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5.1 The requirement to consider alternatives stems primarily from the requirements of the EIA Regulations. Schedule 4 of the Regulations identifies the information for inclusion in Environmental Statements. Parts 1 (2) and 2 (4) include;

> *"An outline of the main alternatives studied ……. and an indication of the main reasons for his choice, taking into account the environmental effects".*

5.2 However, the former DETR circular 02/99 explained that the EIA Directive and the EIA Regulations *"do not expressly require the developer to study alternatives"* (paragraph 83). However, it adds *"the nature of certain developments and their location may make the consideration of alternative sites a material consideration".*

5.3 Moreover, case law indicates that the EIA regulations do not require an assessment of alternatives. From the Arsenal Football Case[1] it was noted:

> *"What needs to be covered in the Environmental Statement are the alternatives which the developer has considered … The Regulations do not require alternatives which have not been considered by the developer to be covered, even though the local planning authority might consider that they ought to have been considered"*

5.4 Referring to the online Planning Practice Guidance it is noted that an applicant does not need to consider alternatives. However, where alternatives have been considered, paragraph 4 of part II of Schedule 4 requires the applicant to include in their Environmental Statement an outline of the main alternatives considered, and the main reasons for their choice[2].

5.5 Few alternatives were considered as part of the EIA. The design evolution involved the following changes:

- changing the location of the recharge lagoons to the eastern boundary (from the southern boundary);
- opting for a traditional static mineral processing plant, with screens and crusher housed within clad enclosures;
- leaving two ponds on the periphery known to contain great crested newts *in situ*; and
- altering the restoration strategy from a heavily biodiversity lead scheme to one involving more public access.

5.6 In December 2014 Brett presented to the Environment Agency (EA) a phased site layout placing infiltration lagoons for the UMH and LMH aquifers near the southeast boundary of the site parallel to the A1000. In the EA's email response to Brett's initial proposal (Ally Thomas, 12 March 2015) a

[1] R (on the application of Bedford and Clare) -v- London Borough of Islington and Arsenal Football Club (2002)
[2] Paragraph: 041 Reference ID: 4-041-20140306

request was made for a critical appraisal of options (including adjacent land) for the LMH Lagoon on the basis of practicality and that it should not potentially expand the bromate plume any further than its currently defined location. The EA comments did not specifically relate to the originally proposed UMH lagoon since no bromate is anticipated in the water discharge but SLR has nevertheless reviewed the UMH lagoon as well as well as the LMH lagoon. The review identified that locating the lagoons on the eastern boundary offered several advantages.

5.7 Whist mobile processing plant would have a lower profile (typically being between 4m and 5m in height) it was considered that cladding the screens and crusher would offer more attenuation for dust and noise emissions. Given that the site is well screened, together with the peripheral bunding proposed, it was considered that the change to the processing plant would not have a significant effect. This has been borne out through the Landscape and Visual Impact Assessment (refer to Chapter 8).

5.8 In relation to the two ponds, originally it was proposed to construct a screen bund over them; however, discussions with the projects ecologist indicated that it would be better if they could be left in-situ. Given the location in relation to Home Covert, the removal of bunding in this area would not have any significant effect on the scheme.

5.9 Finally, the restoration strategy was amended following the comments made at a public exhibition (refer to the Statement of community Engagement) where great value is placed by the local community on public access.