

Indaver Rivenhall IWMF DCO

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure)

Regulations 2009

**Examination Documents [PINS Ref:
EN0101038]**

Applicant Comments on Deadline 1 Submissions

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Indaver Rivenhall Ltd

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Contents

Glossary	1
1 Introduction	3
2 Applicant's comments on Local Impact Reports	3
3 Applicant's comments on ECC responses to ExQ1	25
Table 1 - Background and context	3
Table 2 - Principle of Development	6
Table 3 - Climate Change	7
Table 4 - Noise and Vibration	14
Table 5 - Socio Economic	19
Table 6 - Other matters	21
Table 7 - Cumulative effects	22
Table 8 - Draft Development Consent Order	23
Table 9 - Community benefits	24
Table 10 - Applicant comments on ECC responses to ExQ1	25

Glossary

Abbreviation	Definition
Applicant	Indaver Rivenhall Limited
BDC	Braintree District Council
CCS	Carbon Capture and Storage
CHP	Combined Heat and Power
Consented Scheme	The IWMF as approved by the IWMF TCPA Permission that is currently under construction at the IWMF Site.
DCO	Development Consent Order. A DCO is the form in which the Secretary of State grants consent for development applied for under the Planning Act 2008.
ECC	Essex County Council
EfW	Energy from Waste. Treatment processes and technologies used to generate a useable form of energy and which also reduce the solid volume of residual waste.
EIA	Environmental Impact Assessment. A process for predicting the effects of a proposed development on the environment that informs decisionmakers in relation to planning permissions, consents, licences and other statutory approvals, as required by Directive 2014/52/EU (the EIA Directive).
Environmental Permit	Environmental Permit (No.: EPR/FP3335YU), as varied by (No. EPR/FP3335/YU/V002, date 03 June 2020), and transferred to the Applicant (No. EPR/CP3906LP).
ES	Environmental Statement. The document reporting the process and outcomes of the EIA. Book 6 of this Application.
ExA	Examining Authority
ExQ1	The Examining Authority's First Written Questions and Requests for Further Information (as issued on 16 April 2024) [PD-004]
Host Authorities	The relevant planning authorities within which the Proposed Development is located, being Braintree District Council and Essex County Council.
IWMF	Integrated Waste Management Facility
IWMF Site	The location of the IWMF as approved by the IWMF TCPA Permission.
IWMF TCPA Permission	Planning permission reference ESS/39/23/BTE (as amended and superseded from time to time, including by permissions granted pursuant to sections 73 and 96a of the TCPA 1990), dated 26 February 2016, for the development of an Integrated Waste Management Facility at the former Rivenhall Airfield
LA	Local Authority

LIR	Local Impact Report
LPAs	Local Planning Authorities
NIA 2023	National Infrastructure Assessment 2023. This being an assessment of the United Kingdom's infrastructure needs to 2055 and beyond carried out by the National Infrastructure Commission.
NP	Neighbourhood Plan
NPPF	National Planning Policy Framework
NSIP	Nationally Significant Infrastructure Project. A project that, by reason of its scale and/or Infrastructure Project (NSIP) importance, needs Development Consent before it can be built or operated.
NPS	National Policy Statement. Policy statements that set out the government's objectives for the development of nationally significant infrastructure. They undergo a democratic process of public consultation and parliamentary scrutiny before being designated (i.e. published). They provide the primary basis for deciding NSIPs.
PA 2008	Planning Act 2008
PINS	Planning Inspectorate
Proposed Development	The application for which Development Consent is being sought – the proposed extension to the electrical generating capacity of the EfW component of the Rivenhall IWMF.
RAMS	Recreational Disturbance Avoidance & Mitigation Strategy
SoS	Secretary of State
SPD	Supplementary Planning Document
TCPA 1990	Town and Country Planning Act 1990 (as amended)

1 Introduction

- 1.1 This Report responds to the submissions made by Interested Parties at Deadline 1 of the Rivenhall IWMF DCO examination (EN010138).
- 1.2 This Report is structured as follows:
 - Section 2 responds to the matters raised by Braintree District Council ('BDC') and Essex County Council ('ECC') in their Local Impact Reports ('LIRs').
 - Section 3 responds to responses given by Interested Parties to the Examining Authority's First Written Questions ('ExQ1').
- 1.3 The above responses are collated by topic.

2 Applicant's comments on Local Impact Reports

Overview

2.1 This section provides the Applicant's comments to matters raised in the **LIRs** produced by BDC and ECC ('the Host Authorities') ([[REP1-018](#)] and [[REP1-016](#)] respectively). The responses below should be read alongside the updated **Statement of Common Ground with the Host Authorities V2 (Doc Ref 8.1)** that is submitted at Deadline 2, which records further engagement undertaken.

Applicant response

2.2 The references below correspond to the relevant paragraph numbers in each LIR submitted at Deadline 1.

Table 1 - Background and context

LIR Ref.	Summary	Applicant Response
ECC 3.1.3 BDC 2.4	The applicant has submitted the DCO to extend the generating capacity of the Integrated Waste Management Facility ('IWMF') which was granted planning permission via permission reference ESS/34/15/BTE, dated 26 February 2016.	It is correct to say that construction was commenced pursuant to planning permission (LPA Reference ESS/34/15/BTE). It is also important to note that the Applicant has secured amendments to the IWMF TCPA Permission by way of a section 73 permission granted by ECC (LPA Reference ESS/39/23/BTE, dated 26 January 2024). This permission has been implemented and it is pursuant to this permission that the Consented Scheme is currently being constructed. The Planning Statement V2 [REP1-006] has been updated to capture this change to the Consented Scheme's planning history.
ECC 3.1.9	ECC is of the view that there may be a breach of planning control if the CHP/EfW were brought into operation alone,	This issue has been addressed directly in the Applicant's Responses to the Examining Authority's Written Questions ('ExQ1') [REP1-011] at Q1.3.2. It is neither a

	without integration with the other permitted elements of the IWMF.	position that is relevant to the consideration of this DCO Application nor does it have any legal merit. ECC continue to unnecessarily reiterate this point despite acknowledging that it has no bearing on the Examination (paragraph 3.1.10 of their LIR).
ECC 3.1.11	If the DCO were granted as set out in the draft DC Order, the Order would not undermine the WPA positions with respect to any potential future breach of planning control.	This is agreed.
ECC 3.1.12	The IWMF planning permission has, as mentioned, been subject to a further S73 application reference ESS/39/23/BTE granted on 26 January 2024, which is the current extant planning permission.	This is accurate and should be considered in light of the information provided at paragraph 3.1.3 of ECC's LIR.
ECC 4.1 BDC 3.5	Provides a description of the IWMF site.	The information in this section is accurate insofar as it describes the site to which the IWMF TCPA Permission relates. Importantly, however, the area to which this DCO Application relates (as shown on the Location Plan [APP-006]) is a much smaller area within the wider IWMF site that reflects the boundaries of the IWMF building envelope.
ECC 5.1.1	When deciding DCO submissions s104(2)(d) of the Planning Act (PA) 2008 requires the Secretary of State (SoS) to have regard to any other matters considered both important and relevant. The National Policy Statements for National Networks (NPSNN) requires consideration to be given to policies and information in the development plan to matters including other developments which may give rise to cumulative impacts, non-designated heritage assets, impacts on land use and the preclusion of other development.	Just as importantly as s104(2)(d) of the Planning Act 2008 ('PA 2008') is s104(2)(a), which requires the Secretary of State ('SoS') to have regard to any National Policy Statement which has effect in relation to development the description to which the application relates. To this end, the National Policy Statement of National Networks is not considered to have effect in relation to the Proposed Development and it is unclear why it is mentioned here.
ECC 5.1.2	The national policy governing the principle of development for Renewable Energy proposals is the National Policy Statement (NPS) EN-3, which should be read together with the overarching NPS for Energy, EN-1.	This is agreed.

ECC 5.1.6	ECC recognise that the Application seeks consent to maximise electricity output without significant changes to the waste stream, the approved building envelope, and with no additional vehicle numbers compared to that consented via the IWMF TCPA Permission.	The DCO Application seeks consent to allow more than 50MW to be generated without <u>any</u> changes to the waste stream, approved building envelope, or permitted vehicle numbers.
ECC 5.1.17	For the NPPF, which carries the overriding golden thread of planning policy, encourages sustainable development where the environment and amenity can be safeguarded from detrimental impact. The consideration of the NPPF set out in the Applicant’s Planning Statement fails to consider the impact of the scheme on climate change and noise.	It is not considered wholly accurate to characterise the NPPF as allowing sustainable development where the environment and amenity can be safeguarded from detrimental impact. Rather, a consideration of impacts needs to be given and whether any impacts – either alone or cumulatively – would be detrimental and to balance this against benefits delivered by the proposals and other material considerations. The Planning Statement V2 [REP1-006] considers the Proposed Development against Chapter 14 and Chapter 15 of the NPPF, which include issues relating to climate change and noise respectively, in Table 4.
ECC 5.2.4-8	These policies fall within subsection 5.2 titled ‘Statutory Development Plan (BDC and ECC). Paragraph 5.2.4 states that further local policy documents include: - Net Zero: Making Essex Carbon Neutral (para 5.2.5); - Developer’s Guide to Infrastructure Contributions (para 5.2.6); - Essex Sector Development Strategy (para 5.2.7); and - Green Skills Infrastructure Review.	These paragraphs are potentially misleading in being included within subsection 5.2 of the ECC LIR [REP1-018] . These documents do <u>not</u> form part of the Statutory Development Plan. The Statutory Development Plan for the purposes of the Proposed Development is as set out in paragraph 6.71 of the Planning Statement V2 [REP1-006] .
ECC 5.3	The Kelvedon Neighbourhood Plan (‘NP’) 2022 is listed alongside the Essex Coast RAMS SPD under subsection 5.3 of the ECC LIR titled ‘Other Relevant Local Policy’.	The Kelvedon NP 2022 forms part of the Development Plan. It should more correctly be listed in subsection 5.2 of the ECC LIR [REP1-018] . The DCO Order Limits (as shown on

BDC 6.3	BDC note that the Local Plan includes ‘made’ neighbourhood plans for the following parishes: Coggeshall NP; Bradwell with Pattiswick NP; and Kelvedon NP.	the Location Plan [APP-006]) do not fall within any other NP areas. The Essex Coast Recreational Disturbance Avoidance & Mitigation Strategy (‘RAMS’) SPD is not policy – it is a supplementary planning document that does not form part of the Development Plan. It is a material consideration where relevant to development proposals, but it is <u>not relevant</u> to this DCO Application. The DCO Site is approximately 14 kilometres from the nearest coastal area and will have no effect on recreational pressure on the Essex coastline.
BDC 5.3	Outlines the issues that were raised as part of BDC’s response dated 22 nd August 2023 to the Applicant’s statutory consultation, which included provision of the Preliminary Environmental Information Report.	The Applicant’s responses to the comments made by BDC on 22 nd August 2023 are set out Table 1 of Appendix G of the Consultation Report [APP-023].

Table 2 - Principle of Development

LIR Ref.	Summary	Applicant Response
ECC 6.4.1-6.4.2	ECC considered the original TCPA application on the basis of an integrated facility being created with a direct use of heat and steam, which delivered sustainable development. ECC consider that the IWMF as permitted may not be built and operated on site, with the development now focussing on the Energy from Waste facility.	The original TCPA application was considered and granted by the Secretary of State following a call-in inquiry. ECC recognise at paragraph 3.1.11 of their LIR [REP1-018] that “ <i>The ability to generate more power beyond 49.9MW does not preclude the developer from generating less energy and utilising power and or heat/steam within the other permitted elements of the IWMF.</i> ” The Applicant’s view is that this position is not relevant to the consideration of the DCO and in any case is without legal merit. This issue has been addressed directly in the

		Applicant's Responses to ExQ1 [REP1-011] at Q1.3.2 and in Appendix 1 of the same.
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Table 3 - Climate Change

LIR Ref.	Summary	Applicant Response
ECC 7.2.2	The proposed facility is envisioned to be of a regional scale, assumed to be sourcing waste from the County of Essex and the East of England.	The terminology used here suggests that the application is seeking permission for the entire facility. It is not. Reference should more properly be made to the <u>consented</u> facility, given that planning permission for the IWWMF was granted 14 years ago, and construction of it is underway.
ECC 7.2.3 BDC 8.52-54	ECC: <i>"Whilst this is a report covering local impacts, and climate change will inevitably have a local effect, the absolute focus must be on the overall impact of the scheme as a contributor to overall climate change. The total GHG emissions from the proposed plant are likely to be very large. Although the receptor for GHG emissions is the global climate, the impacts of climate change are severe and will certainly be felt locally as well as globally."</i> BDC considers that there should be a consideration of local and regional GHG emissions, including any local mitigation.	The Applicant agrees that climate change is a global issue, as stated in paragraph 7.4.3 of the ES, Volume 1, Chapter 7: Climate Change [APP-032] . However, the Applicant does not agree that the focus should be the overall impact of the scheme, if by this ECC means the entire IWWMF. As explained in paragraphs 7.4.20-21, the impact of the Proposed Development compared to the Consented Scheme will be limited to increasing the power generated by the EFW element of the IWWMF. All direct (scope 1) emissions will remain the same with the Proposed Development or the Consented Scheme, and therefore no mitigation related to GHG emissions is necessary or reasonable.
ECC 7.3.1 BDC 8.28, 8.47-8.50	The ECC LIR considers that <i>"the applicant has at no point provided a suitable and robust greenhouse gas assessment which accurately reflects the emissions of the Rivenhall IWWMF facility. The detailed breakdown of the carbon emission data for the construction, in operation and decommissioning phases has not been provided."</i>	The DCO Application is for the Proposed Development. The Environmental Statement is required to include "a description of the likely significant effects of the proposed development on the environment" (Regulation 14(2)(b) The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017). Therefore, the scope of the ES, Vol. 1, Chapter 7: Climate Change [APP-032] is the change in climate impact between

	<p>The BDC LIR states that it is not clear what effect the new equipment proposed will have on greenhouse gas emissions locally and some questions are raised relating to the methodology used. The BDC LIR also asks for the operational emissions from the whole facility to be stated.</p>	<p>the Proposed Development and the Consented Scheme. The carbon emission data for the construction, operation and decommissioning phases is the same for the Proposed Development and the Consented Scheme, except that the Proposed Development will lead to the generation of additional electricity which would otherwise be generated from non-renewable/fossil fuel sources. Therefore, presenting the unchanged data does not aid the examination and consideration of the Proposed Development.</p> <p>The effects of the Proposed Development are clearly set out in the ES, Vol. 1, Chapter 7: Climate Change [APP-032], which quantifies the benefit the Proposed Development would deliver, and concludes that overall the residual effect on greenhouse gas emissions would be negligible beneficial.</p>
ECC 7.3.2	<p>The impact of the proposed scheme on emissions within the county and potential impact on the target for Essex to be net zero by 2050 should be included in the assessment and the importance of reducing the impact of the proposed scheme to as close to 'net zero' as possible should be acknowledged.</p>	<p>Whether deliberately or not, the wording here insinuates that the DCO Application is seeking consent for the entire IWMF. This is not the case. The IWMF is consented development, the construction of which is underway. The Proposed Development seeks only to extend the electrical generating capacity of the EfW component of the IWMF, with no change the constitution or throughput of fuel (i.e. residual waste).</p>
ECC 7.3.4	<p><i>“ECC does not believe that the methodology adopted, comparing the emissions related to a theoretical ‘alternative’ site and utilising that as a demonstration of the carbon saved, is the most suitable methodology to provide a true reflection of the significant emissions associated with this development. The chosen methodology does not accurately reflect the predicted emissions of the Rivenhall IWMF facility; therefore, the significance of the emissions has not been suitably compared to the relative emissions as per the IEMA methodology.”</i></p>	<p>The Applicant fundamentally disagrees with this paragraph, which is the key difference between the Applicant and ECC. As explained in the ES, Vol.1, Chapter 7 [APP-032], particularly paragraph 7.4.5 and 7.4.20, the only difference, in terms of climate impact, between the Consented Scheme and the Proposed Development is that the Proposed Development will lead to the generation of more electricity. The scope 1 emissions and scope 3 emissions will be entirely unaffected. The Consented Scheme is currently under construction and will become operational, so the Proposed</p>

	<p><i>The whole lifecycle carbon emissions for the development should be benchmarked at a local level for Essex against the figures in 7.1.15.”</i></p>	<p>Development will have no effect on the emissions from the Consented Scheme and so there is no benefit in quantifying them.</p> <p>This point, or a variant of it, is raised a number of times in the LIR (e.g. 7.3.12-14, 7.4.6). The Applicant has not responded to other instances where the response would be repetitive.</p>
<p>ECC 7.3.5</p>	<p>The energy from waste sector has been detailed as a key opportunity for net zero management of our waste, and production of energy, and without whole lifecycle carbon information being presented as part of the ES, it is impossible to understand what actual impacts and contributions the facility will make towards climate change.</p>	<p>This DCO Application is not seeking consent for the delivery of an IWMF, as this section (indeed the whole of section 7 of ECC’s LIR) suggests.</p> <p>The suggestion that whole lifecycle carbon information be presented in the ES suggests that the basis on which this DCO Application is made is not properly understood. PINS issued an EIA Scoping Opinion [APP-040] which took into account ECC’s own comments on the Applicant’s EIA Scoping Report [APP-039]. Neither PINS nor ECC made any mention of requiring a whole lifecycle carbon assessment. This is not surprising given that the DCO Application is submitted on the basis of it proposing the extension of the electrical generating capacity of a generating station that has already received planning permission and which is currently under construction. This suggestion that whole lifecycle carbon information is missing is new and is without basis either in what is actually necessary to examine the Proposed Development or in policy.</p>
<p>ECC 7.3.8</p>	<p>“The significance as demonstrated should not solely be demonstrated by the theoretical comparison of GHG emissions but whether it contributes to reducing GHG emissions relative to a comparable baseline consistent with a trajectory towards net zero by 2050.”</p>	<p>The Applicant does not agree with the distinction being drawn here. The Applicant has calculated the benefits of the Proposed Development, compared to the Consented Scheme, by considering the long run marginal emission factors proposed by the UK Government. These long run</p>

		<p>marginal emission factors are specifically intended to be consistent with a trajectory towards net zero. Hence, this is an assessment against a “<i>comparable baseline with a trajectory towards net zero in 2050</i>”, not a “<i>theoretical comparison</i>”.</p> <p>Furthermore, the trajectory towards net zero is expressed in the UK carbon budgets. The Applicant has presented the published carbon budgets in Table 7.5 of the ES, Vol. 1, Chapter 7 [APP-032] and compared the benefits of the Proposed Development, compared to the Consented Development, with these budgets in Table 7.7.</p>
<p>ECC 7.3.9-10</p>	<p>ECC suggests that the methodology used for the DCO application for the Medworth EfW CHP plant should be used, on the grounds that the Medworth plant is more similar to the Proposed Development than the precedent scheme suggested in the EIA Scoping Report, being the Slough Multifuel DCO.</p> <p>ECC also suggests that the Proposed Development “<i>will effectively result in a larger focus on the EfW operations...</i>”</p>	<p>The Applicant does not agree. The DCO Application for the Medworth EfW CHP plant is for a brand new EfW plant, so it was reasonable for the Medworth applicant to compare the impacts of the EfW plant with the alternative method of processing waste. In contrast, the DCO application for the Slough Multifuel plant is for an increase in power generation on an EfW plant which is currently under construction. This is clearly the same situation as for the Proposed Development and so it is clearly the correct precedent.</p> <p>There is no sound basis on which to suggest that the Proposed Development will result in a larger focus on the EfW operations. The DCO Application has made clear that the Proposed Development seeks consent only for internal engineering operations that would allow the Consented Scheme to generate more than 50MW. There would be <u>no changes</u> to any other aspects of the Consented Scheme. This includes no changes to the type or throughput of fuel (i.e., waste) that is fed into the EfW plant.</p>

ECC 7.3.11	To reduce the impact of the proposed scheme, provision should be made for the reduction of greenhouse gas emissions (GHG), in both construction and operational phases, in order to minimise the development's carbon footprint and mitigate the effects of climate change. Only once all avenues of reduction have been explored should offsetting be utilised. Opportunities for the scheme to implement the recommendations set out in the ECAC Report (2021) should be taken too.	<p>Again, this paragraph suggests a fundamental misunderstanding of what this DCO Application is seeking consent for.</p> <p>The only environmental impacts of the Proposed Development are negligible beneficial effects on climate change due to a greater amount of electrical energy being generated by the IWMF without increased fuel throughput, thereby helping displace energy that would otherwise be generated from fossil fuels.</p>
ECC 7.4.1	ECC suggests that carbon capture and storage should be considered as part of this DCO application.	The Applicant considers that this is not appropriate for this application. Carbon capture and storage is not required to make the Proposed Development acceptable in planning terms. Nor is it clear that such plant could be considered "associated" with the Proposed Development (given its limited nature) for the purposes of section 115(1)(b) of the PA2008 such that it could be included in the DCO Application.
ECC 7.4.2	ECC suggests that all EfW plants should include a credible plan for carbon capture, with reference to the Government's decarbonisation readiness consultation (2022).	The Decarbonisation readiness consultation states, in section 3.5.4, that " <i>There is a clear case for exempting plants from DR which are under construction or substantial refurbishment at the time the DR requirements are proposed to come in (1 July 2024).</i> " The consultation also recommended moving these requirements to the environmental permitting regime. It is not clear, therefore, why this is considered relevant.
ECC 7.4.2	ECC notes that government has an ambition to capture 10 MT of CO2 per year by 2030 and that the Committee on Climate Change has recommended that Carbon Capture and Storage ('CCS') be fitted to all EfW plants by 2050.	The Government's approach to achieving (and going beyond) 10 megatonnes of CO2 capture by 2030 has been to identify two priority clusters (HyNet in Merseyside and the East Coast Cluster), known as Track 1, and then to select 8 projects to connect to the clusters and to be supported via a number of business models. The government is now looking

		to identify two further clusters (Track 2). Projects which are not within range of the track 1 and track 2 clusters are expected to move towards CCS at a slower pace. This includes the Proposed Development. It is, therefore, not reasonable to introduce any requirements for CCS into the Proposed Development, particularly given its limited nature.
ECC 7.4.3	“The National Infrastructure Assessment 2023 suggests all new plants need to be carbon capture ready to hit net zero, and the Commission’s analysis suggests that there is already sufficient operating capacity in place and in the pipeline to avoid the need for new energy from waste which isn’t carbon capture ready, identifying that “The creation of new energy from waste capacity without carbon capture would be both unnecessary and harmful.””	ECC’s quote is incomplete. The paragraph continues “ <i>The Emissions Trading Scheme, due to cover energy from waste by 2028, will provide a strong incentive to provide carbon capture technology with energy from waste.</i> ” ECC also failed to note that the Consented Scheme is included in the pipeline referenced in the Second National Infrastructure Assessment (‘NIA’) 2023, and the NIA was not suggesting that construction of projects in the pipeline should be halted. Specifically, the recommendation on page 128 of the Second NIA was “ <i>There should be a ban on future energy from waste plants which are not already in the local or national planning system, and which do not have plans for carbon capture.</i> ”
ECC 7.4.4	ECC notes that the Runcorn EfW plant is implementing carbon capture and storage.	ECC fails to note that the Runcorn EfW plant is part of the Government’s carbon capture cluster sequencing programme. It is included in track 1 for the Hynet cluster, one of two priority clusters in the UK as explained above. This means that its situation is entirely different to the Proposed Scheme.
ECC 7.4.6	ECC suggests that the Applicant should take actions in the construction of the IWMF to reduce carbon impacts.	This relates to the Consented Scheme.
ECC 7.4.7-7.4.8	ECC asks for difference scenarios to be considered in terms of the types of waste to be combusted and whether that waste would otherwise have been recycled.	The Proposed Development will not have any impact on the waste to be combusted, as this will be the same as under the Consented Scheme. This is why the scope 1 emissions from the combustion of waste were not presented; they do not change. Therefore, presenting additional scenarios does not

		aid the examination and consideration of the Proposed Development.
BDC 8.33-8.34	BDC comments that the IEMA guidance does not specify that displacement need be considered.	This is not specified explicitly in the IEMA Guidance, although it does refer to, for example, baseline emissions from BaU power generation on page 17 and UK grid decarbonisation projection scenarios on page 18, and it is accepted that indirect emissions from consumption or generation of electricity are scope 2 emissions.
BDC 8.37-8.40	BDC questions the relevance of the 2014 Energy Recovery from Waste – a carbon-based modelling approach for the consideration of the GHG emissions from the Proposed Development as this is a comparator of EfW to landfill comparison.	This is a guidance note designed to consider the climate change impacts of energy from waste plants. It is accepted that not all of this document is relevant, as the baseline is not landfill but the Consented Development, but the sections in the 2014 guidance relating to displacement of electricity are directly relevant.
BDC 8.41-8.45	BDC suggests that assuming that the additional electricity produced by the Proposed Development would displace power generated by a gas-fired power station is incorrect. This is because BDC considers that the 2014 Guidance is out-of-date.	The key footnote in the 2014 Guidance, as referenced in paragraph 7.4.9 of the ES, Vol. 1, Chapter 7 [APP-032] , has been confirmed to be correct in a number of recent SoS decisions.
BDC 8.45	BDC states that “the Environment Statement has not commented on the efficiency of the plant and has made an assumption that ALL of the carbon dioxide can be offset by taking the footnote comparator out of context from the entire report.”	<p>All of these statements are incorrect. The ES makes it clear that the plant will generate more electricity from the same amount of waste, so its efficiency will improve with the Proposed Development.</p> <p>It is not assumed that all of the carbon dioxide can be offset – it is assumed that all of the additional electricity can displace other sources of electricity.</p> <p>The footnote has not been taken out of context. The footnote confirms that the marginal source of electricity would be displaced. This is CCGT in the opening year. However, as explained in paragraph 7.6.6 of the ES, Vol. 1, Chapter 7</p>

		[APP-032] the lifetime benefits have been evaluated on the assumption that the marginal source would be decarbonised.
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Table 4 - Noise and Vibration

LIR Ref.	Summary	Applicant Response
ECC 8.4.6	It is not considered that sufficient information has been provided to determine the veracity of the noise level predictions within the ES.	This noise model will be shared with the local authorities and discussion on noise will continue to take place pursuant to the issues identified in the Statement of Common Ground with the Host Authorities (Doc Ref 8.1) .
ECC 8.4.8	Whether the noise limits set with the Consented Scheme remain relevant is identified as a 'key aspect of this Application'.	<p>A key aspect of this Application – and the basis on which it was accepted for examination – is that it seeks consent for the extension of an existing generating station, i.e., the Consented Scheme. The Consented Scheme is therefore used as a baseline to allow an assessment of the effects of the Proposed Development.</p> <p>Revisiting the acceptability of the Consented Scheme and its effects through the DCO process does not aid the examination of the Proposed Development, indeed it risks clouding the judgement of the Proposed Development's effects. Ultimately, the Proposed Development will have no effect on noise compared to the Consented Scheme.</p>
ECC 8.4.2 2	(With regards to the noise sources) the provision of a key with the table, detailing the components contained within the 'Name' and 'Type' column would be expected. Furthermore, and notwithstanding the above, we would query and seek clarification on, some of the data contained within the table:	<p>Key for 'Name' and 'Type' of Noise Sources:</p> <p>PT: Point Source</p> <p>LI: Line Source</p> <p>AH: Area Source Horizontal</p> <p>AV: Area Source Vertical</p> <p>ACC: Air cooled condensers</p>

	<ol style="list-style-type: none"> 1. The noise data for '006 ADV Boiler 1', '007 ADV Boiler 2', '008 Start up ejector ST', and '009 Hogger ST' are identical. Are these the same plant items? 2. There are 7 different noise levels provided for the 'Tipping Hall' (058, 059, 113, 127-130). What do these represent and how are these used within the noise model? 3. There are 10 different noise levels provided for the 'Boiler building' (55, 56, 94-96, 114-118). What do these represent and how are these used within the noise model? 4. There are 10 different noise levels provided for the 'Turbine building' (57, 97, 98, 124-126). What do these represent and how are these used within the noise model? <p>Notwithstanding the above, as identified within our document 'Preliminary Environmental Information Report – Noise Response', we would wish to view the noise model files to be satisfied of the veracity of the predictions presented.</p>	<p>ST: Steam Turbine CCW: Closed Cooling Water E-Module: Electrical Module Exh: Exhaust ID: Induced Draft FF: Fabric Filter PAC: Powdered Activated Carbon Trafo: Transformer IBA: Incinerator Bottom Ash</p> <p>Answer to Query 1: The noise data has been provided by the contractor and details noise levels to be met by the installed plant to meet the consented noise limits, therefore some levels are the same for similar items of plant.</p> <p>Answers to Queries 2, 3 and 4: The tipping hall noise levels are within the model as vertical and horizontal area sources and are different heights and sizes due to the façade dimensions, therefore the inputted noise levels differ across each. This is the same for the boiler building and turbine building. The sources represent breakout noise associated with internal activities. Sound power levels were provided by the EPC contractor to the acoustical engineer, who then assigned octave band data to these sources based upon their own benchmark data and similar projects.</p>
<p>ECC 8.4.2 5-29</p>	<p>ECC consider that a noise assessment carried out in accordance with BS4142:2014+A1:2019 should be provided, rather than using the consented noise limits for the operation of the IWMF.</p>	<p>The Applicant's position is that it is reasonable and appropriate to carry out an assessment of the Proposed Development's noise effects based on the Consented Scheme's noise limits as set out in the IWMF TCPA Permission (granted by ECC on 26th January 2024). This</p>

		<p>allows for a fair comparison of the effects of the Proposed Development with the Consented Scheme.</p> <p>In regards to the Proposed Development, there is no additional noise generating plant or processes over and above the Consented Scheme. The assessment finds that the Proposed Development leads to no additional noise effects compared to the Consented Scheme and is acceptable in regard to noise.</p> <p>It does not seek to reassess the acceptability of the Consented Scheme, which is a matter more appropriately left to the consideration of the planning applications to which ECC refer in paragraph 8.4.29 of their LIR.</p>
<p>ECC 8.4.2 9 - 8.4.3 7</p>	<p>These paragraphs outline new noise limits proposed by ECC based on an updated baseline sound survey undertaken by SLR in May 2023, in conjunction with a separate planning application.</p>	<p>As detailed in 8.4.29, the noise data referred to in this section of the ECC LIR is taken from a Technical Memorandum provided by SLR to ECC as part of the ongoing pre-application discussions in relation to a separate planning application for the IWMF. Neither SLR nor the Applicant authorised ECC's use of this data within the LIR.</p> <p>This data was submitted to ECC in good faith on a confidential basis and in relation to a wholly separate workstream that the Applicant is undertaking. It was prepared to aid private pre-application discussions with ECC and not as a public facing document or dataset. The Technical Memorandum included a section which confirmed that the copyright in its contents remained vested in SLR. The Applicant has been in negotiation with ECC in respect of a Planning Performance Agreement which would cover this pre-application advice on noise matters since 4 March 2024 (i.e. prior to the provision of this data to ECC and the submission of the LIR) and this agreement contains provisions confirming that any information provided by the</p>

		<p>Applicant would be kept confidential unless the subject of a request under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.</p> <p>We would question why the noise data has been presented here as it is not within the public domain (indeed it was shared on the understanding that it would be kept confidential), and was not shared for this purpose, rather it was shared to determine the methodology approach for a separate planning application.</p> <p>The fact that the Applicant and ECC are separately engaged in discussions relating to the noise limits which may be imposed on a future section 73 permission at the site is not relevant to the DCO Application. Article 6(1) of the DCO requires the Applicant to comply with the conditions attached to the IWMF TCPA Permission (or any future section 73 permissions). In the event that this planning application is made to ECC and new noise limits are proposed, these will automatically apply to the Proposed Development.</p>
ECC 8.5.2	<p>No consideration of relevant current guidance, i.e., BS 4142:2014+A1:2019 in demonstrate the potential impact that may arise from its operation. Instead, the assessment is based on noise limits set as part of the Consented Scheme in 2009.</p>	<p>Consideration has been given to guidance, and BS4142 is explicitly referenced within Section 8 of the EIA Scoping Report [APP-039] that the Applicant prepared and submitted to PINS for consideration (ES, Vol. 2, Appendix 5.1 [APP-039]). It is accepted that at paragraph 1.0.11 of the Planning Inspectorate’s Scoping Opinion [APP-040] that the <i>“opinion should not be construed as implying that the Inspectorate agrees with the information or comments provided by the Applicant in their request for an opinion from the Inspectorate”</i> and that any comments made are without prejudice to future decision making by the ExA. Nonetheless, it is significant that no objection to the use of the Consented Scheme noise limits was made by the Planning Inspectorate.</p>

		<p>Indeed, using the Consented Scheme noise limits simply reflects what has been permitted by ECC in recent years. For instance, ECC have not required a BS4142 assessment to be carried out at any other stage of the planning process, including most recently in the granting of the section 73 permission that now constitutes the operative consent (ref: ESS/39/23/BTE). Nor did it do so when it granted the previous section 73 permission for the Consented Scheme (ref: ESS/34/15/BTE). The NIA ('Noise Impact Assessment') submitted as part of Scheme that application, prepared by Belair Acoustics (B3749/CB3674 29/07/2015), references British Standard ('BS') 4142:2014 and states:</p> <p><i>"The original assessment noted that BS4142:1997 may not be the most appropriate assessment methodology and that other guidance for example from the World Health Organisation (WHO) and BS8233:1999 Sound Insulation and Noise Reduction for Buildings offered more appropriate means of assessing internal sound levels as a result of external sound at night. The majority of the updates are associated with noise incidence during the night.</i></p> <p><i>Both BS4142:1997 and BS8233:1999 were revised in 2014. One of the significant differences between BS4142:2014 and previous editions of the Standard is the explicit requirement to consider context as part of the assessment. It is no longer adequate to simply compare the Rating Level and the Background Sound Level without due regard to the context of the acoustic environment and the sound source. This is consistent with the original assessment's approach to also consider other more appropriate guidance."</i></p>
BDC 8.7	The original IWMF consent imposed noise related restrictions in conditions 38, 39, 40, 41 and 42. Condition 38	As outlined by BDC the main query relates to the noise effects upon receptors at Silver End and Parkgate Road. The

	<p>included a list of noise receptors and Braintree District in its letter of 19th February sought to add to this list Silver End and Park Gate Road. Not hitherto specifically mentioned in relation to Silver End is application 18/01751/REM which received consent on 21st June 2019, (relating to 15/00280/OUT approved at appeal) and which has been designed to include mitigation measures against noise. This site is located on Western Road south-west of the IWMF site. This consent is at a late stage of implementation. It should be made clear by the applicant that noise impacts on this part of Silver End are considered.</p>	<p>ES, Vol. 1, Chapter 8 [APP-033] includes an assessment of Park Gate Farm Cottages. With reference to receptors in Silver End, the closest receptor to the Proposed Development is Sheepcotes Farm, which is included within the assessment. As stated within Table 8.1 of the ES, Vol. 1, Chapter 8 [APP-033], the assessment includes the closest sensitive receptors and as these lie closer to the Proposed Development than properties along Jewitt Way, it is considered that if no impact is identified at these locations, no impact will be experienced at those which lie further away.</p>
BDC 8.15	<p>The intrinsic character of the countryside is however affected by noise levels and characteristics. It is important that development which may increase noise levels or alter its characteristics are accompanied with sufficient information to understand the nature of such changes and that the proposal does not result in noise levels which harm countryside character of its surroundings. It is accepted that the principle of development for an installation below 50MW has been established and its impacts found acceptable in relation to this policy by planning permission noise related conditions.</p>	<p>It has been confirmed that Proposed Development will have the same noise output as the Consented Scheme, i.e., the Proposed Development will not generate any additional noise compared to the Consented Scheme.</p> <p>Therefore, as the noise levels from the Proposed Development will remain unchanged, and based on BDC's comments within Paragraph 8.15, it can be concluded that BDC is in agreement with the noise related conditions, which form the basis of the noise assessment for the Proposed Development.</p>

Table 5 - Socio Economic

LIR Ref.	Summary	Applicant Response
ECC 9.3.5	<p>The proposed development will result in increased demand for green skills which are listed in the Green Skills Infrastructure Review for Essex County Council, March 2022.</p>	<p>The DCO Application has made clear that the Proposed Development will not lead to changes in employment numbers from what was considered for the Consented</p>

		Scheme. This is acknowledged in paragraph 9.4.4 of ECC's LIR [REP1-018] .
ECC 9.4.2	The proposed development is one of a number of projects within the country which could result in increased demand for construction skills and equipment at a time when other major projects may also commence with similar timeframes and result in shortages.	As above.
ECC 9.4.3	Mitigation is likely to be required to deliver the workforce required for the construction phase, and the applicant should consider potential opportunities for providing skills training programmes, shared apprenticeships and traineeships.	Employment numbers will not change as a result of the Proposed Development compared to the Consented Scheme. No mitigation of the sorts outlined by ECC are necessary to make the Proposed Development acceptable in planning terms.
ECC 9.4.4	ECC would welcome the opportunity to work with the applicant on how to maximise the benefits of the project to local economic growth and in levelling up education, skills, and employment across Essex, both during construction and operation.	As above.
ECC 9.4.5	The proposed development is a project which could provide an opportunity to incorporate green methods of construction and tools. The applicant should use the skills, employment, and education strategy to look at how they can maximise these opportunities and maximise the Social Value impact of the project locally.	The construction works that the Application seeks consent for are relatively minimal, involving internal engineering works to a valve. Opportunities for incorporating green methods of construction and tools are therefore extremely limited and are in any case not necessary to make the Proposed Development acceptable.
ECC 9.4.6	Given the specialist nature of any potential temporary or permanent jobs at the site, opportunities, including local upskilling should be maximised to ensure positive, long-term local employment gain to support the county's green economy.	The Proposed Development is expected to be carried out in approximately 2 weeks and involve a nominal number of engineers. Given the restricted scope and duration of the works, opportunities such as those outlined by ECC are extremely limited and are in any case not necessary to make the Proposed Development acceptable.
ECC 9.4.7	We would expect the applicant to fully engage with local supply chains for labour, material, and equipment. This not	As above.

	only adds to local economic benefit but also reduced greenhouse gas and pollutants deriving from extended travel.	
ECC 9.5.1	ECC remains of the view that an employment and skills plan or strategy should be prepared prior to the commencement of the development, should consent be granted. The applicant should also make a skills and education contribution to assist and encourage local people to access apprenticeships and training, which should be secured by way of a DCO requirement.	NPS EN-1 (2011) is clear that the Secretary of State should only impose requirements in relation to a development consent that are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise and reasonable in all other respects. The type of requirements proposed by ECC would fail to be necessary, nor would they be reasonable given the scope of construction activity for which consent is being sought.
ECC 9.5.2	The cumulative impact of significant construction/infrastructure projects in the county requires consideration.	The Proposed Development would not change the employment numbers compared to the Consented Scheme. The NSIPs and other large development projects will have had to consider the Consented Scheme as part of their cumulative assessments (if appropriate), and so it is not appropriate nor necessary to carry out this type of assessment for this DCO Application.

Table 6 - Other matters

LIR Ref.	Summary	Applicant Response
10.1.1	The local community and Parishes would wish to see off-site air quality monitoring in addition to the air quality monitoring that is required through the permitting regime. Acknowledgement is made to paragraph 194 of the NPPF which states that decisions should assume that permitting regimes (such as Environmental Permits) will operate effectively.	As is noted by ECC, there is an Environmental Permit (Permit Number EPR/FP3335YU; Variation Permit number EPR/FP3335YU/V002; and Transfer Permit number EPR/CP3906LP) that relates to the Consented Scheme. This requires that air quality monitoring data is issued to the Environment Agency. It is an obligation of the Consented Scheme Section 106 Agreement [REP1-013] that this air quality data is also provided to the Site Liaison Group (this is noted in the Applicant's Responses to ExQ1 Q1.5.5 [REP1-011]). ECC are correct to cite paragraph 194 of the

		<p>NPPF, which is relevant to this topic. Of greater relevance is paragraph 4.10.3 of NPS EN-1 (2011), which states:</p> <p><i>“In considering an application for development consent, the IPC should focus on whether the development itself is an acceptable use of the land, and on the impacts of that use, rather than the control of processes, emissions or discharges themselves. The IPC should work on the assumption that the relevant pollution control regime and other environmental regulatory regimes, including those on land drainage, water abstraction and biodiversity, will be properly applied and enforced by the relevant regulator. It should act to complement but not seek to duplicate them.”</i></p> <p>The Proposed Development will not change the amount or type of emissions compared to the Consented Scheme. It is not necessary to duplicate the air quality monitoring that is already required by the Environmental Permit.</p>
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Table 7 - Cumulative effects

LIR Ref.	Summary	Applicant Response
11.2.2	ECC make reference to Policy LPP52 (Layout and Design of Development) of the BDC Local Plan.	The Proposed Development will not result in any change to the number of permitted vehicle movements compared to the Consented Scheme. The reason for referencing this policy is unclear.
11.3.2	When looked at in combination with other NSIP and large developments, the impact on the available labour force and the job market cannot be underestimated.	As per the Applicant’s response to paragraph 9.5.2 of ECC’s LIR.

Table 8 - Draft Development Consent Order

LIR Ref.	Summary	Applicant Response
ECC 12.1.5	<p><i>“This DCO therefore, in the considered view of ECC, must set a limit for power generated within the DCO to be no more than 65MW of power output as failing to do so, in the Applicants [sic] own words “would require a significant change to the consented building envelope.””</i></p>	<p>The quote here is from paragraph 4.4.3 of the ES Chapter 4: Alternatives [APP-029], and is quoted more fully in the preceding paragraph of ECC’s LIR. The ES states that <i>“to generate electricity greater than 65MW a larger turbine and generator is likely to be required”</i> and that any such larger turbine would require changes to the consented building envelope.</p> <p>The inclusion of the word ‘likely’ was deliberate and is intended to signify that there is not total certainty on what would be required to generate electricity. This DCO Application is the result of technology improving over a period of time such that greater electrical output can be derived from the same fuel throughput simply through the availability of more efficient plant. It is not impossible that a similar scenario could be incurred in the future. This is why the dDCO is seeking a reasonable degree of flexibility as to the power output; a degree of flexibility that has been granted on other DCOs as set out in the Applicant’s response to ExQ1 Q1.5.2 [REP1-011].</p> <p>It is noteworthy also that under the terms of the Draft Development Consent Order [APP-013] as currently drafted, any changes to building envelope of the Consented Scheme would require permission from ECC.</p>

Table 9 - Community benefits

LIR Ref.	Summary	Applicant Response
13.1.3	<p>ECC and BDC would wish to see opportunities and options explored by the applicant for community ownership, together with detail of the scope and operation of a community fund open to applications from community projects or groups.</p>	<p>The Eighth Schedule of the Consented Scheme Section 106 Agreement [REP1-013] sets out the details of the Community Trust Fund that the Applicant is already obliged to make quarterly payments into from the date of commencement of Beneficial Use of the IWmf. The monies paid into the Community Trust Fund can be used to fund local community projects at the discretion of the Trustees. This is considered to adequately provide what community ownership effectively seeks to do, which is derive a financial dividend from the operation of renewable energy installations for the benefit of the local community.</p> <p>No further exploration of such matters is considered necessary or reasonable in relation to the scale of development proposed by the DCO Application and its associated effects.</p>

3 Applicant’s comments on ECC responses to ExQ1

- 3.1 This section provides the Applicant’s comments to matters raised in the **ECC Responses to the ExQ1** [\[REP1-019\]](#), set out in Table 10 below. The Applicant has reviewed the responses to ExQ1 prepared by BDC and by the Environment Agency and has no comments to make.
- 3.2 As with the responses set out in Table 1 to 9 above, the responses below should be read alongside the updated **Statement of Common Ground with the Host Authorities (Doc Ref 8.1)** that is submitted at Deadline 2, which records further engagement undertaken.

Table 10 - Applicant comments on ECC responses to ExQ1

ExQ1 reference	Summary of ECC position	Applicant response
Q1.3.2	<p>The Applicant’s submission of details to discharge condition 66 of the then-operative planning permission (ref: ESS/34/15/BTE) highlighted to the Waste Planning Authority (i.e. ECC) that the developer’s intention was to focus on the development of the Combined Heat and Power/Energy from Waste plant, potentially bringing these into operation without the other integrated elements of the IWMF.</p>	<p>The Applicant’s position on this matter has been consistent throughout and is set out in detail in its own Responses to ExQ1 (Q1.3.1) [REP1-011]: the current and ongoing intention of the Applicant is to build out the Consented Scheme subject to market conditions and viability issues.</p> <p>There was nothing in the details submitted to discharge Condition 66 that definitively suggested that the Applicant would only and ever deliver and operate the EfW plant. The details submitted sought to cover off a number of eventualities in the event that certain elements of the Consented Scheme were unviable, including partial implementation and obtaining a further planning permission for alternative uses within the consented building.</p>

Q1.3.2	<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 Appendix 1, 2 & 3).</p>	<p>This is accurate. Condition 66 required a plan of action for an alternative use or a scheme of rehabilitation for the site to be submitted if the IWMF was not brought into beneficial use within 5 years of construction commencing. The reason for this condition was "in the interests of minimising the adverse environmental impacts of incomplete implementation" (further recognising that the Consented Scheme may be partially implemented).</p> <p>When discharging Condition 66, ECC imposed conditions requiring the complete implementation of the Consented Scheme by 31 December 2026.</p> <p>ECC agreed to grant planning permission ESS/39/23/BTE to remove this condition, which is evidence that it is not and never was legally sound to require the total completion of a development within a certain time period.</p>
Q1.3.2	<p>ECC state that they consider 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. It is the intention of ECC to work with the developer to try to resolve this difference of interpretation of the planning permission prior to the EfW coming into operation.</p>	<p>This position is without legal basis and nor is it relevant to the consideration of DCO. The Applicant has provided a robust rebuttal to ECC's position in its Response to ExQ1 [REP1-011] and at Appendix 1 of the same. The 'evidence' provided by ECC in response to this question does not alter any of the conclusions reached, nor does it merit the submission of any further evidence by the Applicant.</p>
Q1.3.2	<p>ECC also state that they are of the view that the DCO, if granted, would not undermine their position in this regard.</p>	<p>As set out in its own Responses to ExQ1 (Q1.3.2) [REP1-011], the Applicant agrees with ECC that the DCO, if granted, would not alter the position in respect of partial implementation. ECC's position is not relevant to the consideration of the DCO.</p>

