



Rivenhall EfW - IWMF:

**Deadline 2 Response**

Essex County Council (2007406)

**PINS REFERENCE: EN010138**

## Contents Page

1	Index of Appendices .....	3
2	Purpose Of Submission .....	3
2.1	Introduction & Format.....	3
3	Comments on responses to Relevant Representations .....	4
3.1	Overview .....	4
4	Comments on Written Representations .....	4
4.1	Overview .....	4
5	Comments on Responses to the Examining Authority's Written Questions (ExQ1).....	4
5.1	Overview .....	4
6	Comments on Local Impact Reports.....	5
6.1	Overview .....	5
7	Comments on the Applicant's Proposed Accompanied Site Inspection (ASI) Itinerary (REP1-009) .....	5
7.1	Overview .....	5
8	Progress on Statements of Common Ground and Statement of Commonality ....	5
8.1	Overview .....	5
9	An updated version of the draft Development Consent Order (dDCO) in clean, tracked and word versions .....	6
9.1	Overview .....	6
10	Comments on any other Submissions received at Deadline 1 .....	6

10.1	Comments on Planning Statement v2 7 <sup>th</sup> May 2024.....	6
11	Request to Attend Accompanied Site Inspection (ASI) .....	7
11.1	Overview.....	7
12	Any other information requested by the Examining Authority under Rule 17 of the Examination Procedure Rules.....	7
12.1	Overview.....	7

**1 Index of Appendices**

- 1) *Appendix 1 - ECC's comments to Applicants response to the Examining Written Questions (ExQ1)*
- 2) *Appendix 2 – Statement of Common Ground (SoCG) with the Host Authorities 21 May 2024*
- 3) *Appendix 3 - Updated version of the draft Development Consent Order (dDCO) in clean, tracked and word version*

**2 Purpose Of Submission**

2.1 Introduction & Format

2.1.1 The purpose of this submission is to respond to materials submitted / comments required in advance of Deadline 2 of the Rule 8 letter (Reference PD-003 in the examination library):

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010138/EN010138-000205-RVNH%20Rule%208%20letter%20with%20Annexes%20April%202024.pdf>

- 2.1.2 The structure of this response explores the relevant points from the Rule 8 Letter to respond as necessary to the Examining Authority (ExA). All relevant headings have the corresponding document number, which can be found within the Examination Library on the Planning Inspectorate Website:

<https://infrastructure.planninginspectorate.gov.uk/projects/easter/n/rivenhall-iwmf-and-energy-centre/>

- 2.1.3 This response is prepared by ECC and here forth will be referred to as ‘The Council’.

### **3 Comments on responses to Relevant Representations**

#### **3.1 Overview**

- 3.1.1 Essex County Council (ECC) has looked at the Relevant Representations as are attached to the ExA Library at reference RR-001 to RR-013 (inclusive) and notes the comments as received within the same. ECC notes in particular the RR from Braintree District Council (RR-001) which broadly accords with the position and stance on this DCO proposal. The remainder of comments as received do not require a response from ECC.

### **4 Comments on Written Representations**

#### **4.1 Overview**

- 4.1.1 ECC has considered the written representations which have the Examination Library reference RR-01 to RR-13 (inclusive) and considers that no response to the same is applicable.

### **5 Comments on Responses to the Examining Authority’s Written Questions (ExQ1)**

#### **5.1 Overview**

- 5.1.1 ECC’s comments on the Applicants responses to the Examining Written Questions (ExQ1) are included at **Appendix 1**.

## **6 Comments on Local Impact Reports**

### **6.1 Overview**

6.1.1 ECC has provided a Local Impact Report to the ExA. Other than noting the comments as received by the ExA from Braintree District Council, ECC does not wish to comment further on the same.

## **7 Comments on the Applicant's Proposed Accompanied Site Inspection (ASI) Itinerary (REP1-009)**

### **7.1 Overview**

7.1.1 ECC have looked at the applicants ASI itinerary, which has the reference REP1-009 within the ExA Library. ECC also notes that the date for the ASI has now been set for Thursday 6 June at 10:00 hours, ECC have confirmed its commitment to attend the ASI.

7.1.2 The ASI suggests a series of viewpoints from which the site can be seen. ECC officers are familiar with the site and consider the viewpoints as set out by the applicant within REP1-009, para 3.2, are appropriate and will provide the ExA with a comprehensive view of the site and the surrounding area. ECC suggest no changes to the as submitted Itinerary.

## **8 Progress on Statements of Common Ground and Statement of Commonality**

### **8.1 Overview**

8.1.1 On the 20 May 2024 ECC and the applicants exchanged the latest draft of the SoCG which the applicant will submit at Deadline 02.

8.1.2 The Statement of Common Ground (SoCG) with the Host Authorities is included in **Appendix 2**.

**9 An updated version of the draft Development Consent Order (dDCO) in clean, tracked and word versions**

9.1 Overview

9.1.1 An updated version of the draft Development Consent Order (dDCO) in clean, tracked and word version is attached at **Appendix 3**.

**10 Comments on any other Submissions received at Deadline 1**

10.1 Comments on Planning Statement v2 7<sup>th</sup> May 2024

10.1.1 The Planning Statement v2 - Tracked (REP1-007) Document 7.1 sets out the updated IWMF TCPA permission/Consented Scheme and updated National Policy Statements (NPSs) which came into force on 17<sup>th</sup> January 2024.

10.1.2 The Council are in agreement that the updated NPSs are an important and relevant consideration in the determination of the DCO application for the Proposed Development.

10.1.3 It is understood that the transitional arrangements for EN-1 and EN-3 applications submitted prior to the 17 January 2024 are not required to comply with the revised EN-1 and EN-3.

10.1.4 Table 6 'Generic Impacts' considers the Proposed Development against the generic impacts set out in Revised NPS EN-1. Where those same impacts are set out in Revised NPS EN-3, these are also considered and referenced. The Applicant states that the *"table demonstrates the Proposed Development will not give rise to any significant adverse generic impacts and is in compliance with those sections of Revised NPS EN-1 and EN-3 referenced."*

10.1.5 Under the subheading 'Noise and Vibration' (EN-1, 5.12; EN-3, 2.7.39-40 and 2.7.63- 65) in Table 6 of the Planning Statement tracked - v2 (page 73), the Applicant states in their assessment of Generic Impact from Noise and Vibration that *"The assessment is carried out using the noise limits that are set out in the IWMF TCPA Permission. This allows for the assessment to*

*specifically consider the potential effects of the Proposed Development when compared to the Consented Scheme (which is taken as the ‘future baseline’ for the purposes of the assessment). The methodology used is as set out in the Applicant’s EIA Scoping Report (ES Vol. 2, Appendix 5.12 (Doc Ref 6.2) and was agreed with by the Planning Inspectorate Scoping Opinion (ES Vol. 2, Appendix 5.2 (Doc Ref 6.2)).”*

- 10.1.6 ECC do not consider that the Planning Inspectorate in issuing the Scoping Opinion agreed to the methodology for the noise assessment, in particular that the Proposed Development should be assessed against the noise limits within the Consented Development.
- 10.1.7 ECC also considers that it is not appropriate for the noise limits of the existing permission to form the baseline for the assessment.
- 10.1.8 The Council has no further comments to add at this time to any other post hearing submission.

## **11 Request to Attend Accompanied Site Inspection (ASI)**

### **11.1 Overview**

- 11.1.1 ECC has contacted the ExA with a request to attend the ASI on Thursday 06 June 2024 at 10am.

## **12 Any other information requested by the Examining Authority under Rule 17 of the Examination Procedure Rules**

### **12.1 Overview**

- 12.1.1 ECC understand that Rule 17 can be raised by the ExA if “*at any time before the completion of its examination of an application or specified matters request further information or written comments from an interested party, who must supply such information by the date and in the manner specified by the Examining authority.*” ECC is not aware that a request for such information has been received from the ExA at this time and hence no response is submitted at Deadline 02.

**Appendix 1 –  
ECC’s comments to Applicants response to the Examining  
Written Questions (ExQ1)**



## ECC's Comments to Applicant's Response to the ExQ1 – Deadline 2 (21<sup>st</sup> May 2024)

Q1.1 General and Miscellaneous			
Ref.	Question	Applicants Response	ECC Response
Q1.1.1	The ExA notes [APP-049] that an Electricity Generation Licence, Class C will be required. Is this likely to act as an impediment to the Proposed Development?	<p>No, this will not act as an impediment to the Proposed Development.</p> <p>The Applicant will fall within the Class C exemption under Schedule 2 of The Electricity (Class Exemption from the Requirement for a Licence Order) 2001 (SI2001/3270), which is for 'Generators not exceeding 100 megawatts'.</p> <p>DESNZ has issued guidance on '<i>Electricity Generation, Distribution and Supply Licence Exemptions – Frequently asked questions (FAQs)</i>' (July 2017, revised December 2023). This guidance confirms that '<i>Class exemptions are automatically applicable in respect of an undertaking meeting the conditions of the exemption in question. In such circumstances, an undertaking does not need to</i></p>	No comment.

		<i>apply to the Department or to Ofgem for the exemption to apply, or to notify that they are claiming a class exemption’.</i>	
Q1.1.2	The ExA notes the ministerial direction from DEFRA to the EA to temporarily halt the issuing of environmental permits for new waste incineration facilities until 24 May 2024. Confirm whether this has any implications for the Proposed Development.	<p>This has no implications for the Proposed Development.</p> <p>The Consented Scheme benefits from an existing Environmental Permit (Permit Number EPR/FP3335YU; Variation Permit number EPR/FP3335YU/V002; and Transfer Permit number EPR/CP3906LP) (‘the Environmental Permit’). No new environmental permit would be required to operate the Proposed Development. The Proposed Development would not require any variations to the Environmental Permit or a new permit. Even if a variation were needed, it is noted that the minister’s letter states that the direction <i>‘does not apply to... incinerators seeking a permit variation for an existing environmental permit...’</i></p>	The Environment Agency(EA) have indicated that there may be a requirement for an amendment to the Environmental Permit if all elements of the Integrated Waste Management Facility (IWMF) are not to be developed and operated.
Q1.1.3	How will any major accidents and disasters be dealt with by the	The carrying out of the Proposed Development itself will involve relatively minor construction works. These are described in detail at section	No comment.

	Proposed Development?	<p>3.4 of the Environmental Statement Volume 1, Chapter 3: Proposed Development and Construction [APP-028].</p> <p>The carrying out of the Proposed Development and its operation will be in accordance with the terms of the Consented Scheme. The Consented Scheme is being constructed with an <b>Emergency Preparedness and Response Plan (Doc Ref 9.1.5)</b> in place, which has been prepared by the appointed contractor (Hitachi Zosen INOVA). This sets out details including assembly points, emergency services details, locations of the nearest hospital and actions and procedures for various foreseeable emergencies.</p> <p>Once constructed, the Proposed Development will be operated as part of the wider Consented Scheme, which will be subject to industry-wide safety regulations and controls. The Applicant is a subsidiary of Indaver Holding NV, a group that operates other waste management</p>	
--	-----------------------	---	--

		<p>facilities in the UK, Belgium, France, Ireland and the Netherlands. It has internationally recognised certifications for its safety policies and procedures, which would be implemented at the Rivenhall IWMF.</p>	
Q1.1.4	<p>EEAST consider [RR-005] that the Proposed Development is likely to have a significant impact on its emergency ambulance operations, service capacity and resources (staff, vehicle fleet and estate assets) requiring appropriate mitigation and management measures to be identified and secured through either a planning obligation or Deed of Covenant. Given that the Proposed Development will not result in any traffic movements</p>	<p>The Applicant has provided a response to EEAST's relevant representations in the <b>Relevant Representations Report (Doc Ref 9.1.3)</b>.</p>	<p>No comment.</p>

	above that already consented, provide further justification for this view.		
Q1.1.5	The 2023 revised NPSs (EN-1 to EN-5) came into force on 17 January 2024. Set out any implications these have for the Proposed Development and whether they affect the findings of the ES	<p>This has no implications for the findings of the ES. The revised NPSs came into force on 17 January 2024, after the DCO Application was accepted for examination. The 2011 NPSs remain the relevant NPSs for the purposes of determining the DCO Application. However, the revised NPSs are important information.</p> <p>The key change brought about by the revised NPSs is that the Proposed Development would now qualify as low carbon infrastructure for which there is a Critical National Priority (Revised NPS EN-1, paragraph 4.2.5). This does not change the overall conclusion reached in the ES because there were no residual impacts that would suggest the Proposed Development would be unacceptable in the first place. However, it does lend further weight to the acceptability of</p>	It is understood that under the transitional arrangements for EN-1 and EN-5, applications submitted prior to the 17 January are not required to comply with the revised EN-1 and EN-5

		<p>the proposals and the contribution they would meet to delivering energy security and contributing towards net zero.</p> <p>Updates have been made to the <b>Planning Statement Version 2 (Doc Ref 7.1)</b> to reflect the revised NPSs coming into effect and to ensure that the assessment of the Proposed Development is fully up to date. A clean and tracked changed version of the document has been provided to allow easier comparison (<b>Doc Ref 7.1</b>). The updates made also include an updated assessment of the Proposed Development against the National Planning Policy Framework (December 2023) and capture updates to the Consented Scheme's planning history. Again, neither of these changes affect the overall conclusions reached. Updates have also been made to the <b>Explanatory Memorandum to the Draft Development Consent Order V2 (Doc Ref 3.2)</b> to capture the updates to</p>	
--	--	--	--

		the Consented Scheme's planning history. Clean and tracked change versions have been provided.	
<b>Q1.2 Climate Change and Greenhouses Gases</b>			
<b>Ref.</b>	<b>Question</b>	<b>Applicant Response</b>	<b>ECC Response</b>
Q1.2.1	The ES [APP-032] assumes that there will be electricity generation of 62.5MW. Provide further justification for this assumption and explain why 60MW or 65MW is not assessed as a best/worst case?	<p>In paragraph 6.6.2 of the ES [APP-031], it is explained that the EfW plant will operate between 60 and 65 MW. For the noise assessment, the worst case scenario for technical assessment was taken as 65 MW as this would involve the equipment operating at maximum level. This was appropriate for the noise assessment as this is primarily concerned with short term peak impacts. For the climate change assessment, the technical assessment was based on the design point of the turbine, which is 62.37 MW.</p> <p>The power generated by the EfW plant will vary depending on the time of year. During the summer, when the air is hotter, the air-cooled condenser will operate less efficiently, which means that the steam pressure at the exit from the turbine will be higher</p>	No comment.

		<p>and less power will be generated. During the winter, the opposite will apply and more power will be generated. The design point of the plant reflects the air-cooled condenser operating at an air temperature of 10°C, giving power generation of 62.37 MW. Since the climate change assessment considers the annual impact of the EfW plant, it is appropriate to use a figure which is reflective of the average power generation, rather than the peak generation, and the Applicant considers that the design point is more reflective of the average power generation</p>	
Q1.2.2	<p>ECC [RR-002] has set out that the opportunity to deliver other climaterelated co-benefits of the project should be explored in order to make best use of the development and that this could include educational benefits, such as education information boards</p>	<p>This is not considered necessary to make the proposals acceptable in planning terms.</p> <p>The Proposed Development would result in a greater amount of electricity being generated from the same throughput of fuel, which delivers a (negligible) benefit to climate change and greenhouse gas emissions by displacing energy that would otherwise be derived from</p>	<p>The Consented Scheme S106 does secure monies for a community fund (£0.05 per tonne imported). The fund to be run by trustees for the following “<i>fund local community projects including without limitation any projects in respect of enhancement of the local environment ecology and/or education at the discretion of the Trustees</i>” (Quote for the s106)..</p> <p>If the full tonnage of waste permitted to be disposed of via the EfW (595K) were imported annually, this would only amount to £29,750. With a potential if full capacity of the site were utilised (853,000 tpa) this would provide £42,6590 of funding.</p> <p>The Community Fund is for <b>local</b> projects/education it was not intended to be used for “educational benefits, such as education information boards and explaining the role of the project in delivering a decarbonised national grid, UK energy security, strategy and tackling climate change” as described by the applicant. The size of</p>



	<p>and explaining the role of the project in delivering a decarbonised national grid, UK energy security, strategy and tackling climate change. a) Applicant, respond to this request and set out whether you consider this to be necessary. b) ECC, how would such measures be secured and are they necessary to make the Proposed Development acceptable?</p>	<p>fossil fuels. It does so without any significant adverse environmental effects. No mitigation such as that outlined by ECC is necessary to make the proposals acceptable in planning terms.</p> <p>The above notwithstanding, the Applicant already engages with the community through in-person events and hosts information about the role that the IWMF plays in waste management on its website. On that website are also details of community events the Applicant has hosted in the past few years. Prior to the DCO Application being submitted, the Applicant opened its Information Hub building to the public across 10 days in the summer. Further information on this is set out in the Consultation Report [APP-016].</p> <p>Further, the Consented Scheme already secures benefits in the following ways:</p> <ul style="list-style-type: none"> <li>• The Consented Scheme includes the redevelopment of the</li> </ul>	<p>the community fund would be insufficient to support local projects as well as wider scale education and skills initiatives.</p>
--	---	---	--

		<p>Woodhouse Farm Complex as a visitor and education centre.</p> <ul style="list-style-type: none"> <li>• The Consented Scheme Section 106 Agreement (Doc Ref 9.1.6) requires the Applicant to establish a Community Trust Fund which may be used to fund educational projects. The funding for this Community Trust Fund is based on the amount of waste imported to the site, which will not be changed by the Proposed Development. This obligation is already binding on the Applicant on an ongoing basis and will not be affected by the Proposed Development (see response to Q.1.5.5 for further details of the Section 106 Agreement).</li> </ul> <p>For these reasons, further educational benefits secured through the DCO are not considered to be either reasonable or necessary to make the Proposed Development acceptable in planning terms.</p>	
Q1.2.3	ECC [RR-002] are of the view that	This is not considered necessary to make the	AECC understands that Annual Performance Reports are currently provided by Energy from Waste facilities as a mandatory requirement under the Industrial

	<p>carbon emissions should be recorded and published, to show the positive impact even if small. a) Applicant, respond to this request and set out whether you consider this to be necessary. b) ECC, set out how would such measures be secured and are they necessary to make the Proposed Development acceptable?</p>	<p>proposals acceptable in planning terms.</p> <p>As per the response to Q1.2.2, the proposals would deliver a negligible benefit in generating a greater amount of electrical without the need for additional fuel throughput and with no significant adverse environmental effects.</p> <p>The operator is required to make an annual submission to the EA's Pollution Inventory and this will include an estimate of CO2 emissions. The Pollution Inventory is published by the EA.</p> <p>The Applicant is also required to provide the Application Site Liaison Committee with the same air quality monitoring data as it must submit the EA (clause 3.11.2 of the Section 106 Agreement (Doc Ref 9.1.6)). This obligation is already binding on the Applicant on an ongoing basis and will not be affected by the Proposed Development (see response to Q.1.5.5 for further</p>	<p>Emissions Directive's Article 55(2) requirements on reporting and public information on waste incineration plants and co-incineration plants. This requires the operator to produce an annual report on the functioning and monitoring of the plant and make it available to the public. The Industrial Emissions Directive (IED) is the main EU instrument regulating pollutant emissions from industrial installations.</p> <p style="text-align: center;"><i>Article 55</i></p> <p style="text-align: center;"><b>Reporting and public information on waste incineration plants and waste co-incineration plants</b></p> <p>1 Applications for new permits for waste incineration plants and waste co-incineration plants shall be made available to the public at one or more locations for an appropriate period to enable the public to comment on the applications before the competent authority reaches a decision. That decision, including at least a copy of the permit, and any subsequent updates, shall also be made available to the public.</p> <p>2 For waste incineration plants or waste co-incineration plants with a nominal capacity of 2 tonnes or more per hour, the report referred to in Article 72 shall include information on the functioning and monitoring of the plant and give account of the running of the incineration or co-incineration process and the level of emissions into air and water in comparison with the emission limit values. That information shall be made available to the public.</p> <p>3 A list of waste incineration plants or waste co-incineration plants with a nominal capacity of less than 2 tonnes per hour shall be drawn up by the competent authority and shall be made available to the public.</p>
--	--	---	---

		details of the Section 106 Agreement).	
<b>Q1.3 Consented Development</b>			
<b>Ref.</b>	<b>Question</b>	<b>Applicant Response</b>	<b>ECC Response</b>
Q1.3.1	Confirm whether an EfW plant alone is currently being constructed and whether the other components of the existing consent will be delivered in the future.	<p>The current and ongoing intention of the Applicant is to build out the Consented Scheme subject to market conditions and viability issues. The TCPA Permission for the Consented Scheme has been lawfully implemented and has value to the Applicant who wishes to seek to maximise the opportunities offered by the Consented Scheme.</p> <p>The Applicant is undertaking its development of the Consented Scheme in phases. Such a phased approach is not uncommon. It enables the revenue from the operation of the first phase to be used to fund later phases (reducing third-party financing and other investment costs, which is particularly important during periods of high interest). It also enables more of the construction activity to be located within the void which is to house the</p>	ECC do not consider granting the DCO would be contrary to the existing planning permission. However, there may be a breach of planning control if the Energy from Waste (EfW) were to operate without "integration" with the other elements of the IWWMF development. All elements operating in integration were taken into account when considering whether the IWWMF amounted to "Sustainable Development". ECC has suggested to the applicant that the difference in interpretation of the planning permission would be best resolved through a CLPUD. However, the applicant has so far declined to pursue this approach.

		<p>consented building. An example of where Indaver has taken this approach is at its site in Doel, Belgium which was initially developed as an EfW plant after which a mercurial waste treatment plant, a bottom ash recycling plant, fluidized bed facilities (which treat sludge from water purification units or industry) and landfill facilities were developed in subsequent phases.</p> <p>The current construction works comprise the first phase of the development and include: the private access road extension, the earthworks and lagoons, site preparation and landscaping, installation of utilities connections, restoration of the Woodhouse Farm complex and the EfW plant.</p> <p>Following the completion of the EfW plant, the Applicant's current intention is to then develop the Materials Recycling Facility. The Applicant then intends to develop the other elements of the Consented Scheme as</p>	
--	--	---	--

		<p>and when the market and commercial viability conditions allow. Provided that a planning permission is lawfully implemented, 'there is no time limit for completing it, unless a completion notice is served under section 94 of the 1990 Act' (Judgment of Lord Sales and Lord Leggatt, paragraph 20, Hillside Parks Ltd. v. Snowdonia National Park Authority [2022] UKSC 30).</p> <p>The Applicant's approach to the phased delivery is lawful. There are no planning conditions or obligations in respect of the Consented Scheme that control the timing of the delivery of the components of the existing consent. The only control over the phasing of the implementation of the Consented Scheme relate to: completion of the highway works and access road (condition 7 and 45 and clause 3.1.1 of the Section 106 Agreement (Doc Ref 9.1.6)), the creation of the retaining structure and extraction of minerals (condition 45), and the</p>	
--	--	--	--

		completion of Woodhouse Farm (condition 68 and clause 3.12.1 of the Section 106 Agreement (Doc Ref 9.1.6)). Further information on this is provided in response to Q1.3.2 and also within Appendix 1 of this document.										
Q1.3.2	ECC has set out [RR-002] that it does not believe an EfW plant alone can be constructed in accordance with the existing consent. a) Applicant, confirm whether or not this is the case. b) ECC, provide full and comprehensive evidence to support your view and set out what implications you consider there are for the Proposed Development.	<p>ECC's view is not relevant to the consideration of the Proposed Development.</p> <p>The SoS does not need to determine whether an EfW plant alone can be constructed in accordance with the existing consent in order to determine whether the development consent order for the Proposed Development should be granted.</p> <p>Schedule 1 of the dDCO (Doc Ref 3.1) [APP-013] describes the Proposed Development as 'an extension to the existing generating station'. 'Existing generating station' is defined as the generating station authorised by the existing consent. Moreover, Article 6 requires the Applicant to comply with the existing</p>	<p>Planning permission for the Rivenhall IWMF was originally granted planning permission by the Secretary of State (SoS) in 2010 following a call-in inquiry. A copy of the Inspector's Report and SoS Decision are attached as Appendix 1 and 2 of LiR. The planning permission was subsequently varied in 2016 by way of a S73 application Reference ESS/34/15/BTE determined by ECC as Waste Planning Authority (WPA). This application sort to amend the capacities of various elements of the IWMF i.e. the capacities of Combined Heat and Power Plant (CHP), Materials Recycling Facility (MRF), Mechanical Biological Treatment Plant (MBT), Anaerobic Digestion plant (AD) and the Merchant De Ink Paper Pulp Plant (MDIP).</p> <table border="1" data-bbox="1039 807 2078 1294"> <thead> <tr> <th>Process</th> <th>SoS decision tpa</th> <th>ESS/34/15/BTE tpa</th> </tr> </thead> <tbody> <tr> <td>Materials recycling facility (MRF)</td> <td>287,500</td> <td>300,000</td> </tr> <tr> <td>Mechanical Biological Treatment (MBT)</td> <td>250,000</td> <td>170,000</td> </tr> </tbody> </table>	Process	SoS decision tpa	ESS/34/15/BTE tpa	Materials recycling facility (MRF)	287,500	300,000	Mechanical Biological Treatment (MBT)	250,000	170,000
Process	SoS decision tpa	ESS/34/15/BTE tpa										
Materials recycling facility (MRF)	287,500	300,000										
Mechanical Biological Treatment (MBT)	250,000	170,000										

consent during the Proposed Development.

This means that the Proposed Development can only be carried out in accordance with the existing consent and any breach of the existing consent may be enforced by ECC. Indeed, following implementation of the dDCO, ECC's enforcement powers in this respect would be strengthened as they would benefit from the powers under the Planning Act 2008 as well as their current powers under the Town and Country Planning Act 1990.

Regardless of the correct interpretation of the existing consent, the proposed drafting of the dDCO will ensure compliance.

However, without prejudice to the above, an EfW plant alone can be constructed in accordance with the existing consent.

As set out in the response to Q1.3.2, the Applicant is taking a phased approach to the

Anaerobic digestion (AD)	85,000	30,000
Combined Heat & Power (CHP)	360,000	595,000
De-ink paper pulp plant	360,000	170,000

While the balance of capacities between the various elements of the IWMF was changed, the overall input of waste was not, and remains restricted at 853,000tpa. The planning application in 2015 also sought to discharge a number of conditions of the original permission. A copy of the Development & Regulation Committee Report Feb 2016 and the Decision Notice Mar 2016 are provided at Appendix 3 and 4 respectively in our LiR.

The planning permission in 2016 was subject to additional conditions including condition 66, which sort to require a plan of action or a scheme of rehabilitation if the IWMF had were progressed. At the time in February 2016 the IWMF had planning permission, so could technically be implemented, but potentially not progressed, in light of the fact at that time Environmental Permit had been obtained. The condition sought to address this situation, such that the site was not left in no beneficial use.

The developers indicated when submitting details to discharge condition 66 of the planning permission by application ESS/34/15/BTE/66/01, that elements of the IWMF are no longer technically or commercially viable and at the current time development of the IWMF would focus on the CHP/EfW. This discharge of condition application highlighted to the WPA that the developer's intention was to focus on the development of the CHP/EfW, potentially bringing into operation the CHP/EfW, without the other integrated elements of the IWMF. The submission of condition 66 was determined, subject to conditions which required implementation



		<p>development of the Consented Scheme and such an approach is lawful. Further phases of development are subject to future market conditions and viability.</p> <p>It is the Applicant's position that the SoS does not need to determine whether the EfW plant alone can be constructed in accordance with the TCPA Permission (ref: ESS/39/23/BTE) in order to determine whether the development consent order for the Proposed Development should be granted.</p> <p>Schedule 1 of the dDCO [APP-013] describes the Proposed Development as '<i>an extension to the existing generating station</i>'. '<i>Existing generating station</i>' is defined as the generating station authorised by the IWMF TCPA Permission. Moreover, Article 6 requires the Applicant to comply with the IWMF TCPA Permission during the Proposed Development. This means that the Proposed Development can only be</p>	<p>of the whole IWMF development and completion by 2026. The applicant appealed against these conditions.</p> <p>It was agreed between the parties that as an alternative to progressing the appeal, the applicant could apply to delete condition 66, the details approved there under and the associated conditions. Since the IWMF now has an Environmental Permit to operate and is being actively constructed the original purpose of Condition 66 was no longer relevant.</p> <p>A S73 application (ESS/39/23/BTE) to delete condition 66 the details approved there under and the associated conditions was submitted in May 2023 and granted in January 2024 and the subsequently the appeal against the decision on condition 66 withdrawn (The Committee Report July 2023, Addendum, and decision notice are attached at <b>Appendix 1, 2 &amp; 3</b>)</p> <p>ECC has highlighted within its response to the Scoping Opinion and the Preliminary Environmental Report on the DCO, it's concerns that it considers there could be a breach of planning control if the CHP/EfW were to operate as standalone EfW without integration with the other permitted elements of the IWMF.</p> <p>The IWMF was permitted on the basis of an "integrated facility" combining a number of waste management processes and a de-ink paper pulp plant, to make use of the excess heat and steam. The IWMF included a CHP which would in part generate electricity, but the application in 2016 proposed approximately half the electricity and heat and steam generated at the site would be used to power other elements of the IWMF and some of the heat and steam generated by the CHP would be used directly in the MDIP.</p> <p><b>WPA's Current Position</b></p> <p>The Waste Planning Authority has considered it's position further since these earlier submissions with respect to the Rivenhall DCO.</p> <p>It is acknowledged that the IWMF does include permission for a CHP/EfW plant. The DCO seeks to extend the power output to above 49.9MW, that being the limited to which a local planning authority can consider. If other elements of the IWMF were to be developed it is likely that a substantial percentage of the heat</p>
--	--	---	--

		<p>carried out in accordance with the IWMF TCPA Permission and associated section 106 agreement and any breach of them may be enforced by ECC. Indeed, following implementation of the dDCO, ECC's enforcement powers in this respect would be strengthened as they would benefit from the powers under the Planning Act 2008 as well as their current powers under the Town and Country Planning Act 1990.</p> <p>Therefore, ECC's concern regarding the interpretation of the IWMF TCPA Permission does not need to be determined by the SoS as part of the Application. Regardless of the correct interpretation of the TCPA Permission, the proposed drafting of the dDCO will ensure compliance. For the sake of completeness, a Note on the Implementation of the TCPA Permission has been prepared that sets out the Applicant's reasoning for its position and is provided at Appendix 1 of this document. This can be summarised as follows:</p>	<p>and steam would be utilised by other elements of the IWMF and the available heat and steam to generate power would be substantially reduced. However, on further consideration it is recognised, that at this stage the current development on site and the works proposed as part of the DCO would not preclude the development of the other elements of the IWMF. In addition, if a DCO were to be granted the applicant does not have to utilise the full power output permitted and could choose to develop any or all of the elements of the IWMF, such as the MDIP and generate less electricity.</p> <p>While the WPA remains of the view that the IWMF was considered by both the SoS and the WPA on the basis of an integrated facility, which delivered more sustainable development than a standalone EfW, the WPA is now of the view the DCO, if granted, would not undermine the WPA position on the integration/severability of the planning permission. The point at which there could be breach of planning control would be at the point the EfW operates without the other integrated elements of the IWMF. It is the intention of the WPA to work with the developer to try to resolve this difference of interpretation of the planning permission prior to the EfW coming into operation. The submission of a Certificate of Lawful Development for a Proposed Use (CLPUD) has been suggested to the applicant, but to date this option has not been taken up. The submission of a CLPUD would enable the WPA to formally consider the matter taking into account the position of the applicant and as well as its own advice. Nonetheless, the Inspector may wish to consider whether the WPA's position is correct (whether the IWMF planning permission does not permit the operation of a standalone EfW; that in fact there is not an extant permission for "An existing generating station" that allows its output to be increased through the DCO process.)</p> <p><b>Evidence to support ECC view that there could be breach of planning control if the CHP/EfW were to operate as a standalone EFW</b></p> <p>As mentioned above the WPA is of the view that both the Inspector/SoS in 2010 and the WPA in 2016 considered the IWMF on the basis of an integrated facility. It is the view of the WPA that the planning permission for Rivenhall IWMF was for an integrated facility of different waste management processes, ensuring the maximum recovery of recyclables as well as energy generation with an on-site use of heat and steam in the MDIP that, overall and on balance, made the development</p>
--	--	---	---

		<p>a) That it is not unlawful to partially implement a planning permission, with the Supreme Court's ruling on Hillside having provided definitive clarity on this point.</p> <p>b) That planning permissions and their conditions should be interpreted in a common sense way by a reasonable reader with some knowledge of planning law (including the Hillside ruling).</p> <p>c) That the description of the Consented Scheme as an 'Integrated Waste Management Facility' does not require complete implementation.</p> <p>d) That the extant permission does not contain conditions or obligations prohibiting partial implementation or the construction and operation of the EfW plant alone.</p> <p>e) That Essex County Council sought the imposition of a condition requiring complete</p>	<p>sustainable. The direct use of heat and steam on site, in something like an MDIP, is a more efficient use of the heat and steam than just energy generation. Energy generation from an EFW alone is considered by the WPA as being less sustainable.</p> <p><b>Appendices 4, 5 and 6</b> provide the Committee Report (Feb 2022), Addendum to the Committee Report and the decision letter on the consideration of the submission to discharge condition 66. Within sections C, E and F of the Committee Report of Feb 2022 the WPA sets out its position with respect to what it considers the existing Planning Permission gives consent for with reference to the Inspectors report of 2010. An extract from Section C of the Committee Report of Feb 2022 is set out below:</p> <p><i>Considering the natural meaning of the words used in the description of the development in the planning permission [ESS/34/15/BTE], the description is of an "Integrated Waste Management Facility" which "comprises" certain elements.</i></p> <p><i>Naturally read it is considered that "comprises" means "amounts to" or "is"; that is, supported by the use of the word "integrated" – i.e. including the identified elements. Consistent with that description, the nature of that facility is identified in the plans identified in condition 2. Plans 1-9A and 10A identify each of the elements specified in the description of development and show how the facility would operate in an "integrated" manner. It is therefore considered plain that the "Integrated Waste Management Facility" is a development which includes all of the identified elements; the conditions require that to be carried out.</i></p> <p><i>The interpretation of the planning permission is that it is for an integrated facility and was considered and granted on this basis.</i></p> <p><i>The Inspector (in making his recommendation following the call-in inquiry in 2009/10) and the WPA (in considering subsequent applications) took into account all elements of the IWWMF and how they would provide an integrated facility, maximising recycling and maximising the use of heat and steam, through a combination of power generation and direct use of the heat and steam to reprocess waste paper, in order to deliver a sustainable development.</i></p> <p><i>It is evident within the Inspector's report and the subsequent WPA officer reports (ESS/34/15/BTE), that the consideration as to the acceptability of the IWWMF in</i></p>
--	--	---	---

		<p>implementation of the Consented Scheme in 2009 but this was rejected by the Inspector who undertook the call-in inquiry which led to the grant of the original planning permission for the Consented Scheme.</p>	<p><i>planning terms was on the basis that all elements of the IW MF would be delivered to result in sustainable development.</i></p> <p>The WPA reiterated its position when considering the planning application (ESS/39/23/BTE) to delete condition 66 of ESS/34/15/BTE, as set out in section D of the Committee Report (July 2023) at <b>Appendix 1</b>.</p> <p>Should the Inspector require any further information please do not hesitate to contact the Council.</p>
<b>Q1.4 Cumulative Effects</b>			
<b>Ref.</b>	<b>Question</b>	<b>Applicant Response</b>	<b>ECC Response</b>
Q1.4.1	Has the Proposed Development suitably considered all other relevant developments in the vicinity of the site, including all minerals workings?	<p>A cumulative effects assessment is scoped into the ES. The following screening criteria were used to identify the cumulative schemes that are subject to assessment:</p> <ul style="list-style-type: none"> <li>• Expected to be built-out at the same time as the EIA Development and with a defined planning and construction programme;</li> <li>• Spatially linked to the development (within 1km of the Site boundary);</li> <li>• Considered an EIA development and for which an ES has been submitted with the planning application;</li> </ul>	At para 11.3.3 of ECC's Local Impact Report we respond to say that we are content with the other relevant developments as far as it relates to applications granted or sought from ECC as the M&W planning authority.

		<ul style="list-style-type: none"> <li>• Those which have received planning consent from the planning authority (granted or resolution to grant); and / or</li> <li>• Introduces sensitive receptors near to the Site (but are not EIA development).</li> </ul> <p>The only relevant cumulative schemes for the EIA Development are the Rivenhall Greenhouse Development and the mineral extraction works in vicinity to the Site. A robust cumulative assessment of these schemes has been undertaken within each of the technical topics of the ES, both for construction and once the Proposed Development is completed and operational.</p>	
--	--	---	--

**Q1.5 Development Consent Order**

<b>Ref.</b>	<b>Question</b>	<b>Applicant Response</b>	<b>ECC Response</b>
Q1.5.1	The ES [APP-032] refers to the Proposed Development having a lifespan	A. 25 years is the expected design life of the plant, however, the Applicant could extend this depending on	The planning permission for the IWMF is permanent. It is noted that a life span of 25 years is indicated. It is not considered that a lifespan should be imposed. However, it suggested that the DCO require a Decommissioning Plan for both the DCO and the Consented Development, once operation has ceased. While a decommissioning plan is required within the Environmental Permit, this will focus on

	<p>of 25 years, whereas the FRA [APP-047] refers to 40 years. a) Clarify which is correct. b) Should the dDCO set out the Proposed Development's lifespan?</p>	<p>circumstances at the time. The FRA (Doc Ref 7.2) [APP-048] has taken a more conservative approach and assessed a 40 year duration to ensure that the development would not be vulnerable to climate change.</p> <p>B. The Proposed Development has not been applied for or assessed on a temporary basis. Although the Applicant recognises that in practice the Proposed Development has an expected lifespan and would be decommissioned in the future, the date upon when decommissioning would occur is an investment decision to be made by the Applicant based on market conditions at the time.</p> <p>The Proposed Development has not been applied for or assessed on a temporary basis. Although the Applicant recognises that in practice the Proposed Development has an expected lifespan and</p>	<p>pollution control rather than land use matters. The DCO Order provides an opportunity to address this matter.</p>
--	--	---	--

		<p>would be decommissioned in the future, the date upon when decommissioning would occur is an investment decision to be made by the Applicant based on market conditions at the time.</p> <p>The Application is for permanent development and so the dDCO does not need to set out or limit the Proposed Development's lifespan.</p> <p>The Applicant notes that the recent Slough Multifuel Extension Order 2023 (which authorised the extension of a consented energy from waste generating station) does not include any such reference to the design life of the development. Nor was such a reference been made in other development consent orders authorising energy from waste generating stations (e.g. The Rookery South (Resource Recovery Facility) Order 2011; The Wheelabrator Kemsley K3 Generating Station Order 2021; The South Humber Bank Energy Centre Order</p>	
--	--	---	--

		2021; or the Medworth Energy from Waste Combined Heat and Power Facility Order 2024).	
Q1.5.2	<p>The dDCO [APP-013] does not cap the level of electricity generation. The ES [APP-046, Paragraph 4.7] states 'To generate electricity greater than 65MW, a larger turbine and generator is likely to be required. This would require significant change to the consented building envelope, greater fuel throughput and, as a result, an increased number of HGV trips. This would have negative air quality and noise effects as well as landscape and visual impacts once operational (due to the increase in building</p>	<p>Although the assessment carried out in the ES [APP-032] contains an indicative assumption for the purpose of the operational assessment that the EfW plant would operate with a generating capacity between 60 and 65MW (see Chapter 3, paragraph 3.2.2), it is not clear what benefit there is to including a cap in the dDCO to prevent a generating capacity of over 65MW at the Site.</p> <p>There is no legal requirement for all assumptions used in an environmental impact assessment to be secured. A cap should only be inserted in the dDCO if it is necessary to prevent or mitigate adverse effects which would otherwise require the Application to be refused.</p> <p>The Applicant notes that its position that a cap is not necessary in principle accords with the Secretary of</p>	<p>The Environmental Statement is based on an output between 60MW and 65MW. It is considered that greater energy output could result in Environmental Impacts that have not been assessed.</p> <p>The applicant states that the Proposed Development has been assessed as not giving rise to any significant adverse effects. The noise assessment has taken the baseline as the existing planning permission. If the Proposed Development is assessed against current guidance (BS4142:2024 +A1:2019) if operating within the existing conditions, the Proposed Development has been shown to be likely to give rise to significant adverse environmental effects.</p> <p>If a greater output were to be proposed at a later date it should be considered against local and national policy at that time.</p> <p>The examples of other DCOs referred to by the applicant, where no energy output has limit has been applied are all solar farms, not EfWs. ECC notes that in granting a similar energy output increase at an EfW facility at Slough Multifuel in December 2023 the DCO was limited to 65MW.</p> <p>ECC has suggested a change to the draft DCO limiting the power output to 65MW.</p>



	<p>size). It was not considered a reasonable alternative by the Applicant. On this basis and given the ES has not assessed electricity generation over 65MW, should a cap be inserted into the dDCO?</p>	<p>State's grant of other energy NSIPs with capacities of 'over 50 megawatts' which are not subject to a cap – e.g. The Cleve Hill Solar Park Order 2020, The Little Crow Solar Park Order 2022 and The Longfield Solar Farm Order 2023.</p> <p><b><u>The assumed maximum operational generating capacity of 65MW is reasonable.</u></b></p> <p>The assessment in the ES has been based on an indicative assumption that the EfW plant would operate with a generating capacity between 60 and 65MW. This range has been chosen in line with the design point of the turbine being installed by the Applicant as part of the Consented Scheme, being 62.37 MW. Further details of these assumptions are provided in the response to Q1.2.1 above.</p> <p>It is reasonable and lawful for the environmental impacts to be assessed and the</p>	
--	--	---	--

		<p>Application determined on the basis of such an assumption.</p> <p>The ES is required to provide a description of the likely significant effects of the Proposed Development on the environment and include the information reasonably required for reaching a reasoned conclusion on the significant effects of the Proposed Development on the environment. Given the design of the turbine and the nature of the Proposed Development, which save for the lack of cap is described in detail, it is reasonable to conclude that a generation of over 65MW is unlikely to occur as a result of the Proposed Development or (if it were to occur) to result in significant effects on the environment beyond those assessed in the ES.</p> <p><b><u>A generating capacity of over 65MW would not result in significant environmental affects</u></b></p> <p>Without prejudice to the above, the generation of over</p>	
--	--	---	--

		<p>65MW would not result in significant environmental effects.</p> <p>The construction impacts of the Proposed Development are controlled by the description of the Works in Schedule 1 of the dDCO [APP-013]. These would not be affected by the level of electricity generation during operation and so a cap is not required to prevent or mitigate any construction effects.</p> <p>In respect of the operational effects of the Proposed Development, if this resulted in a generating capacity of over 65MW (e.g. 65.1MW or above), this would:</p> <ul style="list-style-type: none"><li>• For the reasons given at Chapter 8 paragraph 8.4.8 [APP-033], not impact the reasons given to explain why operational vibration has not been assessed as part of the ES;</li><li>• For the reasons given in Chapter 8, still result in a negligible impact on operational noise requiring</li></ul>	
--	--	---	--

		<p>compliance monitoring in line with the TCPA Permission but not requiring any mitigation; and</p> <ul style="list-style-type: none"><li>• For the reasons given in Chapter 7 of the ES [APP-032], still result in a negligible beneficial effect on climate change not requiring any mitigation or monitoring.</li></ul> <p><b><u>A cap is not the appropriate way to control the environmental effects of the Proposed Development</u></b></p> <p>A cap is neither necessary nor appropriate to control the environmental effects of the Proposed Development. Such effects are adequately controlled through the description of the authorised works in Schedule 1 of the dDCO and the securing the existing conditions in the TCPA Planning Permission. As described above and in the ES (Chapter 4) [APP-029], the Applicant considers it unlikely that a generating capacity of over 65MW could be achieved at the site</p>	
--	--	--	--

		<p>without further development. Any such future development would require further consents (and would potentially be subject to further environmental assessment). A cap is not required in the dDCO to prevent such future development taking place.</p> <p>Therefore, the insertion of a cap would prevent and criminalise the operation of the EfW plant at a capacity above 65MW where this can be achieved through: (i) the Proposed Development (which has been adequately assessed in the ES); or (ii) carrying out any future actions which are not subject to development control (and so do not need consent or assessment).</p> <p><b><u>Setting a cap is not supported by relevant policy, guidance and legislation</u></b></p> <p>Revised NPS EN-1 states at paragraph 3.2.3: <i>"It is not the role of the planning system to deliver</i></p>	
--	--	---	--

		<p><i>specific amounts or limit any form of infrastructure covered by this NPS... the government does not consider it appropriate for planning policy to set limits on different technologies...”</i></p> <p>The urgent need to increase the amount of energy we derive from non-fossil fuel sources is made plain throughout the Revised NPS EN-1. Where this can be achieved without significant adverse environmental effects, it should not be the role of the planning system to delay this. On 6th March 2024, the Department for Levelling Up, Housing &amp; Communities published the Government’s response to the consultation on the Nationally Significant Infrastructure Projects Reform Action Plan. The Government’s objectives are set out as making the PA 2008 consenting process <i>‘better, faster, greener, fairer and more resilient’</i>.</p> <p>Given that there is no legislative requirement for a</p>	
--	--	---	--

		<p>cap on energy generation to be set out in the DCO, and that environmental effects are controlled through other means (as set out above) and in light of the Government's desire to make the PA 2008 consenting process more resilient and greener, it is not clear what benefit there is to adding another layer of statutory limitation or control to the amount of electricity the IWMF could feasibly generate.</p>	
Q1.5.3	<p>The Order limits [APP007] [APP-008] are limited to the footprint of the building. Provide further justification for the extent of the Order limits and explain why other aspects of the Proposed Development are not included, such as the access road.</p>	<p>The Proposed Development comprises works to internal control valves within the EfW plant which is being developed as part of the Consented Scheme. Under the Consented Scheme, the internal elements of this EfW plant (including the valves) must be constructed within the footprint of the building.</p> <p>The EfW plant (and the Proposed Development) will only be located in part of the footprint of the building. This is shown on the Illustrative Plan [APP-011]. The part of the building in which the EfW</p>	<p>ECC having considered the Order Limits further and the wording of the Draft DCO, ECC is satisfied that the DCO Order were granted the DCO Order Limits would not undermine ECC position that there may be a breach of planning control should the EfW operate without integration with all elements of the IWMF.</p>

		<p>plant will be located is controlled by condition 19 of the IWMF TCPA Permission which must be discharged prior to the installation of the plant.</p> <p>Therefore, until ECC approve the details of the EfW plant under condition 19, the Applicant is not in control of the final location of the EfW plant and the Proposed Development.</p> <p>In these circumstances, the footprint of the building provide the most accurate and certain limits of the location of the Proposed Development and the Applicant considers that it provides appropriate Order limits for the Application.</p> <p>The Proposed Development is limited to the works to the valve. The means of access to the site will remain as under the IWMF TCPA Permission and no changes are proposed or required. Article 6 ensures that the Applicant must comply with the Planning Permission</p>	
--	--	---	--



		<p>when carrying out the Proposed Development or operating the extended EfW plant.</p> <p>Access is controlled by Condition 8 of the IWMF TCPA Permission which provides that <i>'No vehicles shall access or egress the site except via the access onto the Coggeshall Road (A120 trunk road) junction as shown on application drawing Figure 1-2'</i>. The site is shown in blue on the Existing Generation Station Plan [APP-012] and includes the Order limits. Therefore, Condition 8 prevents vehicles from accessing or egressing the Order limits and the Proposed Development other than via the existing access road from the A120.</p>	
Q1.5.4	The dDCO [APP-013] or the planning conditions to the existing consent [APP-046] do not contain any provisions in relation to the decommissioning of the Proposed	The environmental permit for the Consented Scheme requires the Applicant to prepare and comply with a Closure Plan which will control decommissioning activities (see ES Chapter 3 section 3.15).	ECC has suggested a requirement of the DCO that a Decommissioning Plan be required to be submitted when the DCO development and the development permitted under the TPCA becomes non-operational.

	Development. How will appropriate decommissioning be secured?		
Q1.5.5	<p>Will there need to be a new or revised Section 106 Agreement in support of the application? If so:</p> <p>a) What is the timetable for providing this?</p> <p>b) Will the dDCO need to refer to it?</p>	<p>The Applicant does not consider that there needs to be a new or revised Section 106 Agreement in support of the application.</p> <p><b><u>New Section 106 Agreement</u></b> Development consent obligations should only be imposed where they are necessary to make the development acceptable in planning terms, directly related to the development and fairly and reasonably related in scale and kind to the development. The Proposed Development comprises minor internal works to extend the electrical generation capacity of the Consented Scheme and thereafter the operation of the extended EfW plant.</p> <p>The ES [APP-046] has not identified any mitigation which is required to be secured through a new Section 106 Agreement.</p>	<p>ECC would wish to see a Deed Of Variation to the S106 to require funding for:</p> <ul style="list-style-type: none"> <li>• Educational and skills training</li> <li>• Off-site Air Quality Monitoring</li> </ul>

**Revised Section 106 Agreement**

The existing Section 106 Agreement for the development of the Consented Scheme contains:  
(i) pre-implementation obligations (which are no longer relevant); (ii) pre-*'Beneficial Use'* obligations; (iii) ongoing obligations which have already been triggered; and (iv) ongoing obligations which will be triggered by *'Beneficial Use'*.

No amendments are required to the wording of each of the outstanding obligations in the existing Section 106 Agreement in order for these binding obligations to continue to apply and control development at the site following the grant of the dDCO. This is because the drafting of the obligations is sufficiently broad to refer to the EfW plant before and after its extension.

**Pre-Beneficial Use obligations**

These obligations require:

- a) the approval of a Traffic Routing Management Scheme;
- b) the widening of a section of the access road; and
- c) reasonable endeavours to complete the refurbishment of the adjacent Woodhouse Farm.

All of these obligations are worded such that they require compliance or discharge prior to '*commencement of the Beneficial Use of the Waste Management Facility*'. The definitions of '*Waste Management Facility*' and '*Beneficial Use*' are as follows: '*Waste Management Facility*' means a facility for processing and disposing of municipal and/or commercial and industrial waste including anaerobic digestion, a materials recycling facility, a mechanical biological treatment plant, a Paper Recycling Facility and a combined heat and power plant. The facility also includes energy generation from biogas as well as from

		<p>the combined heat and power plant. The extended EfW plant following the Proposed Development will still fall within the definition of Waste Management Facility.</p> <p><i>'Beneficial Use'</i> shall mean use of any part of the Waste Management Facility for the purposes permitted by [planning permission ESS/39/23/BTE (i.e. the Consented Scheme)] other than the construction of the Development and does not include use of the access road nor of any part of the Waste Management Facility as part of a trial not exceeding 14 days in length or for uses ancillary to the construction of the Development, or the use of finished buildings for sales purposes, or for use as temporary offices, or for the storage of plant and materials.</p> <p>The purpose of the EfW plant permitted by planning permission ESS/39/23/BTE is <i>'to produce electricity, heat</i></p>	
--	--	---	--

*and steam*'. The operation of the extended EfW plant following the Proposed Development will be for this same purpose and so the Proposed Development will still fall within the definition of '*Beneficial Use*'. For this reason, it is not necessary for a revised Section 106 Agreement to be entered into to re-secure these obligations.

**Triggered ongoing obligations**

These obligations require the Applicant to:

- a) Indemnify the County Council in respect of any claims arising out of previously completed highway works (including Land Compensation Act 1973 claims).
- b) Use reasonable endeavours to ensure that the Application Site Liaison Group meets every six months (this group's remit is matters affecting the wider site of the Consented

		<p>Scheme and so this automatically includes the dDCO).</p> <ul style="list-style-type: none"><li>c) Provide the Application Site Liaison Group with copies of any air quality monitoring data sent to the Environment Agency under the environmental permit.</li><li>d) Fund a presentation of the completed Level 2 and Level 3 archaeological surveys within the heritage and airfield museum at Woodhouse Farm.</li><li>e) Carry out the approved ground water monitoring scheme and provide copies of the monitoring data to the County Council and the Application Site Liaison Group.</li><li>f) Submit details of measures to mitigate any adverse effects revealed by the ground water monitoring scheme as</li></ul>	
--	--	--	--

		<p>a result of the Development.</p> <p>This obligation refers to <i>'Development'</i> rather than Waste Management Facility. However, <i>'Development'</i> is defined as an Integrated Waste Management Facility comprising an anaerobic digestion plant treating mixed organic waste producing biogas converted to electricity through biogas generators; a materials recovery facility for mixed dry recyclable waste to recover materials for example paper, plastic, metals; a mechanical biological treatment facility for the treatment of residual municipal and/or commercial and industrial wastes to produce a solid recovered fuel; a Paper Recycling Facility to reclaim paper; a combined heat and power plant utilising solid recovered fuel to produce electricity, heat and steam; the extraction of minerals to enable buildings to be partially sunken below ground level within the resulting void; a visitor/ education centre; an</p>	
--	--	--	--



		<p>extension to the existing access road; the provision of offices and vehicle parking; associated engineering works and storage tanks at the site (i.e. the Consented Scheme, see responses to ExQ1 1.3 above).</p> <p>The extended EfW plant following the Proposed Development would still fall within this definition and no amendment to the obligation is required;</p> <ul style="list-style-type: none"><li>a) To transfer the land over which the highway works were carried out to the County Council for £1 upon request within 21 years of 28 October 2009.</li><li>b) To give the County Council notice of any disposals of land within the site.</li><li>c) To pay £750,000 to the County Council (upon request) in the event that the existing A120 is detrunked prior to the date that the Waste Management Facility ceases operation.</li></ul>	
--	--	--	--

		<p>These obligations have already been triggered by the Applicant and bind the site. They would continue to be binding following the Proposed Development and are not affected by the implementation or operation of the Proposed Development.</p> <p>None of the obligations are worded so as to refer to the planning permission. Therefore, they would continue to bind the site following grant of the dDCO and completion of the Proposed Development.</p> <p><b><u>Ongoing obligations triggered by Beneficial Use</u></b> These obligations require the Applicant:</p> <ul style="list-style-type: none"><li>a) to notify the Council of the date of commencement of Beneficial Use of the Waste Management Facility;</li><li>b) to make the educational centre at the Woodhouse Farm Complex available to</li></ul>	
--	--	---	--

		<p>local community groups;</p> <ul style="list-style-type: none"><li>c) to undertake a study of the traffic impacts at 12 months and 5 years from the date of Beneficial Use of the Development and then provide further traffic management proposals where necessary to improve safety;</li><li>d) to implement the Traffic Routeing Management Scheme;</li><li>e) to set up a charitable Community Trust and pay towards local community projects £0.05 per tonne of municipal solid waste and/or commercial and industrial waste imported to the site;</li><li>f) to comply with the approved plan for the maintenance and management of vegetation for twenty years from commencement of the Beneficial Use of the Waste Management Facility; and</li></ul>	
--	--	---	--

		<p>g) the Paper Recycling Facility shall only source its heat steam and energy from the Waste Management Facility with the exception of periods of maintenance and repair of the Waste Management Facility.</p> <p>As set out above, the Proposed Development would continue to fall within the definitions of Waste Management Facility, Development and Beneficial Use. Therefore, it is not necessary for a revised Section 106 Agreement to be entered into to re-secure these obligations.</p>	
<b>Q1.6 Noise</b>			
<b>Ref.</b>	<b>Question</b>	<b>Applicant Response</b>	<b>ECC Response</b>
Q1.6.1	The ES [APP-033] sets out that the EIA Scoping Opinion from the Planning Inspectorate [APP-040] was in agreement that the existing noise limits should be	Within the <b>EIA Scoping Report (April 2023) [APP-039]</b> , the noise assessment methodology detailed within Section 8.5 refers to an assessment in-line with the consented noise limits. Within the <b>Planning Inspectorate's EIA Scoping Opinion [APP-040]</b> at section 3.2, the	ECC do not consider that the Planning Inspectorate in issuing the Scoping Opinion agreed to the methodology for the noise assessment, in particular that the Proposed Development should be assessed against the noise limits within the Consented Development.

	<p>used as the basis for the assessment. It is unclear to the ExA where this is set out in the EIA Scoping Opinion. Provide the exact reference to the suggested agreement.</p>	<p>comments received related to the effects of traffic noise, vibration effects, noise upon ecological receptors and the increase volume of steam sent to the turbine. No comments were received regarding the use of existing noise limits for the basis of the assessment and as such it was assumed that the Planning Inspectorate were in agreement with the proposed approach.</p>	
Q1.6.2	<p>ECC is of the view [RR002] that a new noise assessment is required and should be undertaken in accordance with BS4142:2014 +1:2019, appropriate for the noise effects of an industrial facility on residential properties. Further, the EfW should also be considered as a specific sound source, not the additional component, as BS4142:2014</p>	<p>As stated within the responses in Table 8.2 of the ES [APP-033] the assessment for the DCO Application relates to the increased electrical output from the EfW component of the IWMF with one item of plant proposed to be changed which would not affect the noise outputs from the EfW. Therefore, the assessment methodology remained in-line with the Consented Scheme to allow as much of a like-for-like assessment as possible.</p> <p>The assessment of the Proposed Development has considered the Site as a specific sound source and</p>	<p>The applicant refers to the possibility of reconsidering the existing noise conditions as part of a potential future S73 to the Consented Development. ECC cannot require a further S73 to be submitted, if submitted it may not be granted and if granted it may not be implemented. Thus this does this approach does not provide an opportunity to ensure the Proposed Development does not give rise to significant adverse environmental effects.</p> <p>If the applicant considers that the Proposed Development and Consented Development could be operated to noise levels that meet the requirements of BS4142:2024 +A1:2019, then why cannot this be secured as part of the DCO Order.</p>

	<p>+A1:2019 is clear that residual and background sound sources/levels should not include any contribution from the specific sound source. Whilst noting some of the Applicant's responses to these matters in the ES [APP033, Section 8.3], provide a full and detailed response to this suggestion referring to all relevant guidance.</p>	<p>includes the cumulative noise level associated with all items of plant which would be operational within the EfW, assuming simultaneous operation as detailed within Paragraph 8.6.2 of the ES [APP-033] in order to represent a worst-case scenario. The results of that assessment has demonstrated that the Proposed Development itself would not lead to any significant adverse noise effects over and above the noise effects of the Consented Scheme.</p> <p>With regards to the need for a new noise assessment, a separate Section 73 application for the IWFM is currently being prepared by the Applicant which includes an updated noise assessment and an assessment in accordance with BS4142:2014+1:2019.</p> <p>The definition of TCPA permission in the dDCO <i>includes 'any other variations thereto whether granted before or after the date of this</i></p>	
--	--	---	--

		<p><i>Order (which shall include for the avoidance of doubt any variations pursuant to Section 73 of the 1990 Act)'. Therefore, Article 6 of the dDCO would require the Applicant to comply with any amended noise conditions attached to future Section 73 permissions following such an updated assessment.</i></p>	
Q1.6.3	<p>ECC consider [RR-002] that it is not appropriate for the noise limits of the existing permission to form the baseline for the assessment. Explain fully why the correlation between planning condition compliance and residential effects should not be used.</p>	N/A	No additional comments
Q1.6.4	<p>The assessment methodology [APP-033, Table 8.6] sets out that the magnitude of effect is based on the level of exceedance over</p>	<p>A) The limits were set prior to the Applicant's acquisition of the site; and Indaver and its consultant team, therefore, cannot comment on why these noise limits were originally set.</p>	No comment.

	<p>the noise limits set out in the existing consent. a) Explain why the noise limits were set at the levels that they were in planning conditions 38,</p>	<p>It is noted that the effect of noise and disturbance on local residents were an issue considered in detail by the Inspector in their <b>Report to the Secretary of State for Communities and Local Government dated 22 December 2009 for the original grant of permission for the Consented Scheme (Doc Ref 9.1.7)</b>. The Inspector's assessment of operational noise impacts is set out at paragraph 13.69 of the Report where the Inspector determined that the levels of noise would not have a material impact on the amenity of local residents. This was assessed in the context of very low noise levels at the site. The limits were then considered by the Inspector at paragraph 13.152 where it was concluded that the noise limits set out in those conditions were <i>'reasonable and should ensure that residential amenity is not significantly harmed by noise generated at the site'</i>.</p>	
--	---	---	--



		<p>The issue of noise at the site and the limits to be implemented were also considered by Essex County Council in April 2009 prior to the call-in inquiry which resulted in the Inspector's Report. The ECC Committee Report (Doc Ref 9.1.8) prepared in respect of the planning application for the Consented Scheme notes that Essex County Council's noise consultant raised <i>'no objection to the noise associated with either the construction or operation phase subject to suitable conditions, including noise limits for operation of the facility no higher than those already imposed for the existing quarry operations'</i>.</p> <p>b) Yes, as these are noise limits, they should not be exceeded.</p> <p>c) Yes, exceedance of noise limits could result in significant effects at the closest residential receptors.</p>	
Q1.6.5	The cumulative assessment [APP-033, Table 8.14] with Bradwell	The cumulative assessment has been undertaken utilising third-party data associated with the Noise Impact	Noise monitoring is required as part of the Bradwell Quarry planning permission. The majority of this data is available on ECC planning applications website. No request was made to ECC for copies of this data, which could have been provided.

	<p>Quarry only considers day-time effects. ECC has set out that Bradwell Quarry has consent for the operation of a Dry Silo Mortar Plant from 06.00-07.00 and 19.00- 22.00.</p> <p>a) Explain why this has been excluded from the cumulative assessment.</p> <p>b) Provide a revised assessment that includes Dry Silo Mortar Plant.</p>	<p>Assessment (NIA) for consented operations for Bradwell Quarry (ref: ESS/12/20/BTE). No assessment of noise from the Dry Silo Mortar Plant was presented within this NIA for the 06:00-07:00 and 19:00-22:00 period, therefore a cumulative assessment could not be undertaken based upon the third-party data. Within the NIA for the application for Site A7 at Bradwell Quarry (ref: ESS/12/20/BTE), it is stated within Paragraph 2.5:</p> <p><i>“Current quarrying operations are very well screened by virtue of carefully constructed screening bunds, which are completed prior to quarrying operations commencing. This approach would be continued throughout the proposed extension across Site A7. The processing plant is constructed at a lower elevation than the surrounding land and is very well screened with high bunds, forming a bowl around the washing and screening plant, the concrete batching</i></p>	
--	--	---	--

		<p><i>plant, DSM and bagging plant.”</i></p> <p>Therefore, it is understood the Dry Silo Mortar Plant benefits from intrinsic mitigation which reduces noise levels at the closest sensitive receptors.</p> <p>Planning permission reference ESS/12/20/BTE outlines the hours of use of the Dry Silo Mortar Plant and Condition 22 states that noise levels should be monitored at three-monthly intervals at the closest sensitive properties to the Site. The most recent noise monitoring to determine the compliance of the Dry Silo Mortar Plant during the evening and night-time period was undertaken in December 2023 (planning permission reference: ESS/12/20/BTE/22/05). The measured noise levels were above the noise limits at Heron’s Farm, which is the closest receptor, however noise from the Dry Silo Mortar Plant was not audible. Contributions to the noise levels at Heron’s Farm during</p>	
--	--	---	--

		<p>the evening and nighttime period consisted of birdsong, aircraft and vehicles and the exceedance of the noise limit was not caused by the Dry Silo Mortar Plant. Therefore, it is unlikely that cumulative impacts from the Dry Silo Mortar Plant and the Proposed Development would be significant during this period.</p> <p>Additionally, analysis of baseline noise monitoring undertaken by SLR in May 2023 at Heron's Farm (which is the closest sensitive receptor to the Dry Silo Mortar Plant) showed that during the 06:00-07:00 night-time period and 19:00- 22:00 evening period there were no significant changes in noise levels over the 6- day monitoring period and it appears dawn chorus was the dominant source of noise at Heron's Farm during the early morning period</p>	
Q1.6.6	ECC has noted [RR-002] that there are no specific noise limits within the EA's	N/A	No additional comments.

	<p>Environmental Permit. Explain why this has raised concern given there are noise limits set out within the existing consent</p>		
<p>Q1.6.7</p>	<p>The ES [APP-033, Table 8.7] sets out that residential properties are considered to be of medium sensitivity in the daytime. Provide further justification for this assumption, referring to relevant guidance</p>	<p>The sensitivity categories are based upon the guidance presented within IEMA, The Guidelines for Environmental Noise Impact Assessment (2014). Paragraph 7.20 states:</p> <p><i>“7.20: Time-of-day sensitivity is related to the activity being undertaken by the individual affected by the noise. Consequently, it could be considered that night becomes more sensitive because people are generally trying to fall asleep, are asleep or trying to fall back asleep. Noise can disturb these activities and if a noise event occurs towards the end of the night, there is a chance of the individuals being awakened prematurely. Therefore, the key effect is sleep disturbance, and annoyance about noise at</i></p>	<p>No additional comments</p>

*night generally cannot occur without sleep disturbance having first occurred.”*

Given that the night-time period is considered more sensitive due to sleep disturbance, receptors are considered to be of high sensitivity during this period, with the daytime period less sensitive, therefore they are considered to be medium sensitivity during this period. The guidance does not directly prescribe categories to determine the sensitivity of the receptor and allows for categories to be assigned based upon professional judgement. Within Paragraph 7.6 of the guidance, it states:

*“7.6: It must be remembered that the effects of noise are primarily subjective, and while it is desirable to include as much objectivity as possible into the assessment process in order to obtain consistency, there should be no concern in allowing professional judgement to come in the final analysis.”*

		<p>Additionally, within the <b>EIA Scoping Report (April 2023)</b> [APP-039], Table 8.2 identifies the sensitivity during the daytime as medium and during the night-time as high, which was not commented on by the Planning Inspectorate in the <b>Planning Inspectorate's EIA Scoping Opinion</b> [APP-040] and therefore it was inferred that this approach was agreed with. Classifying daytime residential properties as medium sensitivity is considered a standard assessment.</p> <p>Further to the above, residential receptors have been considered to be of '<i>medium</i>' sensitivity in previous noise assessments for DCO related projects undertaken recently by SLR including:</p> <ul style="list-style-type: none"><li>• The Awel Y Mor (AYM) offshore wind farm, which was granted consent in September 2023.</li><li>• The Outer Dowsing offshore wind farm</li></ul>	
--	--	---	--

		<p>(ODOW) which was submitted in March 2024.</p> <p>Additionally, residential receptors have been considered to be of 'medium' sensitivity in previous noise assessments for DCO related projects on jobs undertaken by other noise consultants, including:</p> <ul style="list-style-type: none"> <li>• The Hornsea Project Three offshore wind farm undertaken by RPS in May 2018.</li> <li>• The Norfolk Vanguard Offshore Wind Farm undertaken by Royal HaskoningDHV in June 2018.</li> </ul>	
Q1.6.8	Do ECC agree with the modelling inputs and assumptions used in the ES [APP-033, Paragraph 8.6.2] and its appendices [APP-045]?	N/A	No additional comments.



**Appendix 2 –  
Statement of Common Ground (SoCG) with the Host  
Authorities 21 May 2024**

# Contents

---

1	Introduction	1
2	Record of Engagement	3
3	Issues	4
4	Signatures	<u>15+2</u>

## VERSION HISTORY

Version	Date	Issued by	Deadline	Status
0.1	13.02.2024	Applicant	N/A	Draft
0.2	24.04.2024	ECC and BDC	N/A	Draft
0.3	29.04.2024	Applicant	N/A	Draft
0.4	01.05.2024	BDC	N/A	Draft
0.5	02.05.2024	Applicant	N/A	Draft
1	07.05.2024	Applicant	Deadline 1	Draft
<u>1.1</u>	<u>14.05.2024</u>	<u>Applicant</u>	<u>N/A</u>	<u>Draft</u>
<u>1.2</u>	<u>20.05.2024</u>	<u>BDC</u>	<u>N/A</u>	<u>Draft</u>
<u>1.3</u>	<u>21.05.2024</u>	<u>BDC</u>	<u>N/A</u>	<u>Draft</u>

# 1 Introduction

---

## Purpose of this document

- 1.1 This Statement of Common Ground ('SoCG') has been prepared as part of the proposed Rivenhall Development Consent Order ('the Application') made by Indaver Rivenhall Ltd ('the Applicant') to the Secretary of State for Energy Security and Net Zero ('the Secretary of State' or 'the SoS') pursuant to the Planning Act 2008 ('PA 2008').
- 1.2 This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All documents are available on the Planning Inspectorate's website [here](#).
- 1.3 This SoCG has been produced to confirm to the Examining Authority ('ExA') where the agreement has been reached between the parties, and where agreement has not been reached. SoCGs are an established means in the planning process of allowing all parties to identify and focus on specific issues that may need to be addressed during the examination.

## Parties to this Statement of Common Ground

- 1.4 This SoCG has been prepared by: (1) Indaver Rivenhall Ltd as the Applicant, and (2) Essex County Council ('ECC') and Braintree District Council ('BDC') ('the Host Authorities').
- 1.5 Collectively Indaver Rivenhall Ltd and the Host Authorities are referred to as 'the parties'.

## Terminology

- 1.6 In the table in the issues chapter of this SoCG:
  - "Agreed" indicates where the issue has been resolved.
  - Under discussion, seeking to reach an agreed or not agreed position.

- “Not Agreed” indicates a final position.
- “Defer” to another party.

### Structure of this Statement of Common Ground

1.7 The SoCG has been structured to reflect the topics of the Application that are of interest to the Councils as follows:

- principle of the Proposed Development;
- Alternatives and EIA Methodology
- Climate Change
- Noise and Vibration
- Other matters

## 2 Record of Engagement

---

2.1 The parties have been engaged in consultation since the beginning of the proposed development. A summary of the meetings and correspondence that has taken place between Indaver Rivenhall Ltd and the Host Authorities in relation to the Application is as follows:

- Monthly meetings to discuss issues and track progress;
- Updates on the progress of the DCO application at the Site Liaison Group meetings, held quarterly;
- Technical discussion on 18<sup>th</sup> October 2023 particularly on greenhouse gases and climate change, noise and vibration, highways, biodiversity, and Order limits;
- Technical discussion on 14<sup>th</sup> May primarily to discuss matters relating to noise;
- XXXX; and
- Agreement of a Planning Performance Agreement between the Applicant and each Host Authority.

2.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) Indaver Rivenhall Ltd and (2) the Host Authorities in relation to the issues addressed in this SoCG.

Formatted: Superscript

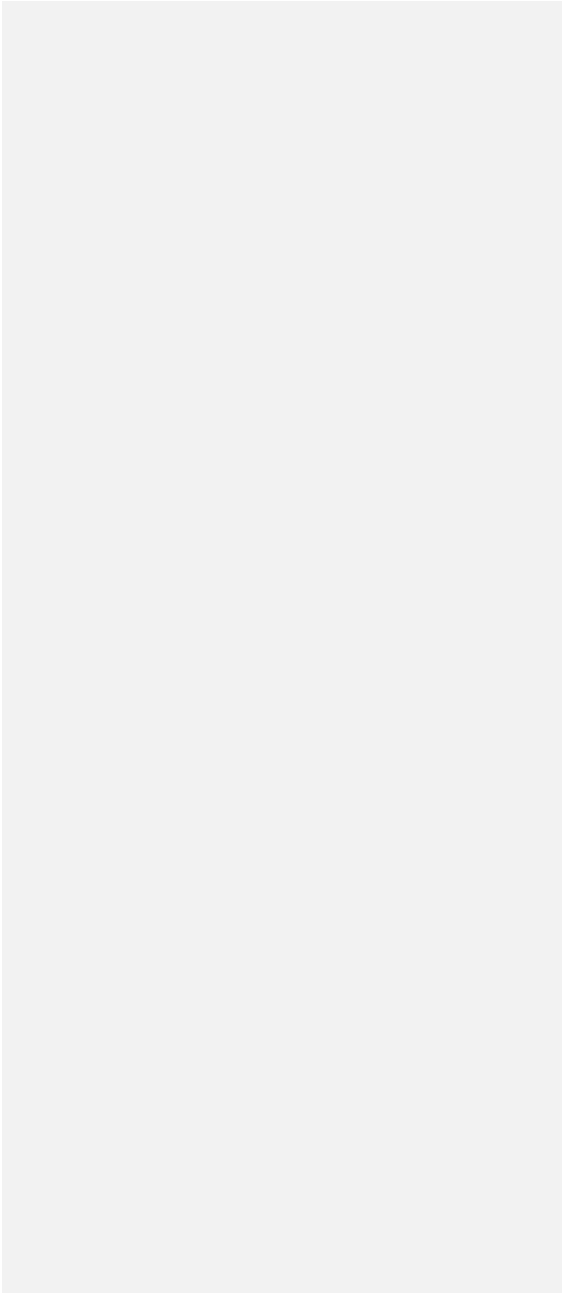
Commented [GB1]: Any further engagement to be added

Formatted: Highlight

Formatted: Highlight

# 3 Issues

---



REF	Sub-topic	Agreed position	BDC's Position	ECC's Position	Status
<b>Principle of development</b>					
PD-01	<b>Extension of a generating station</b>	The principle of increasing the electrical power output of the IWMF constituting the extension of a generation station and that this constitutes a Nationally Significant Infrastructure Project as per section 14(1)(a) of the Planning Act 2008 is accepted.	<u>Agreed.</u>	<u>Under discussion.</u>	
PD-02	<b>Overall development</b>	The principle of the need to transition away from energy derived from fossil fuels and that the Proposed Development will contribute to this is broadly accepted.	<u>Agreed</u>	<u>Agreed</u>	
PD-03	<b>Development Consent Order Principal Powers</b>	The drafting of the Principal Powers set out in Part 2 of the draft DCO is acceptable.	<u>Agreed</u>	<u>Agreed</u>	
PD-04	<b>Development Consent Order Authorised Works</b>	The drafting of the Authorised Works set out in Schedule 1 of the draft DCO is acceptable, namely that consent is sought for the extension to the generating station to more than 50MW.	<u>Under discussion.</u> Clarity required as to the MW capacity proposed following the DCO.	<u>Under discussion.</u> The development has been assessed on the basis of up to 65MW, greater output would need further consideration in the future against the then current guidance and legislation.	

PD-05	Development Consent Order Requirements	The drafting of the Requirements as set out in Schedule 2 of the draft DCO are acceptable.	<u>Under discussion.</u>	Under discussion. DCO should be limited to 65MW. In addition the DCO shows now requirements for noise monitoring.
PD-06	Proposed Development	The carrying out of the Authorised Works would constitute development for the purposes of section 32(1) of the Planning Act 2008 and of section 55 of the Town and Country Planning Act 1990 (as amended).	Agreed.	<u>Agreed</u>
PD-07	Order limits	The Order limits following the boundary of the IWMF building envelope is acceptable and appropriate in light of the fact that the details of the layout of the internal plant and machinery have not yet been finalised and agreed with ECC.	<u>Agreed.</u>	ECC are of the view that the application area is <u>agreed</u> .
PD-08	<u>National Policy Statements</u>	<u>For the purposes of section 104(2)(a) and 104(3) of the Planning Act 2008, the relevant National Policy Statements that have effect in relation to the Proposed Development and with which the Secretary of State must decide the application in accordance with are NPS EN-1 (2011) and NPS EN-3 (2011).</u>	<u>Agreed</u>	<u>Agreed</u>

Formatted: Indent: Left: 0 cm

Formatted: Left

Commented [GM2]: This is included mostly in response to ECC referring to the national networks NPS in their LIR, so we wanted to seek clarity and confirmation on what are considered to be the relevant NPSs



<b>PD-09</b>	<b>Proposed Development</b>	It is agreed and understood that the works for which development consent is sought and as set out in the draft Development Consent Order would result in no changes to the waste stream or external appearance of the Consented Scheme.	<u>Agreed</u>	<u>Agreed</u>
<b>PD-10</b>	<b>Proposed Development</b>	It is agreed that under the terms of the dDCO, if any changes to the external appearance or waste stream associated with the Consented Scheme were sought, that these would need to be applied for to ECC and granted by ECC as amendments to the IWMF TCPA Permission.	<u>Agreed</u>	<u>Agreed</u>
<b>Alternatives and EIA Methodology</b>				
<b>AM-01</b>	<b>Alternatives</b>	The alternatives considered in the ES Chapter 4 are reasonable and that none of the alternatives considered are preferable to the Proposed Development.	<u>Under discussion.</u>	<u>Under discussion.</u> Could be agreed if DCO limited to maximum 65MW.

Formatted: Left

**Commented [GM3]:** This is included because ECC suggested in their LIR that there would be no 'significant' changes to the waste stream or external appearance of the building, so a degree of clarification on this is sought here.

Formatted: Left

<b>AM-02</b>	<b>Future baseline</b>	The use of the Consented Scheme as a future baseline against which the Proposed Development is considered is acceptable.	<u>Under discussion.</u>	<u>Under discussion.</u> The consented scheme relies on the existing noise limit condition of the IWMF which are based on now out-of-date noise guidance/standards to assess potential noise impact, the scheme considered here should be assessed in light of up to date noise guidance/standards. The applicant indicates that the development will not have an impact on existing noise limits, as set out in Chapter 8 of the ES (APP-033) but these limits are not based on current 2024 noise guidance/standards.
<b>AM-03</b>	<b>Scoped out topics</b>	The topics listed as being scoped out of the EIA in Table 6:1 of the ES Chapter 6 would be unlikely to result in significant environmental effects compared to the Future Baseline as a result of the Proposed Development.	<u>Under discussion.</u>	<u>Under discussion.</u> The DCO should be limited to maximum output of 65MW.
<b>AM-04</b>	<b>Legislation, policy and guidance</b>	The summary of the regulatory requirements and good practice to which regard was had during the EIA process set out in section 6.2 of ES Volume 1 Chapter 6 is up to date and complete.	<u>Under discussion</u>	<u>Under discussion.</u> ECC remains of the view that noise should not be assessed against the conditions of the extant permission, but against current guidance and standards.

AM-05	EIA methodology	The overarching EIA methodology set out in ES Chapter 6 is broadly acceptable subject to the topic specific assessments covered elsewhere in this document.	<u>Agreed.</u>	As an overarching methodology this is <u>agreed</u> , save for or comment on baseline noise conditions as referred to above, which is <u>under discussion</u> .
-------	-----------------	---	----------------	---

**Climate Change**

CC-01	Legislation, Policy and Guidance	The summary of legislation, planning policy and guidance applicable for assessing Climate Change and Greenhouse Gases presented in section 7.2 of ES Volume 1 Chapter 7 is accurate and up to date.	<u>Under discussion.</u>	<u>Under discussion.</u>
CC-02	Assessment methodology	The impact assessment methodology in section 7.4 of ES Chapter 7 provides an appropriate approach to considering the change in direct and indirect emissions of greenhouse gas emissions from the IWMF, and the change in displacement of greenhouse gas emissions from other forms of power generation. The methodology has been carried out with appropriate regard to relevant guidance.	<u>Under discussion</u>	<u>Under discussion</u>
CC-03	Baseline conditions	The description of the Future Baseline Scenario in Section 7.5 of ES Chapter 7 are sufficient to inform the assessment.	<u>Under discussion</u>	<u>Under discussion</u>
CC-04	<u>Assessment of Operational effects</u>	<u>The Proposed Development will not increase any greenhouse gas emissions associated with the Consented Scheme.</u>	<u>Under discussion</u>	<u>Under discussion pending a discussion between the applicant and our Climate Change Team.</u>

<b>CC-04.1</b>	<b>Assessment of Operational Effects</b>	The calculation of net emissions and its significance – resulting in a negligible beneficial effect – is acceptable.	<u>Under discussion</u>	<u>Under discussion</u>
<b>CC-05</b>	<b>Mitigation, monitoring and residual effects</b>	Given the negligible beneficial effects, no mitigation or monitoring is considered necessary in relation to the Proposed Development.	<u>Under discussion</u>	<u>Under discussion.</u> ECC would ask for offsite air quality monitoring so the impact of the DCO can be properly assessed.
<b>CC-06</b>	<b>Updated NPSs</b>	The adoption of the updated NPS EN-1 and EN-3 do not alter the conclusions reached on the assessment of operational effects.	<u>Agreed.</u>	<u>Agreed</u>
<b>CC-07</b>	<b>Additional mitigation</b>	No additional mitigation is required to make the Proposed Development acceptable with regards to climate change effects.	<u>Under discussion.</u>	<u>Under discussion See CC-05</u>
<b>CC-08</b>	<b>Additional mitigation</b>	<u>There is no requirement contained in the relevant National Policy Statements for carbon capture and storage to be delivered as mitigation for the Proposed Development.</u>	<u>Under discussion</u>	<u>Under discussion pending a discussion between the applicant and our Climate Change Team.</u>

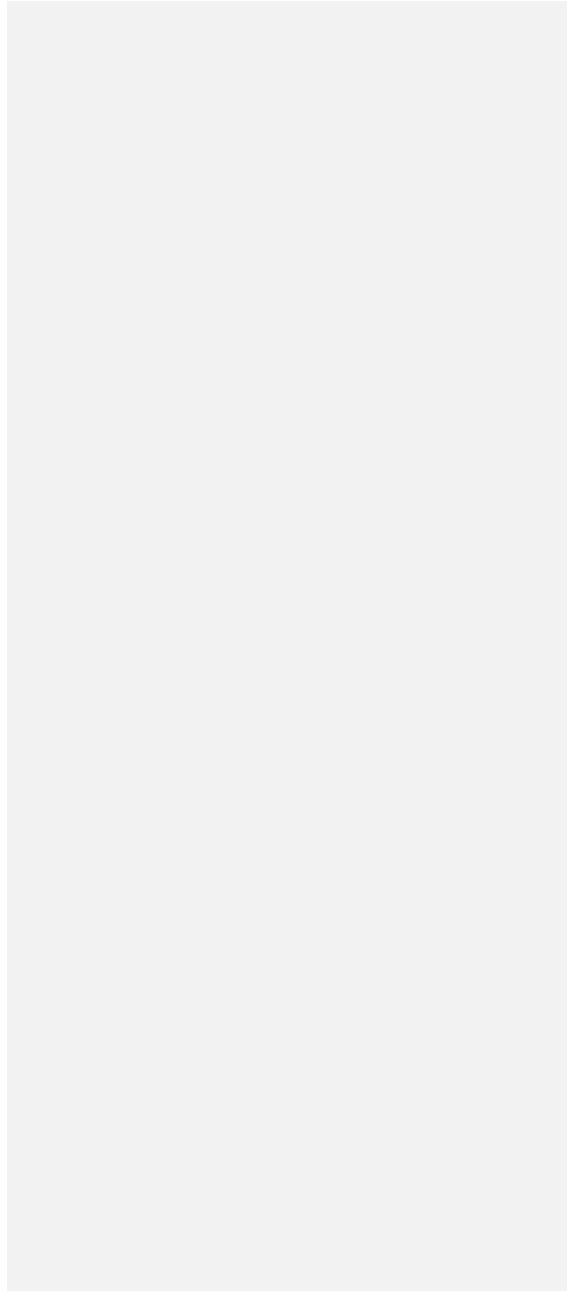
**Noise and Vibration**

NV-01	<b>Legislation, policy and guidance</b>	The legislation context is up to date and complete. The references to the National Policy Statements should be interpreted as referring to the updated NPS EN-1 and EN-3 (November 2023), but is otherwise up to date and complete. The guidance referenced is up to date and complete.	<u>Under discussion.</u>	<u>Under discussion.</u> The noise assessment is based on the existing noise limits of the IWMF planning permission and those were based on now out-of-date guidance/standards.	
NV-02	<b>Assessment Methodology</b>	The impact assessment methodologies detailed in Section 8.4 of ES Chapter 8 provide an appropriate approach to assessing potential impacts on receptors; and has been undertaken with consideration of the appropriate relevant guidance and the Future Baseline.	<u>Under discussion</u> , as per ECC concerns.	<u>Under discussion</u> , see response to NV-01 above.	
NV-03	<b>Baseline Conditions</b>	The description of the future baseline scenario set out in Section 8.5 of this Chapter is sufficient to inform the assessment	<u>Under discussion</u> . As per ECC concerns.	<u>Under discussion</u> , see response to NV-01 above.	
NV-04	<b>Assessment of Operational Effects</b>	The assessment of the operational effects demonstrates that the Proposed Development is acceptable in regards to noise effects as the Consented Scheme could continue to be able to operate within the noise limits set out in Condition 41 of the IWMF TCPA Permission.	<u>Under discussion</u> as per ECC response to NV-01.	<u>Under discussion</u> , see response to NV-01 above.	
NV-05	<b>Cumulative Impacts</b>	The assessment conclusions set out in Section 8.7 of this Chapter are agreed.	<u>Under discussion</u> . As per ECC response to NV-01.	<u>Under discussion</u> , see response to NV-01 above.	

NV-06	<b>Summary of residual effects</b>	The summary of the negligible residual noise effects is agreed.	<u>Under discussion</u> As per ECC response to NV-01.	<u>Under discussion</u> , see response to NV-01 above.
NV-07	<b>Additional mitigation</b>	No additional mitigation is required to make the Proposed Development acceptable in regards to noise.	<u>Under discussion</u> . As per ECC response to NV-01.	<u>Under discussion</u> , see response to NV-01 above.
<b>Other matters</b>				
OM-01	<b>Transport impacts</b>	The Proposed Development will not lead to an increase in vehicle trips compared to the Consented Scheme, therefore a Transport Assessment is not necessary.	<u>Agreed. Subject to the power being generated being less than 65mw</u>	<u>Under discussion</u> . Could be agreed if the DCO limited to 65MW
OM-02	<b>Air Quality</b>	The Proposed Development will not lead to any different air quality effects compared to the Consented Scheme, therefore an Air Quality Assessment is not necessary.	<u>Under discussion</u> .	<u>Under discussion</u> . ECC note that air quality was scoped out of the EIA. Air quality is the proviso of the Environment Agency, but ECC are aware of the public appetite for off site monitoring to assess potential air quality impacts.

<b><u>OM-02.1</u></b>	<b><u>Air Quality</u></b>	<u>The terms of the Environmental Permit that relates to the operation of the Consented Scheme requires that air quality monitoring is provided to the Environment Agency, which is then made public. The Applicant is also required by the terms of the Consented Scheme s106 to provide any such air quality monitoring data to the Site Liaison Group.</u>	<u>Agree</u>	<u>Agreed, as far as this relates to onsite monitoring, however ECC remain of the view as proposed by the local community to fund off site air quality monitoring.</u>
<b>OM-03</b>	<b>Visual impacts</b>	The Proposed Development will not alter the external appearance of the Consented Scheme, therefore a visual impact assessment is not necessary.	<u>Agreed.</u>	<u>Agreed</u>
<b><u>OM-04</u></b>	<b><u>Socio economic</u></b>	<u>The Proposed Development will not lead to an increased demand for labour (skilled or otherwise) compared to the Consented Scheme.</u>	<u>Agreed</u>	<u>Agreed</u>
<b><u>OM-05</u></b>	<b><u>Socio economic</u></b>	<u>The terms of the Consented Scheme's section 106 agreement has already resulted in the establishment of a Community Trust Fund, which will require the Applicant to make quarterly payments to the Community Trust Fund based on the amount of waste that is imported to the IWMF from the commencement of its beneficial use.</u>	<u>Agreed</u>	<u>Agreed</u>

|



|



# 4 Signatures

---

4.1 The above SoCG is agreed between the following:

<b>Duly authorised for and on behalf of Indaver Rivenhall Limited, the Applicant</b>	Name
	Job title
	Date
	Signature
<b>Duly authorised for and on behalf of Essex County Council</b>	Name
	Job title
	Date
	Signature
<b>Duly authorised for and on behalf of Braintree District Council</b>	Name
	Job title
	Date
	Signature

**Appendix 3 –**

**Updated version of the draft Development Consent Order  
(dDCO) in clean, tracked and word version**

**202X No. 0000**

**INFRASTRUCTURE PLANNING**

**The Rivenhall Generating Station Extension Order 202[ ]**

*Made* - - - - 202[ ]

*Coming into force* 202[ ]

**CONTENTS**

**PART 1**

General provisions

Preliminary

- |    |                           |   |
|----|---------------------------|---|
| 1. | Citation and commencement | 2 |
| 2. | Interpretation            | 2 |

**PART 2**

Principal powers

- |    |   |               |
|----|---|---------------|
| 3. | Development consent granted by the Order                          | 4             |
| 4. | Authorisation of the operation of the extended generating station | 4             |
| 5. | Power to maintain the authorised development                      | 4             |
| 6. | Compliance with the TCPA permission and requirements              | 4             |
| 7. | Benefit of the Order  | <del>54</del> |
| 8. | Consent to transfer the benefit of Order                          | <del>54</del> |

**PART 3**

Miscellaneous and general

- |     |                              |               |
|-----|------------------------------|---------------|
| 9.  | Certification of plans, etc. | <del>65</del> |
| 10. | Arbitration                  | 6             |
| 11. | Service of notices           | 6             |

---

SCHEDULE 1 — Authorised Development	7
-------------------------------------	---

SCHEDULE 2 — Requirements	<del>87</del>
---------------------------	---------------

An application has been made to the Secretary of State under section 37 of the Planning Act 2008 (the “2008 Act”**(a)**) and in accordance with the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009**(b)** for an Order granting development consent.

The application was examined by the Examining Authority appointed by the Secretary of State pursuant to Chapter 3 of Part 6 of the 2008 Act and carried out in accordance with Chapter 4 of Part 6 of the 2008 Act and with the Infrastructure Planning (Examination) Procedure Rules 2010**(c)**. The Examining Authority has submitted a report to the Secretary of State under section 83(1) of the 2008 Act.

The Secretary of State has considered the report and recommendation of the Examining Authority, has taken into account the environmental information in accordance with regulation 4 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017**(d)**, and, as a national policy statement has effect in relation to the proposed development, has had regard to the documents and matters referred to in section 104(2)**(e)** of the 2008 Act.

The Secretary of State, having decided the application, has determined to make an Order giving effect to the proposals comprised in the application on terms that in the opinion of the Secretary of State are not materially different from those proposed in the application.

The Secretary of State in exercise of the powers conferred by section 114, 115 and 120 of the 2008 Act, makes the following Order:

## PART 1

### General provisions

#### Preliminary

#### Citation and commencement

1. This Order may be cited as the Rivenhall Generating Station Extension Order 202[ ] and comes into force on [ ] 202[ ].

#### Interpretation

2.—(1) In this Order, unless the context requires otherwise—

“the 1989 Act” means the Electricity Act 1989**(f)**;

“the 1990 Act” means the Town and Country Planning Act 1990**(g)**;

“the 2006 Act” means the Companies Act 2006**(h)**;

---

**(a)** 2008 c. 29. Parts 1 to 7 were amended by Chapter 6 of Part 6 of the Localism Act 2011 (c. 20).

**(b)** S.I. 2009/2264, to which there are amendments not relevant to this Order.

**(c)** S.I. 2010/103. This instrument was amended by S.I. 2012/635.

**(d)** S.I. 2017/572, amended by S.I. 2017/1012, S.I. 2018/695, S.I. 2018/834, S.I. 2018/942, S.I. 2018/904, S.I. 2018/1232 and S.I. 2020/1534.

**(e)** Section 104(2) was amended by Schedule 13, paragraph 49 to the Localism Act 2011 and s58(5) of the Marine and Coastal Access Act 2009 (c. 23).

**(f)** 1989 c. 29.

**(g)** 1990 c. 8. Section 56(4) was amended by section 32 of, and paragraph 10(2) of Schedule 7 to, the Planning and Compensation Act 1991 (c. 34). Section 106 was substituted, and section 106A inserted, by section 12(1) of the Planning and Compensation Act 1991. Section 206(1) was amended by section 192(8) of, and paragraphs 7 and 11 of Schedule 8 to, the 2008 Act. Sections 272 to 274 and section 279 were amended by section 406(1) of, and paragraph 103 of Schedule 17 to, the Communications Act (c. 21), and section 280 was amended by section 406(1) of, and paragraph 104 of Schedule 17 to, that Act. Sections 272 to 274 were also amended by S.I. 2011/741 and S.I. 2012/2590. Section 282 was amended by S.I. 2009/1307. There are other amendments to the 1990 Act which are not relevant to this Order.

**(h)** 2006 c. 46.

“the 2008 Act” means the Planning Act 2008(a);

“address” includes any number or address used for the purposes of electronic transmission;

“authorised development” means the development described in Schedule 1 (Authorised Development) and illustrated indicatively on the plan(s) entitled Indicative Designs and Locations of Work No 1 and 2 certified as such by the Secretary of State under article 9 (Certification of plans, etc.);

“building” includes any structure or erection or any part of a building, structure or erection;

“commence” means beginning to carry out any material operation, as defined in section 155 of the 2008 Act (when development begins), forming part, or carried out for the purposes, of the authorised development and the words “commencement” and “commenced” are to be construed accordingly;

“electronic transmission” means a communication transmitted—

(a) by means of an electronic communications network; or

(b) by other means but while in electronic form;

“environmental information” means the Environmental Statement and any information constituting “environmental information” as defined by the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 relied upon by the Secretary of State in reaching a reasoned conclusion on the significant effects of the authorised development on the environment pursuant to regulation 21(1)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017;

“Environmental Statement” means the document certified as such by the Secretary of State under article 9 (Certification of plans, etc);

“existing generating station” means the generating station authorised by the TCPA permission which is being constructed within the area shown edged red on the plan entitled “Existing Generation Station Plan” certified as such by the Secretary of State under article 9 (Certification of plans, etc.);

“extended generating station” means the existing generating station as modified by the carrying out of the authorised development;

“group company” means in relation to the undertaker, the undertaker, any subsidiary or subsidiary undertaking or any holding company or parent undertaking from time to time of the undertaker, and any subsidiary or subsidiary undertaking from time to time of a holding company or parent undertaking of the undertaker;

“holding company” shall have the meaning given in the 2006 Act;

“maintain” includes inspect, upkeep, repair, adjust, alter, refurbish, clear, remove or reconstruct, replace and improve, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental information, and any derivative of “maintain” is to be construed accordingly;

“Order limits” means the limits shown on the works plans within which the authorised development may be carried out;

“relevant planning authority” means Essex County Council and its statutory successors as waste planning authority within the meaning of the 1990 Act;

“subsidiary” shall have the meaning given in the 2006 Act;

“TCPA permission” means the planning permission granted by Essex County Council with reference ESS/394/2315/BTE dated 26 ~~February~~ January 2024~~16~~, and any other variations thereto ~~whether granted before or~~ after the date of this Order (which shall include for the avoidance of doubt any variations pursuant to Section 73 of the 1990 Act) and any non material amendments whether granted before or after the date of this Order under Section 96a of the 1990 Act);

---

(a) 2008 c. 29.

“undertaker” means Indaver Rivenhall Limited (company number 13020091) or the person who has the benefit of this Order in accordance with article 6 (Benefit of Order) and 7 (Consent to transfer benefit of Order);

“work” means a work identified as part of the authorised development in Schedule 1 (Authorised Development);

“Work No. 1” means the work described as such in Schedule 1 (Authorised Development);

“Work No. 2” means the work described as such in Schedule 1 (Authorised Development);

“works plan” means the plan certified by the Secretary of State as such under article 9 (Certification of plans, etc.); and

“working day” means Monday to Friday excluding bank holidays and other public holidays.

(2) In this Order, the expression “includes” or “include” is to be construed without limitation.

## PART 2

### Principal powers

#### Development consent granted by the Order

3. Subject to the provisions of this Order, the undertaker is granted development consent for the authorised development to be carried out within the Order limits.

#### Authorisation of the operation of the extended generating station

4. The undertaker is authorised to operate and use the authorised development for which development consent is granted by this Order as part of the extended generating station.

#### Power to maintain the authorised development

5. The undertaker may at any time maintain the authorised development, except to the extent that this Order provides otherwise.

5.

#### **6.Planning permission**

—(1) If planning permission is issued pursuant to the 1990 Act for development any part of which is within the Order limits following the publication of this Order that is— not itself a nationally significant infrastructure project under the 2008 Act or part of such a project; and

required to complete or enable the construction, use or operation of any part of the development authorised by this Order or of the extended generating station.

Anything done by the undertaker in accordance with this Order does not constitute a breach of any planning permission issued pursuant to the 1990 Act.

then the carrying out, use, operation or decommissioning of such development pursuant to the terms of the planning permission is not to constitute a breach of the terms of this Order.

#### **Compliance with the TCPA permission and requirements**

7.—(1) The TCPA permission and the requirements set out in Schedule 2 of this Order shall apply to the carrying out of the authorised development and to the operation of the extended generating station as if both were authorised by the TCPA permission, and all details, plans or other matters approved by the relevant planning authority pursuant to conditions of the TCPA permission prior to or following the date of this Order shall apply accordingly, except with respect

Formatted: Font: Bold

Formatted: N1

Formatted: Font: 10.5 pt

Formatted: Default, Indent: Hanging: 0.63 cm, Numbered + Level: 2 + Numbering Style: 1, 2, 3, ... + Start at: 0 + Alignment: Left + Aligned at: 0 cm + Indent at: 0 cm

Formatted: Font: Bold

Formatted: Font: 10.5 pt, Bold

[to TCPA permission conditions 38, 39, 40, 41 and 42, where the Authorised Development and TCPA permission shall be subject to the requirements of Schedule 2 of this Order.](#)

~~6.~~

~~(1)(2)~~ The carrying out of the authorised development and the operation of the extended generation pursuant to this Order will not prevent the carrying out of development pursuant to the TCPA permission.

Formatted: Indent: Left: 0.3 cm, No bullets or numbering

### **Benefit of the Order**

~~7.8.~~ Subject to article 7 (Consent to transfer benefit of Order), the provisions of this Order have effect solely for the benefit of the undertaker.

### **Consent to transfer the benefit of Order**

~~8.9.~~—(1) Subject to paragraph (3) the undertaker may with the written consent of the Secretary of State—

- (a) transfer to another person (“the transferee”) any or all of the benefit of the provisions of this Order and such related statutory rights as may be agreed between the undertaker and the transferee; and/or
- (b) grant to another person (“the lessee”) for a period agreed between the undertaker and the lessee any or all of the benefit of the provisions of this Order and such related statutory rights as may be so agreed between the undertaker and the lessee.

(2) Where an agreement has been made in accordance with paragraph (1), references in this Order to the undertaker, except paragraphs (5) and (6), shall include references to the transferee or lessee.

(3) Where the undertaker has transferred any benefit, or for the duration of any period during which the undertaker has granted any benefit, under paragraph (1)—

- (a) the benefit transferred or granted (“the transferred benefit”) shall include any rights that are conferred, and any obligations that are imposed, by virtue of the provisions to which the benefit relates;
- (b) the transferred benefit shall reside exclusively with the transferee or, as the case may be, the lessee and the transferred benefit shall not be enforceable against the undertaker; and
- (c) the exercise by a person of any benefits or rights conferred in accordance with any transfer or grant under paragraph (1) is subject to the same restrictions, liabilities and obligations as would apply under this Order if those benefits or rights were exercised by the undertaker.

(4) The consent of the Secretary of State is required for the exercise of powers under this article, except where the transferee or lessee is the holder of a licence under section 6 of the 1989 Act or is a group company.

(5) Where the consent of the Secretary of State is not required under paragraph (4) the undertaker must provide written notification to the Secretary of State and the relevant planning authority at least 14 days prior to transferring and/or granting any benefit pursuant to this article.

(6) A notice required under paragraphs (4) must—

- (a) state—
  - (i) the name and contact details of the person to whom the benefit of the provisions will be transferred or granted;
  - (ii) the date on which the transfer will take effect;
  - (iii) the provisions to be transferred or granted;
  - (iv) the restrictions, liabilities and obligations that will apply to the person exercising the powers transferred or granted; and

- (b) be accompanied by a copy of the document effecting the transfer or grant signed by the undertaker and the person to whom the benefit of the powers will be transferred or granted.

## PART 3

### Miscellaneous and general

#### **Certification of plans, etc.**

**9.10.**—(1) The undertaker must, as soon as practicable after the date on which this Order is made, submit to the Secretary of State copies of—

- (a) works plan;
- (b) Environmental Statement;
- (c) Existing Generation Station Plan;
- (d) Indicative Design and Location of Work No 1 and Work No 2 Plan; and
- (e) TCPA permission

for certification that they are true copies of the documents referred to in this Order.

(2) A plan or document so certified is admissible in any proceedings as evidence of the contents of the document of which it is a copy.

#### **Arbitration**

**10.11.**—(1) Any difference under any provision of this Order, unless otherwise agreed in writing between the parties, shall be referred to and settled by a single arbitrator to be agreed between the parties within 14 days of receipt of a notice of arbitration or, failing agreement, to be appointed on the application of either party (after giving notice in writing to the other) by the Secretary of State.

(2) Any matter for which the consent or approval of the Secretary of State is required under any provision of this Order shall not be subject to arbitration.

#### **Service of notices**

**11.12.**—(1) A notice or other document required or authorised to be served for the purposes of this Order may be served—

- (a) by post;
- (b) by delivering it to the person on whom it is to be served or to whom it is to be given or supplied; or
- (c) with the consent of the recipient and subject to paragraphs (6) to (8), by electronic transmission.

(2) Where the person on whom a notice or other document to be served for the purposes of this Order is a body corporate, the notice or document is duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of section 7 of the Interpretation Act 1978 (a) (references to service by post) as it applies for the purposes of this article, the proper address of any person in relation to the service on that person of a notice or document under paragraph (1) is, if that person has given an address for service, that address and otherwise—

- (a) in the case of the secretary or clerk of that body corporate, the registered or principal office of that body; and
- (b) in any other case, the last known address of that person at the time of service.



(4) Where for the purposes of this Order a notice or other document is required or authorised to be served on a person as having an interest in, or as the occupier of, land and the name or address of that person cannot be ascertained after reasonable enquiry, the notice may be served by—

- (a) addressing it to that person by the description of “owner”, or as the case may be “occupier” of the land (describing it); and
- (b) either leaving it in the hands of the person who is or appears to be resident or employed on the land or leaving it conspicuously affixed to some building or object on or near the land.

(5) Where a notice or other document required to be served or sent for the purposes of this Order is served or sent by electronic transmission the requirement is to be taken to be fulfilled only where—

- (a) the recipient of the notice or other document to be transmitted has given consent to the use of electronic transmission in writing or by electronic transmission;
- (b) the notice or document is capable of being accessed by the recipient;
- (c) the notice or document is legible in all material respects; and
- (d) in a form sufficiently permanent to be used for subsequent reference.

(6) Where the recipient of a notice or other document served or sent by electronic transmission notifies the sender within seven days of receipt that the recipient requires a paper copy of all or any part of that notice or other document the sender must provide such a copy as soon as reasonably practicable.

(7) Any consent to the use of an electronic transmission by a person may be revoked by that person in accordance with paragraph (8).

(8) Where a person is no longer willing to accept the use of electronic transmission for any of the purposes of this Order—

- (a) that person must give notice in writing or by electronic transmission revoking any consent given by that person for that purpose; and
- (b) such revocation is final and takes effect on a date specified by the person in the notice but that date must not be less than seven days after the date on which the notice is given.

(9) This article does not exclude the employment of any method of service not expressly provided for by it.

Signed by Authority of the Secretary of State for Business, Energy and Industrial Strategy

Address Department for Energy Security and Net Zero  
Date

Name

## SCHEDULE 1

Ref

### Authorised Development

#### In the County of Essex

1. A nationally significant infrastructure project as defined in sections 14(1)(a) and 15 of the 2008 Act—

- (a) Work No.1 – an extension to the existing generating station comprising mechanical modifications to the actuated steam turbine inlet control valves to allow steam capacity to be increased, with the effect that the extended generating station will have a gross installed generating capacity ~~of over 50MW~~ up to 65MW; and

- (b) Work No.2 – an extension to the existing generating station comprising the installation and commissioning of unrestricted actuated steam turbine inlet control valves with a capacity of over 50MW, with the effect that the extended generating station will have a gross installed generating capacity ~~of over 50MW~~ up to 65MW.

## SCHEDULE 2

Ref

### Requirements

#### Work No. 1 or Work No. 2

1. The undertaker may only carry out either Work No. 1 or Work No. 2, and having begun either work may not carry out the other.

#### Commencement of the authorised development

2.—(1) The authorised development must commence within five years of the date on which this Order comes into force.

(2) The undertaker shall serve notice to the relevant planning authority 5 working days prior to commencement, and shall confirm in that notice whether the undertaker is carrying out Work No. 1 or Work No. 2.

#### Local Liaison Group

(3) The local liaison group which was established and operates in accordance with the S106 associated with the TCPA permission shall incorporate the authorised development within its remit.

#### Operating

(4) Between the hours of 07:00 and 23:00, the free field Rating Level (LAr,1hr), at noise sensitive properties, from the operation of the IWMP, when assessed in accordance with BS 4142:2014+A1:2019, shall not exceed those set out in the following table:

Noise Sensitive Properties Location:	LAr,1hr
Herons Farm	40
Deeks Cottage	40
Allshot's Farm	38
The Lodge	38
Sheepcotes Farm	41
Goslings Farm	43
Jewitt Way, Silver End	41

(5) Between the hours of 23:00 and 07:00, the free field Rating Level (LAr,15min), at noise sensitive properties, from the operation of the IWMP, when assessed in accordance with BS 4142:2014+A1:2019, shall not exceed those set out in the following table:

Formatted: Font: Bold

Formatted: Default

Formatted: Font: 10.5 pt

Formatted: Font: 10.5 pt, Bold

Formatted: Font: (Default) Times New Roman

Formatted: N2, Indent: Left: 0.3 cm

Formatted: Font: (Default) Times New Roman, 10.5 pt

Formatted: Font: (Default) Times New Roman

Formatted: N1, Don't adjust space between Latin and Asian text, Don't adjust space between Asian text and numbers

Formatted: Font: (Default) Times New Roman, 10.5 pt

Noise Sensitive Properties Location:	LAr,15min
<a href="#">Herons Farm</a>	37
<a href="#">Deeks Cottage</a>	37
<a href="#">Allshot's Farm</a>	35
<a href="#">The Lodge</a>	35
<a href="#">Sheepcotes Farm</a>	35
<a href="#">Goslings Farm</a>	37
<a href="#">Jewitt Way, Silver End</a>	35

(6) An approach to demonstrate compliance with the noise limits contained in Conditions 4 and 5 shall be submitted for approval by the Relevant Planning Authority prior to the operation of the IWMF. The approach shall include the measurement of noise levels emanating from the IWMF facility to demonstrate the Rating Level (LAR) at those receptor locations contained within Conditions 4 and 5. Following approval, noise measurements shall be undertaken within three months of the granting of the Order and repeated at three monthly intervals. After the first year of operation of the IWMF, the frequency of the monitoring may be modified by agreement with the Relevant Planning Authority.

**Decommissioning**

(7) The authorised development and the development permitted by the TCPA perms shall be decommissioned in accordance with a scheme of commissioning to be submitted within 12 months of the cessation of operation of all development permitted by this Order or the TCPA permission.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order authorises Indaver Rivenhall Limited (referred to in this Order as the undertaker) to construct an extension to an energy from waste generating station at Rivenhall, Essex, previously authorised by planning permission under the 1990 Act, and to operate the extended generating station at a capacity of ~~over 50 MW~~ upto 65MW. This Order imposes requirements in connection with the authorised development.

- Formatted: Font: (Default) Times New Roman, 10.5 pt
- Formatted: Font: (Default) Times New Roman
- Formatted: Font: (Default) Times New Roman, Not Highlight
- Formatted: Not Highlight
- Formatted: N1, Indent: Left: 0.3 cm
- Formatted: Font: (Default) Times New Roman
- Formatted: Font: (Default) Times New Roman, Not Highlight
- Formatted: Not Highlight
- Formatted: Font: (Default) Times New Roman
- Formatted: Indent: Left: 0 cm
- Formatted: No bullets or numbering
- Formatted: Font: 10.5 pt
- Formatted: N1, Indent: Left: 0.3 cm