrestrial Biodiversity of the Environmental Statement (APP-056)** with respect to indirect effects on terrestrial biodiversity are robust, and that the Proposed Scheme would not lead to significant adverse residual indirect effects on ecological features.

## 7. THE LANDSCAPE, ACCESS, BIODIVERSITY AND RECREATION DELIVERY STRATEGY (LABARDS)

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### 7.1. PURPOSE OF THE OUTLINE LABARDS AND ITS DEVELOPMENT

- 7.1.1. As set out elsewhere within this report, the potential impacts of the Proposed Scheme have been fully assessed with appropriate mitigation, compensation and BNG provision set out.
- 7.1.2. The purpose of the **Outline LaBARDS (AS-094)** is to provide a proportionate framework for all elements of the landscape, biodiversity, access and recreation proposals of the Proposed Scheme. It is the mechanism to ensure the successful delivery, implementation and management of the Applicant's mitigation and enhancement proposals on site (Mitigation and Enhancement Area and the Carbon Capture Facility) and off site (principally the BNG Opportunity Area).
- 7.1.3. Submission, for approval by LBB, of full LaBARDS(s) (which must be in substantial accordance with the **Outline LaBARDS (AS-094)**) and the consequent implementation of any such approved document(s) is secured through requirement 12 of the **Draft DCO**. This process is well established to ensure the identified ecological, landscape and access/amenity commitments are delivered.
- 7.1.4. Through both the Examination and ongoing engagement the **Outline LaBARDS (AS-094)** has been amended, with the key updates being:
- 7.1.5. New and strengthened engagement commitments. An engagement report will be produced to accompany any full LaBARDS(s), to present the engagement activities that have been undertaken in the preparation of that document and how feedback has been taken into account.
- 7.1.6. Further clarity on activities during the construction phase, including commitments to ensure the Temporary Construction Compounds are appropriately set up and restored and that impacts to grazing activities will be minimised during construction, including through temporary relocation of horses and facilities elsewhere on site where practicable.
- 7.1.7. Whilst grazing has always been an integral feature, explicit recognition that it is an essential element in the maintenance of the valued grazing marsh habitat and its future conservation has been added, along with reference to improved utilities for the graziers (such as provision of on-site water and power). Graziers will be consulted in the development of detailed proposals and management plans.
- 7.1.8. Tree planting shown indicatively within Figure 14 along the eastern edge of the grazing marsh, within Norman Road Field, has been significantly reduced in response to concerns over impacts to the balance of vegetation within the grazing marsh habitat.

- 7.1.9. More detail is provided on strategies and timeframes for the establishment of new and enhanced habitats, in particular water vole habitats, which has resulted in the LONI from Natural England. The **Outline LaBARDS (AS-094)** now provides a summary of expected works, as well as the approach to management and long-term monitoring criteria.
- 7.1.10. Additional detail has been added around the preservation or realignment of existing access routes, including for the Thames Water Access Road and separate provision for grazier and Nature Reserve access. In each case the potential environmental impacts of land take for the access routes have been addressed.
- 7.1.11. Section 14, addressing monitoring, management and maintenance has been developed from a set of principles to a full framework of actions and documents to be prepared and submitted for approval by LBB. Suggested timescales or minimum frequency of review and the stakeholders to be consulted in drafting future updates are now defined. The text of this section has most recently been modified to reflect LBB's terminology and has (along with the rest of the Outline LaBARDS) been agreed with LBB (**SoCG (AS-096)**).

## 7.2. KEY OUTCOMES TO BE ACHIEVED THROUGH THE LABARDS(S)

### ECOLOGICAL

- 7.2.1. Habitat works form the core of the **Outline LaBARDS (AS-094)** located within the landscape proposals for the Carbon Capture Facility, on site within the Mitigation and Enhancement Area, and off site (BNG Opportunity Area). Compensatory habitat creation and enhancement has been defined following implementation of the mitigation hierarchy.
- 7.2.2. Key within the **Outline LaBARDS (AS-094)** are proposals to enhance floodplain grazing marsh within an expanded Crossness LNR by raising the water table and alleviating its current poor condition. Creation of new ditches, reedbed and enhancement of woodland are also measures that will deliver biodiversity improvements.
- 7.2.3. Compensatory habitat creation will also comprise open mosaic habitat and reedbed at the BNG Opportunity Area, with enhancement of a large area of grassland that is currently in poor condition driving a net gain for biodiversity, supported by planting within the Carbon Capture Facility. An overall 10% net gain in biodiversity units is achieved.
- 7.2.4. The separation of purpose for habitat creation and enhancement, those required as compensation and those to achieve a net gain, has been clearly differentiated through the Examination, and demonstrated not least in:
- Appendix F to Written Summary of the Applicant's Oral Submission at ISH 1 (REP1-027);
  - Applicant Response to ExA question 2.3.5 (REP5-033);

- Applicant's Response to Interested Parties' Deadline 4 Submissions (REP5-032) (particularly Table Reference 2.6.5 and 2.6.6); and
- Appendix A to the Applicant's Response to Interested Parties' Deadline 4 Submissions (REP5-032).

## LANDSCAPE

- 7.2.5. Proposals secured within the **Outline LaBARDS (AS-094)** provide assurance that the unique landscape characteristics in the vicinity of the Proposed Scheme will be conserved alongside the Carbon Capture Facility with enhancements to the quality, interpretation and useability of the landscape.
- 7.2.6. Key measures include improvements to the water environment of the grazing marsh landscape; the proposed prolonged maintenance making this valued habitat more sustainable, with an enhanced ecological condition and diversity.
- 7.2.7. Landscape is also proposed to be used to soften the edges of the Carbon Capture Facility including, where practicable, planting within the built footprint of the site and along its boundaries, and of a typology consistent with the grazing marsh setting.
- 7.2.8. Mitigation and compensation are secured through the **Outline LaBARDS (AS-094)** for localised impacts on the adjacent landscape, including from temporary construction compounds and access routes.
- 7.2.9. The **Outline LaBARDS (AS-094)** defines the management requirements and puts monitoring and approvals processes in place to ensure that the desired landscapes are achieved and maintained long term.

## ACCESS AND RECREATION

- 7.2.10. An objective of the **Outline LaBARDS (AS-094)** is to deliver improved access and recreational value throughout the Order limits, including to the grazing marsh and Accessible Open Land. Consequently, indicative new footpath links are proposed, joining with the surrounding active travel infrastructure for improved permeability and connectivity. The Recreation Proposals include provision of way finding, visitor and education facilities as part of the expanded Crossness LNR.
- 7.2.11. The **Outline LaBARDS (AS-094)** ensures that proposals for new footpaths, access routes and permissive paths or links will be developed with terrestrial biodiversity in mind to ensure that potential negative impacts are understood, mitigated and managed.
- 7.2.12. Construction and operation phase works and mitigation associated with access routes and PRow are also set out within the **Outline LaBARDS (AS-094)** although the alignment of these routes is shown indicatively.
- 7.2.13. Commitments including consultation on detailed access proposals and engagement with stakeholders (including LBB, the graziers and relevant user groups) is secured through requirement 12 of the draft DCO (as submitted at

Deadline 7) and that any future LaBARDS must be in conformity with the **Outline LaBARDS (AS-094)** with a statement to this effect.

### **DELIVERING ADDITIONAL BENEFIT**

- 7.2.14. **Appendix F to the Written Summary of the Applicant's Oral Submission at ISH1 (REP1-027)** set out the interaction with existing consents and obligations across the Mitigation and Enhancement Area. The note explains the planning history relevant to Norman Road Field and demonstrates that former mitigation commitments implemented at that location for Phase 1 of the Veridion Park development have been satisfied and no ongoing commitment remains. This conclusion was confirmed by LBB in its Deadline 4 Submission (REP4-036).
- 7.2.15. It is also agreed with LBB, and there has been little suggestion from other Interested Parties otherwise, that there is no current management commitment for the BNG Opportunity Area.
- 7.2.16. Consequently, and not least as set out in **Appendix A to the Applicant's Response to Interested Parties' Deadline 4 Submissions (REP5-032)** the ecological proposals set out in the **Outline LaBARDS (AS-094)** are additional and will result in net BNG.
- 7.2.17. In addition, and complying with Bexley Local Plan policy, the commitments set out in the **Outline LaBARDS (AS-094)** will result in enhanced outdoor space available to local communities, improved facilities provided for the graziers and the long term protection of this strategic open land providing an effective break within a built-up area.
- 7.2.18. The **Outline LaBARDS (AS-094)** alongside and informed by the **Design Principles and Design Code (AS-094)** delivers critical national priority infrastructure appropriately within its local context.

## **7.3. DELIVERING THE LABARDS**

### **Mitigation and Enhancement Area**

#### TWUL Land Management Responsibility

- 7.3.1. There has been extensive discussion throughout the Examination about the securing of the delivery of the LaBARDS and its outcomes, including latterly from TWUL at Deadline 6.
- 7.3.2. The Applicant considers that its position throughout the Examination has been clear:
  - delivery of the LaBARDS in planning terms is secured by Requirement 12 of the draft DCO; and
  - the Applicant requires suitable land powers to ensure that it is able to deliver on those planning outcomes.



- 7.3.3. Throughout the debate on the appropriateness of the Applicant's approach to land powers and the drafting of article 50 of the DCO, the Applicant has been clear that ultimately it needs to ensure that the LaBARDS(S) works and management measures will be delivered, and that it would not be at risk of enforcement.
- 7.3.4. The Applicant has always seen TWUL as a key stakeholder in the development of its LaBARDS proposals (as indicated in **REP2-019** and in the inclusion of TWUL as a consultee on the LaBARDS(s)). However, it has never suggested that it expected that TWUL would be expected to have responsibility for compliance with the LaBARDS(s).
- 7.3.5. Indeed, the debates that have been had in relation to whether it is appropriate to just use a section 106 agreement to impose relate exactly to this point – the Applicant having consistently argued that it would not be appropriate for a DCO to impose new obligations on a party that would replicate the effect of a positive covenant in property terms.
- 7.3.6. The Applicant's without prejudice position arises because TWUL has insisted that it wishes to retain ownership of the land notwithstanding the fact that the Applicant would be going onto the land and undertaking the relevant works and, if TWUL did not agree to voluntary mechanisms, the management measures.
- 7.3.7. The Applicant cannot, and has not, assumed that TWUL would take on such responsibilities, hence seeking the powers it has sought through the DCO (including in the without prejudice scenario discussed at Deadline 5).
- 7.3.8. No settled position had been reached in discussions between the parties as to who would ultimately take on responsibility for managing TWUL's land, and in the absence of that not being agreed (and still not agreed at the time of writing), the DCO (through its land powers) and the Deed of Obligation need to allow for a position where ultimately those matters are not agreed. That has been the Applicant's consistent position.
- 7.3.9. However, mindful that TWUL appears willing to at least consider taking on some level of responsibility, the Applicant has suggested drafting to the Deed of Obligation which:
- provides that prior to the submission of a LaBARDS under Requirement 12, the Applicant must either (a) agree with TWUL the management arrangements for its land in the context of the LaBARDS or (b) have utilised its compulsory powers over the land, and reflect the position reached in the LaBARDS submitted for approval; and
  - makes clear that the indemnity for any breaches of the Deed by the undertaker on TWUL's land applies where (b) arises, on the basis that TWUL would still be a party to the Deed as landowner (on the presumption that the grazing issue below is resolved).

- 7.3.10. Such an approach means that TWUL cannot be required to sign up, and then implement, matters it does not agree to, and will not be left in a financially worse position as a result of the Proposed Scheme if ultimately agreement is not able to be reached.
- 7.3.11. The Applicant had a positive discussion with TWUL in respect of the above on 2 May 2025 to answer TWUL's queries on this approach, and TWUL is discussing this internally now the position is fully understood.
- 7.3.12. The parties will continue to discuss this approach (including progressing discussions on the commercial voluntary agreement) continuing to ensure that LBB is content that it is able to enforce effectively from a section 106 perspective. The Applicant is confident that an agreed approach can be found.

#### Land Powers on TWUL's Land

- 7.3.13. The Applicant accepts that, as per its Deadline 5 submission, lesser powers than full compulsory acquisition powers could be acceptable to deliver the LaBARDS as TWUL's position has become clear through the Examination process, if that would enable the full gamut of that LaBARDS (and the requirements of Requirement 12) to be deliverable.
- 7.3.14. However, it is vital to note that the on-going provision for graziers is a fundamental part of the LaBARDS proposals. The expanded Crossness LNR will be an improved grazing marsh, whose ecological function is helped to be maintained by the grazing of horses. The LaBARDS has since the outset provided for commitments in respect of graziers, which have been strengthened over the course of the Examination, with specific provision also now included at Requirement 12 (sub-para (3)(i)). As such, the Applicant needs to ensure that continued grazer access is provided for within the Mitigation and Enhancement Area.
- 7.3.15. The grazier rights should therefore not be seen in isolation in considering the Applicant's approach to land powers – they are part of the overall whole that the Applicant needs to deliver, and if they are not able to be granted, the Applicant could not comply with Requirement 12 and the Proposed Scheme (as CNP infrastructure) could not proceed.
- 7.3.16. In terms of the proposals put forward by TWUL in its Deadline 6 submissions to deal with this issue, the Applicant notes that it does wish for this to be dealt with voluntarily and is open to finding a way to do so.
- 7.3.17. However, until that is able to be agreed, the Applicant cannot be in a position where its ability to comply with Requirement 12(2)(3)(i) is entirely dependent on TWUL granting the relevant rights to the graziers. The suggested Requirement wording by TWUL does not change this position – the Applicant would be concerned to be left in a position where there is a risk that it cannot provide the 'evidence' suggested.



- 7.3.18. The Applicant therefore either needs the ability to either give the grazing rights itself (via retained CA powers) or have TWUL contractually agree to a positive obligation that it will do so, so it can be sure there is no impediment to discharging the Requirement. Unless TWUL gives that commitment, the Applicant cannot be in a position where it has given up its ability to revert to give the grazing rights itself and deliver the LaBARDS and the Proposed Scheme.
- 7.3.19. As to the status of such provisions, the Applicant makes three points:
- firstly, its position has been (as set out, e.g, in REP5-032) that it would not be appropriate to impose new section 106 obligations via using the DCO to amend an existing section 106, however it is perfectly possible for new obligations to be agreed to by a landowner;
  - secondly, for the reasons given above, the requirement to ensure that the graziers are able to use the land in property terms is a relevant planning matter – the LaBARDS includes a number of commitments in respect of the graziers which can only be utilised by them if they can continue to use the land (and the Applicant notes also that TWUL's position seems inconsistent to suggest a Requirement necessitating proof of grazer permitted access could be relevant in planning terms (as is required for a Requirement), but a planning obligation to deliver the same result could not be); and
  - thirdly, even if the Secretary of State did not agree and considered that the obligations did not meet the tests for a planning obligation, the provisions could still form part of the Deed of Obligation as a contractual term.
- 7.3.20. It is therefore perfectly possible for the proposed grazing provisions to form part of the Deed of Obligation, and for the reasons given above, it is considered necessary that they form part of it, or alternatively some other form of voluntary agreement reached, if the Applicant is to agree to move away from full compulsory acquisition powers for the TWUL land.
- 7.3.21. The Applicant is continuing to discuss this matter with TWUL and is confident that an approach will be able to be agreed between the parties.

#### Member's Area Land

- 7.3.22. The Applicant acknowledges that its amendments to the Outline LaBARDS in respect of the Member's Area Land were light touch. This is because the position in respect of that land remains that the Applicant accepts that it could only form part of the LaBARDS if TWUL agree, but the Applicant accepts that it would be liable for the increased costs to TWUL of complying with the LaBARDS if it did so elect.
- 7.3.23. Currently, discussions are on-going as to how this will be reflected in the Deed of Obligation B, in terms of whether the Deed will include (a) a TWUL commitment from the outset to manage Member's Area Land in accordance with the LaBARDS, or (b) if TWUL will retain the ability to make that decision at a later date. In both instances, TWUL would be able to inform the detail of the

management measures for that area in the LaBARDS pursuant to the consultation requirements in the DCO and Outline LaBARDS.

- 7.3.24. The Applicant acknowledges that this therefore leaves the position in respect of article 50(2)(c) not settled. The Applicant therefore proposes that an update on this position will be provided, reflecting whatever is agreed between the parties (including LBB), to the Secretary of State following the end of the ExA's Recommendation period. In particular, the Applicant notes that if scenario (b) becomes the ultimate position in the Deed of Obligation:
- Article 50(2)(c) would need to be amended to state: clause 4 of the 1994 agreement shall be abrogated in its entirety in respect of land within the Order limits; and
  - the Deed of Obligation would need to include wording to provide that if TWUL does eventually elect to manage the Member's Area Land in accordance with an approved LaBARDS, that in such an instance, all parties agree that clause 4 of the 1994 Agreement shall no longer apply to that land.

#### Mitigation and Enhancement Area - Norman Road Field

- 7.3.25. In respect of Norman Road Field, the Applicant understands that within the context of the Agreement itself, Peabody/Tilfen's primary concern is that the Applicant acquires the Norman Road Field before the commencement of the authorised development.
- 7.3.26. The Applicant has agreed that it will make such a commitment in Deed of Obligation (B) – such acquisition to either be by voluntary agreement or through the Applicant using its compulsory acquisition powers, to ensure that commitment does not become an impediment to delivery of the Proposed Scheme.
- 7.3.27. However, that commitment needs to be seen in the context of the Joint Position Statement that the Applicant has agreed with Peabody/Tilfen in respect of both Deeds, which is set out in the discussion on Deed of Obligation (A) below.

#### Position at End of Examination

- 7.3.28. Further to discussions with all parties, the Applicant is not in a position to submit at Deadline 7 a form of Deed of Obligation that would be considered agreeable to all parties and acknowledges that its Deadline 5 submission is not acceptable to all parties (including the Applicant now other parties' positions have become clearer).
- 7.3.29. However, it has been making progress in discussions with third parties and is confident that agreed forms of Deeds of Obligation will be able to be entered into by the end of the Recommendation period, and the Applicant is seeking similarly for the voluntary property agreements with TWUL and Peabody/Tilfen to be agreed by then.
- 7.3.30. However, the Applicant is conscious that this means that the ExA will need to report on a 'no-agreement' scenario, as it (a) does not have sight of what the

agreed Deed might look like and (b) has no guarantee that one will be entered into, notwithstanding the Applicant's confidence.

7.3.31. To that end, the Applicant's position, in a scenario where there is not an agreed Deed of Obligation by the time of Secretary of State decision, is as follows:

- ultimately, delivery of the LaBARDS is secured by Requirement 12, and this therefore can be relied upon in planning terms;
- from a 'no-impediment' perspective, the Applicant would be able to utilise the compulsory powers in the DCO to ensure the LaBARDS is delivered and compliance with the DCO secured;
- the Applicant considers that it needs full compulsory acquisition powers to ensure that the LaBARDS is able to be delivered as a complete package;
- however if the Secretary of State ultimately determines that the Applicant's without prejudice position should be taken forward (i.e. compulsory acquisition of rights and imposition of restrictive covenants, as set out in its response to question 2.5.3 (REP5-033)), and that it would be appropriate to impose such a Requirement given TWUL's reassurances at paragraphs 4.4. and 4.5 of its Deadline 6 submission, in such an instance the Applicant would be prepared to accept the Requirement wording in paragraph 4.3 of its submission, without prejudice to its position set out above;
- the Member's Area Land would not form part of the LaBARDS and article 50(2)(c) would need to be amended as discussed above; and
- to deal with the issue of ensuring there is no 'planning gap' between the end of the duration of ecological commitment given by the 1994 Agreement and the decommissioning of the Proposed Scheme, the Applicant would accept DCO wording in Requirement 12, which requires that alongside the LaBARDS, the Applicant must provide a planning obligation (which, if necessary, could be in the form of a Unilateral Undertaking) to provide an Endowment Sum to LBB. As the Applicant does not own any of the land in the Order limits, it cannot give a section 106 Unilateral Undertaking prior to decision of the DCO, but would be able to do so post consent, to deal with this issue, as it would have either voluntarily, or compulsorily, acquired land within the Order limits by the time it needed to satisfy such a Requirement in the DCO. The Applicant will put forward suggested drafting for such a provision in its update to the Secretary of State post the Recommendation Period on the matters discussed in this section 7.3, if it becomes apparent that a no-agreement scenario is going to arise.

### **Thamesmead Golf Course/Deed of Obligation (A)**

#### Position Statement

7.3.32. The Applicant and Peabody/Tilfen have agreed the following joint position statement (Peabody/Tilfen will also be submitting this text) in respect of Deed of Obligation (A) (and Deed of Obligation (B)). In considering that position statement,

the Applicant also acknowledges that LBB needs to agree Deed of Obligation A, but is optimistic that this will be able to be achieved as all parties have agreed that the Deed will be a section 106 agreement.

1. *This is a joint statement made on behalf of Cory Environmental Holdings Limited ("Applicant") and Tilfen Land Limited ("Tilfen") as owner of the relevant land and also by its parent entity, Peabody Trust (a registered society, UK registered number RS007741), which owns Tilfen.*
2. *Together, Tilfen and Peabody Trust will be referred to as "Peabody" in this submission, and the relevant land comprising the BNG Opportunity Area Land and Mitigation and Enhancement Area as the "Peabody Land". As the ExA is aware, the Peabody Land represents a strategic asset with substantial ecological and environmental value.*
3. *The draft deeds of obligation comprise: a) Deed of Obligation in respect of the BNG Opportunity Area Land (referred to as "Obligation A"); and b) Deed of Obligation in respect of the Mitigation and Enhancement Area (referred to as "Obligation B") (together the "Draft Deeds of Obligation"). It is agreed that both Draft Deeds of Obligation will be delivered by way of Section 106 of the Town and County Planning Act 1990 ("TCPA").*
4. *The purpose of this joint statement is to provide the ExA with an update in respect of the Draft Deeds of Obligation prior to the close of the Examination on 05 May 2025, and to highlight certain critical matters to be settled between the respective parties.*
5. *The ExA is invited to report on the basis as set out in this joint statement and to invite the Secretary of State to seek an update following its recommendation.*

#### Obligation A

6. *Obligation A seeks to secure rights over the delivery of off-site ecological enhancement (including biodiversity net gain) utilising Thamesmead Golf Course, which forms part of the Peabody Land. The successful implementation of these enhancements at Thamesmead Golf Course is contingent upon appropriate commercial arrangements that reflect Peabody's involvement.*
7. *While the obligations in Obligation A are principally agreed insofar as Obligation A secures a mechanism through section 106 of the TCPA by which Peabody will undertake ecological works, several key commercial terms require further discussion.*
8. *Both the Applicant and Peabody are actively negotiating to establish terms that reflect the value of the ecological enhancement to be undertaken by Peabody on behalf of the Applicant and land use. This includes appropriate compensation for Peabody's management responsibilities.*
9. *Unless and until these matters are agreed, however, the Applicant's position is that it needs to retain the ability to be able to use sites other than Thamesmead Golf Course for the delivery of BNG and OMH compensation. The parties are discussing how that position needs to be accounted for, pending progress on the commercial terms and Peabody's requirement for the Deeds to be considered together (as discussed below).*

#### Obligation B

10. *In principle, the terms of Obligation B that have been discussed with the parties (i.e. not the form submitted at Deadline 5) are agreed between the respective parties, insofar as Obligation B provides a mechanism for the LaBARDS (including on-site BNG) to be delivered through s106 of the TCPA.*

11. *As the ExA will be aware, the Applicant has not acquired rights over the area regulated by Obligation B. The terms of acquisition (comprising an option agreement) have not been settled. The Applicant has accepted that such acquisition needs to take place prior to commencement of the authorised development, whether voluntarily, or through the use of its compulsory acquisition powers, if granted, in order to ensure that Peabody do not incur liabilities.*
12. *Both the Applicant and Peabody are in detailed negotiations to seek to ensure that any voluntary terms for Obligation B appropriately reflect the strategic value of the land and Peabody's long-term interests.*

#### Conclusion

13. *Peabody's position in respect of the Draft Deeds of Obligation is that they must be entered into together, as a combined package. The Applicant is aware of this position, and the parties are progressing on that basis. However, Peabody emphasises that any final agreement must adequately compensate for the value of the land and services provided, particularly in the context of Peabody being a Registered Provider.*
14. *Whilst both parties remain committed to reaching a mutually beneficial agreement, Peabody maintains that several critical commercial terms require further negotiation, both in order to protect its interests, and to ensure the long-term viability of the ecological enhancements. The Applicant considers that these terms will be able to be resolved to enable both Deeds of Obligation to be signed.*
15. *We look forward to providing the Secretary of State with an update following the ExA's recommendation.*

- 7.3.33. The Applicant acknowledges that notwithstanding the progress that has been made, that in light of there not being an agreed form of Deed, the ExA will need to make a Recommendation, and potentially the Secretary of State make a decision if agreement is not reached, on the basis of a 'no-agreement' scenario.
- 7.3.34. Were that scenario to arise, the Applicant's position in respect of the key matters dealt with by that Deed is as follows:

#### Biodiversity Net Gain

- 7.3.35. Ultimately, in planning terms, the delivery of 10% BNG is secured via DCO Requirement 12(3)(e), and the Applicant has always allowed for the possibility that former Thamesmead Golf Course may not be able to be used. The achievement of 10% BNG can therefore be taken into account in the planning balance as it must be achieved under the DCO.
- 7.3.36. In such a scenario, there is no impediment to the Applicant being able to meet that Requirement - it would be able to explore a range of alternative mechanisms allowed for by the BNG regime, including:
  - finding alternative biodiversity units, in light of the burgeoning market in these units, such as the Darent Nature Partnership located in and adjacent to the Bexley area;
  - use of the Environment Bank (or similar organisation), as was successfully achieved with Riverside 2; or
  - ultimately the payment of statutory credits if that became necessary. The Applicant estimates that this would cost approximately £2,621,580 (estimated



using the 'Estimate the cost of statutory biodiversity credits' on gov.uk), which it could fund from within its reserves.

- 7.3.37. Whilst it remains the Applicant's strong preference to deliver the off site BNG requirements at the former Thamesmead Golf Course, there is demonstrated to be no doubt that the BNG requirements for the Proposed Scheme will be able to be met.

Open Mosaic Habitat as Compensation (as separate from BNG)

- 7.3.38. The Applicant acknowledges that the position is different for its need to deliver open mosaic habitat (OMH) compensation for the OMH lost within the Order limits, and that credits cannot be used.
- 7.3.39. Again, in planning terms, the securing of this is dealt with via Requirement 12, as at Deadline 7, the Applicant has updated the DCO to make a specific commitment in this regard (further to its submissions in REP5-032).
- 7.3.40. The Applicant is comfortable giving this commitment on the basis of being able to reach an agreed position on the former Thamesmead Golf Course, but also in the context that, failing the golf course being able to be utilised, the Applicant recognises that OMH is something that is delivered on brownfield sites, which are of plentiful availability within London.
- 7.3.41. In the context that OMH is often costly to deliver, it is considered that third party landowners would welcome the Applicant bringing forward its OMH to help 'pump prime' its land to be able to be used for later wider use (i.e. as OMH would be easier to establish with adjacent to existing OMH parcels) by other developers to deliver OMH BNG units, where they are required to do so in developing previously developed land. This is currently an underserved market and given the context of Bexley's Local Plan having been adopted promoting development, and the borough being the subject of two London Plan opportunity areas, one that will grow in the local area.
- 7.3.42. Furthermore, it is noted that OMH by its nature does not require a semi-natural environment to be created and can provide the same value in a mosaic of small patches or a single larger area. It also takes little time to develop (the Statutory Metric gives 4 years to develop a Moderate condition area of OMH). Thus, it can be established quickly in areas of land with little development value (often where access issues are prevalent) in urbanised commercial and industrial settings. Where land is available OMH is therefore relatively straightforward to create and return ecological benefits, utilising the existing brownfield characteristics previously developed land offers.
- 7.3.43. In this context, the Applicant is confident that there is no impediment to the delivery of compensatory OMH if the former Thamesmead Golf Course is not used.

Access Improvements Contribution



- 7.3.44. In respect of this contribution, the Applicant is happy to explore the possibility of a Unilateral Undertaking with LBB. However, if this is not agreed, it would simply mean that this enhancement measure could not be taken into account in the planning balance. The contribution does not serve as a mitigation measure for the Proposed Scheme

## 8. METROPOLITAN OPEN LAND AND THE MITIGATION HIERARCHY

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### 8.1. METROPOLITAN OPEN LAND AND ACCESSIBLE OPEN LAND

- 8.1.1. Metropolitan Open Land (MOL) is designated under development plan policy. It is afforded the same status and level of protection as Green Belt; however, they are different policies.
- 8.1.2. Whilst the definition and primary purpose of MOL, as '*strategic open land*' (London Plan, paragraph 8.3.1) that provides '*a break within a built-up area*' (Bexley Local Plan, paragraph 5.56) are similar to Green Belt, both policies G3 of the London Plan and SP8 of the Bexley Local Plan attribute further 'aims and purposes' to the MOL that diverge from the simple intentions of Green Belt policy; to prevent urban sprawl by keeping land permanently open.
- 8.1.3. Paragraph 8.3.1 of the London Plan states that '*It plays an important role in London's green infrastructure... **MOL protects and enhances the open environment** and improves Londoners' quality of life by providing localities which offer sporting and leisure use, heritage value, biodiversity, food growing, and health benefits through encouraging walking and running and other physical activity*'. (bold text is original to the London Plan)
- 8.1.4. The Bexley Local Plan recognises that MOL plays a variety of important functions within the Borough, encouraging proposals '*to enhance access to MOL or to improve poorer quality areas in order to provide a wider range of benefits for residents that are appropriate within MOL*' which include '*improved public access for all, inclusive design, recreation facilities, habitat creation, landscaping improvement and flood storage*.' (Paragraph 5.65)
- 8.1.5. Therefore, whilst the primary purpose of MOL is to protect the openness of land within London from development, its key difference from Green Belt is that it also plays a role in providing access to open space to enhance the quality of life for Londoners.
- 8.1.6. Whilst MOL is attributed with these additional aims and purposes, as noted in paragraph 5.2.1 of the **Planning Statement (APP-040)**, the MOL identified in policy SP8 of the Bexley Local Plan (and illustrated on the policy map) is not necessarily accessible to the public. For clarity within the submission, the Applicant identified:
  - areas of land within the Order limits that are open in nature and that are accessible to the public (i.e. not fenced off), as 'Accessible Open Land' (and also as 'public open space' for the purposes of the Planning Act 2008); and
  - areas of land that are open in nature but not accessible to the public (i.e. fenced off) as 'Non-Accessible Open Land' (and not public open space for the purpose of the Planning Act 2008).

- 8.1.7. MOL within the Order limits incorporates both areas of Accessible Open Land and Non-Accessible Open Land.
- 8.1.8. Interested Parties, particularly SCNR, have questioned the validity of defining land within the MOL as Accessible or Non-Accessible. The Applicant stands by its position (not least as set out at page 25 of the **Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)** and in its response to SCNR's Deadline 5 submissions) that *'in statutory terms, land that is fenced off and inaccessible unless you have the code/key to access the gates, cannot be considered to be for the purposes of 'public' recreation.'*
- 8.1.9. The Applicant acknowledges that the Non-Accessible Open Land has value in planning terms, and it is explicitly considered in both the **Planning Statement (APP-040)** at section 5 and in **Chapter 10: Townscape and Visual of the ES (APP-058)**. However, that land is not Special Category Land for the purposes of the Planning Act 2008. In its **Response to the ExA's First Written Questions (REP3-029)** and SCNR's Deadline 5 submissions, the Applicant has also noted that, even if this land was considered to be Special Category Land it would not change the position set out in the **Statement of Reasons (APP-020)** that section 131(4A) of the Planning Act 2008 would apply to the Proposed Scheme.
- 8.1.10. Whilst the Proposed Scheme will result in limited and unavoidable loss of MOL, through development of the East and Stable Paddocks, these areas are both Non-Accessible Open Land, along with all the land to the north of the Thames Water Access Road. The Applicant does not dispute that 'these areas have 'public value' and can provide 'essential amenity in various ways' - but as set out in the Applicant's submissions, not least **Applicant's Response to Interested Parties' Deadline 1 Submissions (APP2-019) page 122)** - this is limited principally to: privately by the grazier; and being looked at by the general public. This is the limit of their use as open land.'

## 8.2. THE POLICY TESTS

### CNP INFRASTRUCTURE AND THE MITIGATION HIERARCHY

- 8.2.1. NPS EN-1 confirms at paragraph 4.2.14 that, where the Secretary of State is satisfied that an application for development consent meets the requirements of the NPS, applying the mitigation hierarchy and any other legal and regulatory requirements, the CNP infrastructure presumptions set out in paragraphs 4.2.16 and 4.2.17 will apply. These include the presumption that very special circumstances which justify the Proposed Scheme as inappropriate development do exist and are sufficient to outweigh any harms.
- 8.2.2. As reconfirmed in Section 2 of this report, the Applicant wholly recognises that the status of CNP infrastructure comes with responsibility to apply the mitigation hierarchy and to demonstrate that it has been applied. The **Applicant's Response to Interested Parties Deadline 1 Submissions (REP2-019)** is one place in which the Applicant has set out, in some detail, how it has applied the

mitigation hierarchy, both in relation to biodiversity assets and MOL policy (see Tables 2.3.4 and 2.9.5).

- 8.2.3. The Applicant identifies adverse impact to both terrestrial biodiversity and loss of MOL within the Order limits; however, the level of harm is neither 'exceptional' nor substantial. The level of harm resulting from the Proposed Scheme is not unusual for a project of this scale and, importantly, it is readily mitigated and compensated.
- 8.2.4. Section 9 of the **Planning Statement (APP-040)** explicitly considers the impacts and benefits of the Proposed Scheme and concludes (at paragraph 9.4.6) that the adverse impacts (which are limited) '*arise having applied the mitigation hierarchy, are the residual impacts that cannot be avoided and are difficult to further reduce. Further, none of the residual impacts identified either in this section of the Planning Statement, or otherwise in the ES (Document Reference 6.1 - 6.4) fall within the categories of posing an unacceptable risk or interference as set out in paragraph 4.1.7 of NPS EN-1.*'
- 8.2.5. Consequently, the Secretary of State can confidently apply the presumptions relevant to CNPI when determining the Proposed Scheme.

#### **HARM BY INAPPROPRIATE DEVELOPMENT**

- 8.2.6. Through consideration of alternative site locations and configurations (discussed further at Section 3 of this report) the Applicant has demonstrated that there is no reasonable alternative that would avoid the loss of MOL, and all reasonable measures have been taken to minimise this impact. Through careful design, openness across the MOL is maintained and urban sprawl is prevented, with no loss of Accessible Open Land.
- 8.2.7. Approximately 70% of the Carbon Capture Facility is to be situated within land allocated for development as Strategic Industrial Location (SIL), the use of which Interested Parties have agreed would be policy compliant. The loss of MOL is limited to approximately 30% of the built footprint of the Carbon Capture Facility, with a further 1ha MOL used to accommodate the Flue Gas Supply Ductwork that would be compromised.
- 8.2.8. The majority of the land within MOL is to be within the proposed Mitigation and Enhancement Area. As set out in paragraph 5.3.6 of the **Planning Statement (APP-040)**, with the exception of replacing an existing stable block and potential diversion of an existing access road (which would be like-for-like replacements of existing features within the MOL) works within the Mitigation and Enhancement Area (whether Accessible Open Land or not) do not involve built development and are considered wholly compatible with MOL policy.
- 8.2.9. The extensive variety of environmental and landscape enhancements to be delivered in this area as part of the works (as set outline the **Outline LaBARDS (AS-094)**) are designed to increase public accessibility and amenity and the biodiversity value of the retained area of MOL for the public to enjoy are

considered to accord with the aims and purposes of MOL (and other environmental) policies as set out in the London and Bexley Local Plans.

- 8.2.10. Section 5.4 of the **Planning Statement (APP-040)** considers this policy test, concluding at paragraph 5.4.6 that the harm by inappropriate development is limited, and through consideration of the mitigation hierarchy, is limited to the reasonable extent practicable.

*'The mitigation hierarchy is demonstrated to be applied to good effect, avoiding Accessible Open Land and minimising harm so as to maintain the fundamental aim and function of the MOL.'* (paragraph 5.4.15).

### OTHER HARM

- 8.2.11. The **Planning Statement (APP-040)** identifies other harms from paragraph 5.4.22, being: terrestrial biodiversity; landscape and visual; and amenity. Each is considered and each is concluded to be limited and having been subjected to the mitigation hierarchy, adverse impacts have been minimised and the opportunities for mitigation optimised.
- 8.2.12. Interested Parties have tested these conclusions and in response the Applicant has consistently demonstrated that the limited harm resulting from the small loss of MOL will be comprehensively mitigated by the general improvement of the habitats present, the amenity experience of the retained MOL, and the delivery of a more consistent natural environment, of recreational facilities and improved access, which recognises the proximity of the local community through the provision of improved and extended public rights of way.

## 8.3. VERY SPECIAL CIRCUMSTANCES

- 8.3.1. Notwithstanding that the CNP infrastructure presumption applies to the Proposed Scheme, and limited harm is demonstrated, the Applicant has presented very special circumstances, introduced in the **Planning Statement (APP-040)** at section 5.5.
- 8.3.2. Recognising that MOL is not Green Belt, the Applicant addresses the recently updated policy position in regard to Green Belt at Table Ref 2.6.12 (page 27) of the **Applicant's Response to Interested Parties' Deadline 4 Submissions (REP5-032)**. Here it is noted *'that the very special circumstances presented for the Proposed Scheme align with the Golden Rules set out in the revised PPG. The Proposed Scheme is sustainably located (not least due to use of river transport during the operation phase); it will deliver the improvements necessary to strategic infrastructure, delivering local, national and global benefit; it will provide improvements to existing green spaces that are accessible to the public; and there is a demonstrable unmet need for development such as the Proposed Scheme.'*
- 8.3.3. It has not been possible to convince all of the Interested Parties that the very special circumstances presented are, very special, and outweigh the limited harm

to MOL that results from the Proposed Scheme. However, through ongoing discussion through the Examination, LBB does concur (in its Deadline 5 Submission (REP5-042)) that the very special circumstances outweigh the harm caused by the Proposed Scheme on both MOL and the designated MSINC.

- 8.3.4. It is clear from the Applicant's submissions that the breadth and depth of the benefits to be realised through the Proposed Scheme are only available through this CNP infrastructure and substantially outweigh the very limited harm to the designated MOL.



## 9. OTHER ENVIRONMENTAL MATTERS

### 9.1. FLOOD RISK

- 9.1.1. The assessment of flood risk to the Proposed Scheme is presented in Appendix 11-2: Flood Risk Assessment (FRA) of the Environmental Statement (Volume 3) (AS-023) and Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035).
- 9.1.2. During Examination, the Environment Agency raised several matters in relation to flood risk. The Applicant and the Environment Agency have resolved all matters as detailed in the **Environment Agency Statement of Common Ground, Revision D (REP6-034)**.
- 9.1.3. The key matters raised during Examination and a summary of the position reached is provided in **Table 1** below, with the relevant documents listed in **Table 2**.

**Table 1 Flood Risk: Summary of Applicant's Response to Key Matters Raised**

Matter Raised	Applicant's Position
Land Raising: The Environment Agency raised concerns over the need to minimise land raising.	<p>The Applicant, in agreement with the Environment Agency, has updated the wording within the <b>Design Principles and Design Code (REP5-009)</b>.</p> <p>The updated wording sets out an approach to minimise ground raising by setting a maximum platform level within the <b>Design Principles and Design Code (REP5-009)</b> of 1.3m AOD to the north of the Thames Water Access Road, and a level of 1.5m AOD to the south of the Thames Water Access Road.</p> <p>These development platform levels are considered to provide a reasonable and proportionate level of flexibility for this element of the Proposed Scheme, whilst addressing the Environment Agency's concerns.</p>
Buffer Zones: The Environment Agency raised concerns in relation to the buffer zones on one side of the Main River channel at the northern end of Norman Road.	<p>The Applicant, in agreement with the Environment Agency, has updated the wording within the <b>Design Principles and Design Code (REP5-009)</b>.</p> <p>The updated wording within the <b>Design Principles and Design Code (REP5-009)</b> allows for a minimum 5m offset (up to 8m or greater where practicable), from the top of the bank on existing retained watercourses to allow for maintenance, to protect habitats and for the delivery of flood compensation.</p> <p>The updated wording within the <b>Design Principles and Design Code (REP5-009)</b> addresses the Environment Agency's concerns in relation to Buffer Zones.</p>

<p>Breach Modelling: The Environment Agency raised concerns over the potential increased residual flood risk in the event of a breach of the River Thames flood defences.</p>	<p><b>Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035)</b> was prepared in addition to the <b>Appendix 11-2: FRA of the Environmental Statement (Volume 3) (AS-023)</b> and in response to the Environment Agency's concerns regarding the potential increased residual flood risk in the event of a breach of the River Thames flood defences.</p> <p><b>Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035)</b> demonstrates that the proposed lowering of development platform provides a significant reduction in residual flood depths when compared to the previously modelled 'glass wall' approach by allowing flood waters to flow across the platform in the event of a breach of the Thames tidal flood defences. <b>Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035)</b> confirms an acceptable level of flood risk; with the reduction in development platform and allowing flood waters to flow across the platform in the event of a breach, enabling a significant reduction in residual flood depths and the Environment Agency has confirmed it is content with these conclusions.</p> <p>The Applicant sent the breach modelling data used to inform the assessment to the Environment Agency for review. The Environment Agency confirmed it has reviewed the modelling data and is satisfied that the model is fit for purpose as a comparison of the change based on the development platform scenarios presented in <b>Appendix C: Flood Risk Technical Note of the Applicant's Response to Examining Authority's First Written Questions (REP3-035)</b>.</p>
<p>9 Protective Provisions</p>	<p>10 The Parties have now agreed the form of the Environment Agency's Protective Provisions which will be going into the <b>Draft DCO</b> at Deadline 7. On this basis, the Environment Agency gives its consent under section 150 of the Planning Act 2008 in respect of the disapplications set out in article 7 of the Draft DCO.</p>

**Table 2 Relevant Documents**

PINS Reference	Document Title	Relevant Section
APP-060	6.1 Chapter 11: Water Environment and Flood Risk of the Environmental Statement (Volume 1)	All
AS-023	6.3 Appendix 11-2: Flood Risk Assessment of the	All

	Environmental Statement (Revision B)	
<b>REP3-035</b>	9.18 Appendix C: Flood Risk Technical Note	All
<b>AS-027</b>	7.2 Outline Drainage Strategy	All
<b>REP5-033</b>	9.28 Applicant's Response to Examining Authority's Second Written Questions	Q2.9.1, Q2.9.2, Q2.10.1
<b>REP6-034</b>	8.1.3 Statement of Common Ground - Environment Agency	All
<b>REP5-009</b>	5.7 Design Principles and Design Code	Pages 10 to 11
<b>REP5-013</b>	7.4 Outline Code of Construction Practice	Section 9

## 9.2. WATER FRAMEWORK DIRECTIVE ASSESSMENT

- 9.2.1.** The Water Framework Directive (WFD) Assessment for the Proposed Scheme is presented in **Appendix 11-1: Water Framework Directive Assessment of the Environmental Statement (Volume 3) (APP-106)**. The results of the additional sediment sampling (December 2024) and an explanation of how these results validate the conclusions of the WFD Assessment are presented in the **Sediment Sampling Technical Note (REP5-031)**.
- 9.2.2.** During Examination, the Environment Agency raised concerns in relation to the WFD Assessment. The Applicant and the Environment Agency have agreed all matters as detailed in the **Environment Agency Statement of Common Ground (REP6-034)**.
- 9.2.3.** The key matter raised during Examination and a summary of the position reached is provided in **Table 3** below, with the relevant documents listed in **Table 4**.

**Table 3 WFD Assessment: Summary of Applicant's Response to Key Matters Raised**

Matter Raised	Applicant's Position
WFD Assessment: The Environment Agency raised concerns that the WFD Assessment submitted alongside the DCO application failed to	The Applicant prepared a <b>Sediment Sampling Technical Note (REP5-031)</b> which presented the results of the additional sediment sampling (December 2024) and pre-existing baseline data requested by the Environment Agency.

<p>demonstrate compliance for water quality.</p> <p>Specifically, the Environment Agency raised concerns that the submitted WFD Assessment failed to use pre-existing baseline concentrations of regulated substances and therefore cannot predict how much uplift to water column concentrations will be caused by transferences of regulated substances from the sediment to the water column.</p>	<p><b>The Sediment Sampling Technical Note (REP5-031)</b> confirmed the findings of the WFD Assessment which demonstrates that the Proposed Scheme (with the implementation of mitigation measures) is not likely to cause deterioration in status/potential of the water body with respect to water quality during the construction and operational phases.</p> <p>The Environment Agency reviewed the <b>Sediment Sampling Technical Note (REP5-031)</b> and confirmed it is content that the Proposed Scheme is WFD compliant for water quality (and as such will not cause a deterioration in status of any of the scoped in WFD waterbodies).</p>
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**Table 4 Relevant Documents**

11 PINS Reference	12 Document Title	13 Relevant Section
<b>APP-106</b>	6.3- Environmental Statement- Appendix 11-1 – Water Framework Directive Assessment	All
<b>REP5-031</b>	9.26 Sediment Sampling Technical Note	All
<b>REP5-033</b>	9.28 Applicant's Response to Examining Authority's Second Written Questions	Q2.20.1
<b>REP6-034</b>	8.1.3 Statement of Common Ground - Environment Agency	All

### 9.3. CONSTRUCTION TRAFFIC IMPACTS

- 9.3.1. The assessment of construction traffic impacts from the Proposed Scheme on the local and strategic highway networks are presented in **Chapter 18: Landside Transport of the Environmental Statement (Volume 1) (APP-067)** and **Appendix 18-1: Transport Assessment (Volume 3) (APP-114)**. The Applicant has also identified potential measures to be implemented to control the routing and minimise, where practicable, the effects of Heavy Goods Vehicles (HGV) on the surrounding road network, local communities, and the environment during construction of the Proposed Scheme within the **Framework Construction Traffic Management Plan (CTMP) (Revision E) (REP5-015)**.
- 9.3.2. During Examination, Dartford Borough Council (DBC), Kent County Council (KCC) and National Highways (NH) raised matters in relation to the potential

impacts of construction activities associated with the Proposed Scheme on the local and strategic highway networks. The Applicant has positively engaged with these parties to address and resolve all matters as detailed in the following:

- Dartford Borough Council Statement of Common Ground (REP2-013);
- Kent County Council Statement of Common Ground (REP5-020); and
- National Highways Statement of Common Ground (REP5-022).

9.3.3. The key matters raised during Examination and a summary of the position reached is provided in **Table 5** below, with the relevant documents listed in **Table 6**.

**Table 5 Construction Traffic Impacts: Summary of Applicant's Response to Key Matters Raised**

14 Matter Raised	15 Applicant's Position
DBC raised concerns regarding existing congestion in Dartford and HGVs routing through Dartford Town Centre.	<p>The Applicant updated the <b>Framework CTMP (Revision B) (AS-031)</b> and prepared a Technical Note (Construction Worker Vehicle Trips) which were submitted to DBC, KCC and NH for review in October 2024. The Applicant then issued Revision C of the <b>Framework CTMP (REP1-008)</b> to DBC in response to further feedback provided by KCC.</p> <p>DBC acknowledged that Revision C of the <b>Framework CTMP (REP1-008)</b> and the Technical Note (Construction Worker Vehicle Trips) adequately addressed all of DBC's concerns relating to construction movements.</p>
<p>Construction workforce travel mode share methodology:</p> <ul style="list-style-type: none"> <li>• NH requested comparative information on predicted construction worker trip attraction using two alternative sets of mode share data (Census 2021 and Riverside 2 survey data); and</li> <li>• KCC requested further detail on the Riverside 2 mode share survey data.</li> </ul>	<p>The Applicant updated the <b>Framework CTMP (Revision D) (REP4-010)</b> and prepared a Technical Note (Response to Comments on the Framework CTMP) which were submitted to KCC and NH for review in February 2025.</p> <p>The Applicant arranged subsequent meetings with NH and KCC in March 2025 to discuss the updated <b>Framework CTMP (Revision D) (REP4-010)</b> and Technical Note (Response to Comments on the Framework CTMP). Following the meetings:</p> <ul style="list-style-type: none"> <li>• NH confirmed that sufficient information had been provided regarding the Riverside 2 construction staff mode share survey data compared with the Census 2021 mode share data.</li> <li>• KCC also confirmed that sufficient information had been provided regarding the Riverside 2 construction staff mode share survey data on the basis that there have been no complaints surrounding off-street parking issues associated with the construction of Riverside 2.</li> </ul>

<p>Level of forecast construction workforce car sharing:</p> <ul style="list-style-type: none"> <li>NH requested further information to be satisfied that the construction staff car sharing target of two people per vehicle is appropriate for a robust assessment.</li> <li>KCC raised concerns over the Applicant's assumption that Riverside 2 must have at least two people per vehicle. KCC requested further information to support this assumption.</li> </ul>	<p>The Applicant updated the <b>Framework CTMP (Revision D) (REP4-010)</b> and prepared a Technical Note (Response to Comments on the Framework CTMP) which were submitted to KCC and NH for review in February 2025.</p> <p>The Applicant arranged subsequent meetings with NH and KCC in March 2025. Following the meetings, NH and KCC confirmed that sufficient information had been provided regarding the forecast construction workforce car sharing target set out in the <b>Framework CTMP (Revision D) (REP4-010)</b>.</p>
<p>Contractor support for flexible working arrangements: NH and KCC raised concerns in relation to the measures and commitments within the Framework CTMP aimed at minimising peak vehicle travel by the construction workforce.</p>	<p>The Applicant updated the <b>Framework CTMP (Revision D) (REP4-010)</b> and prepared a Technical Note (Response to Comments on the Framework CTMP) which were submitted to KCC and NH for review in February 2025.</p> <p>The Applicant arranged subsequent meetings with NH and KCC in March 2025. Following the meetings, NH and KCC were satisfied that the traffic flow data presented for Norman Road provides a sufficient level of confidence that construction staff arrival and departure patterns can be distributed over a number of hours and that staff are unlikely to arrive/depart in a single peak hour.</p>
<p>Monitoring: KCC and NH raised concerns in relation to construction workforce and HGV monitoring.</p>	<p>The Applicant updated the <b>Framework CTMP (Revision D) (REP4-010)</b> and prepared a Technical Note (Response to Comments on the Framework CTMP) which were submitted to KCC and NH for review in February 2025.</p> <p>The Applicant arranged subsequent meetings with NH and KCC in March 2025. Following the meetings, NH and KCC agreed that the proposed monitoring would cover peak construction activities. It</p>



	<p>was also agreed that the monitoring requirements would be outlined within the Full CTMP (in accordance with the Framework CTMP, and would be agreed with the London Borough of Bexley, in consultation with DBC, KCC and NH.</p> <p>Monitoring data and associated reports are also to be sent directly to DBC, KCC and NH. This is captured within <b>Revision E of the Framework CTMP (REP5-015)</b>.</p>
<p>Forecast construction vehicle impact on the M25/ A282 Junction 1a: NH raised concerns regarding the need for further technical work showing predicted distribution/ assignment of construction vehicle trips through M25/A282 Junction 1a to assess significance.</p>	<p>The Applicant updated the <b>Framework Construction Traffic Management Plan (Revision D) (REP4-010)</b> and prepared a Technical Note (Response to Comments on the Framework CTMP) which were submitted to KCC and NH for review in February 2025.</p> <p>The Applicant arranged subsequent meetings with NH and KCC in March. Following the meeting, NH confirmed that the forecast distribution/assignment of construction trips at the M25/A282 Junction 1a and the predicted level of impact is acceptable at this stage, and this will be validated further as part of the Full CTMP(s).</p>

**Table 6 Relevant Documents**

PINS Reference	Document Title	Relevant Section
<b>APP-067</b>	6.1 Chapter 18: Landside Transport	All
<b>APP-114</b>	6.3 Appendix 18-1: Transport Assessment	All
<b>REP5-015</b>	7.7 Framework Construction Traffic Management Plan	All
<b>REP5-020</b>	8.1.29 Statement of Common Ground Kent County Council	All
<b>REP5-022</b>	8.1.31 Statement of Common Ground National Highways	All
<b>REP2-013</b>	8.1.30 Statement of Common Ground Dartford Borough Council	All
<b>REP5-013</b>	7.4 Outline Code of Construction Practice	Section 16

## 9.4. AIR QUALITY IMPACTS

- 9.4.1. The assessment of air quality impacts is presented in Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054).
- 9.4.2. During Examination, Natural England raised several concerns in relation to the air quality impacts on ecological designated sites. Both parties have engaged positively to address and resolve these matters as detailed in the Natural England Statement of Common Ground (**REP6-035**).
- 9.4.3. The key matters raised during Examination and a summary of the position reached is provided in Table 7 below, with the relevant documents listed in Table 8.

**Table 7 Air Quality Impacts: Summary of Applicant's Response to Key Matters Raised**

Matter Raised	Applicant's Position
Assessment Methodology: Natural England raised concerns in relation to how the impact of the Proposed Scheme should be defined.	<p>The Applicant prepared <b>Appendix A</b> of the <b>Applicant's Response to Interested Parties' Deadline 3 Submissions (Document Reference 9.23)</b> which directly responds to and addresses the comments from Natural England.</p> <p>Natural England's position is that the impact of the Proposed Scheme should be defined as:</p> <ul style="list-style-type: none"> <li>The Proposed Scheme (Riverside 1 and Riverside 2 with the Carbon Capture Facility), with Riverside 2 considered in the in-combination assessment.</li> </ul> <p>The Applicant's position is that the impact of the Proposed Scheme should be defined as:</p> <ul style="list-style-type: none"> <li>The Proposed Scheme (Riverside 1 and Riverside 2 with the Carbon Capture Facility) minus the future baseline (Riverside 1 and Riverside 2 operating without the Carbon Capture Facility).</li> </ul> <p>Whilst the Applicant and Natural England do not agree on that terminology, the parties are agreed on the outcomes and findings presented in <b>Chapter 5: Air Quality of the Environmental Statement (Volume 1) (APP-054)</b> and <b>Appendix A</b> of the <b>Applicant's Response to Interested Parties' Deadline 3 Submissions (Document Reference 9.23)</b>. This position is reflected in the <b>Natural England Statement of Common Ground (REP6-035)</b>.</p>
In-combination assessment: Natural England raised concerns in relation to the need for an in-combination	<p>The Applicant prepared <b>Appendix A</b> of the <b>Applicant's Response to Interested Parties' Deadline 3 Submissions (REP4-033)</b> which directly responds to comments from Natural England in relation to the need for an in-combination assessment.</p>

assessment to be carried out for Epping Forest SAC.	The Applicant arranged a meeting with Natural England on 12 <sup>th</sup> March 2025 to discuss any remaining matters under discussion. Following the meeting, it was agreed that an in-combination assessment for Epping Forest SAC would not address the key issue at this SAC which is impact from vehicle emissions. It is considered that the Proposed Scheme would have a low risk of undermining the conservation integrity of the site in combination with other projects (including those much closer to the SAC, such as adjacent vehicle emissions), so an in-combination assessment at the SAC is not required. This position is reflected in the <b>Natural England Statement of Common Ground (REP6-035)</b> .
Emission Limit Values Natural England raised concerns over the use of Emissions Limit Values (ELVs) as mitigation.	<p>The Applicant prepared <b>Appendix A</b> of the <b>Applicant's Response to Interested Parties' Deadline 3 Submissions (REP4-033)</b> which directly responds to and addresses the comments from Natural England.</p> <p>The Applicant arranged a meeting with Natural England on 12<sup>th</sup> March 2025 to discuss comments and resolve any remaining matters under discussion. Following the meeting, Natural England and the Applicant agreed that the Emissions Limit Values (ELVs) can be considered as appropriate embedded mitigation and will be secured by Requirement 14 of the <b>Draft DCO (as submitted at deadline 7)</b>.</p>
Natural England raised concerns in relation to the need for a cumulative impact assessment for the Inner Thames Marshes SSSI.	<p>16 At the request of Natural England, the Applicant undertook a cumulative impact assessment for the Inner Thames Marshes SSSI.</p> <p>Natural England confirmed agreement with the findings of the cumulative impact assessment for the Inner Thames Marshes SSSI, presented as a Technical Note. In particular, Natural England and the Applicant agree that no significant effects on the Inner Thames Marshes SSSI are likely to occur as a result of the Proposed Scheme, when considered alongside other committed developments. This position is reflected in the <b>Natural England Statement of Common Ground (REP6-035)</b>.</p>

**Table 8 Relevant Documents**

PINS Reference	Document Title	Relevant Section
<b>APP-054</b>	6.1 Chapter 5: Air Quality	All
<b>REP4-033</b>	9.23 Applicant's Response to Interested Parties' Deadline 3 Submissions	Appendix A
<b>REP6-036</b>	8.1.5 Statement of Common Ground Natural England	All

<b>APP-056</b>	6.1 Chapter 7: Terrestrial Biodiversity	All
<b>REP5-013</b>	7.4 Outline Code of Construction Practice	Sections 3 & 5

## 9.5. MARINE BIODIVERSITY IMPACTS

- 9.5.1. The assessment of impacts from the Proposed Scheme on marine ecology is presented in Chapter 8: Marine Biodiversity of the Environmental Statement (Volume 1) (APP-057) and Appendix 6-4: Underwater Noise Assessment (Volume 3) (APP-084).
- 9.5.2. During Examination, the Marine Management Organisation (MMO) raised several concerns in relation to the impacts from the Proposed Scheme on marine ecology. Both parties have engaged positively to address and resolve these matters as detailed in the Marine Management Organisation Statement of Common Ground (**REP6-036**).
- 9.5.3. The key matters raised during Examination and a summary of the position reached is provided in **Table 9** below, with the relevant documents listed in **Table 10**.

**Table 9 Marine Biodiversity Impacts: Summary of Applicant's Response to Key Matters Raised**

Matter Raised	Applicant's Position
Fish Ecology: The MMO raised concerns in relation to the impacts of piling activities on sensitive periods for migratory fish and the appropriateness of the suggested mitigation measures.	<p>The Applicant prepared a Technical Note detailing the sensitive migratory periods for fish utilising the Tidal Thames as part of the <b>Applicant's Response to Interested Parties' Deadline 1 Submissions (REP2-019)</b>.</p> <p>In addition, the Applicant also updated the wording in relation to mitigation measures for migratory fish in the updated <b>Outline CoCP (REP5-013)</b>. From April to September the Applicant has agreed not to undertake any piling and construction activities, and within the month of March construction activities are to be restricted to low tide and within dry conditions to avoid impacts on sensitive migratory periods for smelt.</p> <p>The MMO confirmed in its <b>Deadline 4 Submission (REP4-037)</b> that it has no further concerns regarding the impacts of the Proposed Scheme on fish ecology.</p>
Marine mammals assessment: The MMO queried the methodology used for the	The Applicant provided clarifications to the MMO regarding the marine assessment within <b>Appendix 6-4: Underwater Noise Assessment of the Environmental Statement (Volume 3) (APP-084)</b> , detailed in Paragraph 2.6.6 of its relevant representation (RR-150) to explain the assessment percentages

fleeing calculations within the underwater noise assessment.	and underwater noise assessment. Following receipt of this information, the MMO confirmed in its <b>Deadline 4 Submission (REP4-037)</b> that it has no further concerns regarding underwater noise associated with the Proposed Scheme.
Shellfisheries: The MMO were concerned that Shellfish were not included as part of the assessment within the Marine Biodiversity chapter. The MMO also raised concerns that shellfish could be impacted from dredged arisings at disposal sites.	<p>The Applicant undertook consultation with the MMO and advised that within the Marine Biodiversity Chapter, Shellfish referred to licensed shellfish areas and that outside of these areas, shellfish were covered under the benthic ecology.</p> <p>The Applicant also advised the MMO, that dredged arisings would only be discharged at licensed dredge sites if they met all criteria for disposal at sea, therefore they would not pose a risk to shellfish receptors. Following receipt of this information, the MMO confirmed it has no further concerns regarding shellfisheries impacts within its <b>Deadline 1 Submission (REP1-036)</b>.</p>
Marine Sediment Sampling: The MMO raised concerns regarding the conclusions within the Marine Biodiversity chapter of the ES from the release of contaminants during dredging due to the absence of contaminant sampling data at dredge depth.	<p>The Applicant completed additional sediment sampling at depth and presented the results to the MMO during a meeting on 19<sup>th</sup> February 2025.</p> <p>The Applicant has also prepared a <b>Sediment Sampling Technical Note (REP5-031)</b> which describes the results of the additional sediment sampling and validates the conclusions of the impact assessment of the release of sediment bound contaminants on the marine ecology of the Thames Middle Transitional Water Body within <b>Chapter 8: Marine Biodiversity (Volume 1) (APP-057)</b>.</p> <p>The MMO completed its review of the <b>Sediment Sampling Technical Note (REP5-031)</b> on 20<sup>th</sup> March 2025, and agrees with the proposed approach (i.e. likely disposal on-land) and with the procedures outlined in Schedule 11 of the Draft DCO for disposal at sea.</p>

**Table 10 Relevant Documents**

PINS Reference	Document Title	Relevant Section
<b>APP-057</b>	6.1- Environmental Statement- Chapter 8- Marine Biodiversity	All.
<b>APP-084</b>	6.3- Environmental Statement- Appendix 6-4- Underwater Noise Assessment.	All.
<b>REP6-036</b>	8.1.7 Statement of Common Ground- Marine Management Organisation	All.
<b>REP5-013</b>	7.4 Outline Code of Construction Practice	Section 6.

## 10. CONCLUSION

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- 10.1.1. The Applicant considers that its Application and subsequent Examination submissions have demonstrated that:
- the Proposed Scheme meets all the tests set out in NPS EN-1;
  - the concerns set out in LBB's Local Impact Report have been dealt with where it has been possible to do so;
  - no concerns arise under the matters set out in the Infrastructure Planning (Decisions) Regulations 2010;
  - section 104(4) – (6) and (8) are not engaged;
  - in respect of section 104(7), the material benefits associated with the Proposed Scheme outweigh the identified limited harm; and
  - its compulsory acquisition proposals meet the tests under section 122 and 127 of the Planning Act 2008, the MHCLG Guidance on compulsory acquisition and case law
- 10.1.2. The Proposed Scheme is a critical national priority infrastructure project that will reduce greenhouse gas emissions and directly contribute to the UK moving closer towards net zero, in alignment with the NPS EN-1 (and the consultation draft) and the Seventh Carbon Budget (2025). It supports the UK's transition to a low-carbon economy.
- 10.1.3. It is a project demonstrably sought by Government to deliver CCUS as part of the urgent drive to meet Net Zero targets.
- 10.1.4. The Proposed Scheme has been designed in a way to minimise any potential negative impacts, including ensuring that its third party land take proposals are not excessive. Whilst it is acknowledged that the Proposed Scheme will give rise to residual adverse effects, including those which the Applicant acknowledges in some instances will be significant, these residual effects have been mitigated as far as practicable and in accordance with the mitigation hierarchy. However, there are no residual effects that would be sufficient to outweigh the significant benefits of the Proposed Development in accordance with NPS EN-1.
- 10.1.5. The Proposed Scheme necessarily utilises land that falls within the MOL, a protective designation afforded the same status and level of protection as Green Belt, albeit a different policy. The Applicant has demonstrated limited harm to that designation, such that its key aims are maintained and enhanced. Further, despite benefitting from being CNP infrastructure, the Applicant has set out very special circumstances with which the relevant planning body agrees. Whilst MOL is not Green Belt, the Applicant is cognisant of the recently updated policy position in regard to Grey Belt and notes that the very special circumstances presented for the Proposed Scheme align with the Golden Rules set out in the revised PPG.



10.1.6. The Proposed Scheme:

- is sustainably located (not least due to use of river transport during the operation phase);
- it will deliver the improvements necessary to strategic infrastructure, delivering local, national and global benefit;
- it will provide improvements to existing green spaces that are accessible to the public; and
- there is a demonstrable unmet need for development such as the Proposed Scheme.

10.1.7. The Applicant considers that the material benefits associated with the Proposed Scheme outweigh the limited harm. The Proposed Scheme will deliver benefits sought at the global scale appropriately set within its local context.

10.1.8. The Applicant has demonstrated that the Proposed Scheme is acceptable in planning terms and that a DCO should therefore be made, including all compulsory acquisition proposals.



## DECARBONISATION

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