

TRANSCRIPT_RIVENHALL_ISH1_SESSION1 _04062024

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00:06

Okay, good morning and welcome. It's 10 o'clock. So I am starting the issue specific hearing for the application made by endeavour Ruben Hall limited for an order granting development consent for the ribbon Hall, integrate Risk Management Facility and energy centre scheme.

00:24

I will introduce myself properly in just a few moments, but before I do, I just need to run through a few housekeeping matters. Kind of case team, see and hear me okay.

00:36

Yes, we can. Fantastic stuff. Thank you. And can you also confirm that the live stream started?

00:45

Yes, it has started. Thank you. And is there been any requests for reasonable adjustments or arrangements to enable participation in this meeting at all?

00:56

No. Okay, thank you.

01:00

Okay, in that case, I'll come on to my introduction. I'm Mr. Jonathan Manning. And I've been appointed by the Secretary of State as the examining authority to carry out examination into this application. Also present today are members of the cage team. I'm supported by Sean Evans and Ryan Sedgman. If you have any questions or concerns about today's event, then please contact one of them.

01:25

And will now turn to attendees from from other parties. First, I'd like to acknowledge and welcome those who are watching on the live stream today. Thanks for joining us. I would also like to start with introductions from from the from attendees. I'll read out the team's name and I'd appreciate if all members of that team could ultimately just one by one quickly introduced themselves. My running order will be the applicant, Essex County Council, Braintree District Council.

02:00

I'm not sure if there's anyone here from the ambulance service. But if there is there'll be next and then finally, Essex County Fire and Rescue Service.

02:12

So in that case, can we start with the applicant please?

02:18

Okay, I'm Carly Vince. I'm a senior director at quad and I'm planning advisor to endeavour tense my colleague. Hello, I'm Catherine Howard. I'm the planning partner up had to spend three hills

02:32

Benedict Saltzman, a small consulting specialist

02:37

Gareth Jones, project development specialist for Andover.

02:41

Steve knows them from fiction and consulting engineers on climate change and air quality. Naomi Hoggett associate at Herbert Smith Freehills.

02:52

Thank you, everyone. Thank you very much and welcome. We'll move on to Essex County Council please.

03:00

Good morning, sir. And thank you very much for the introduction. My name is Mark Wood. I'm a principal planner and I work on national strategic infrastructure projects and I'm a member of the royal Town Planning Institute. I'd just like to pass the baton across to my colleagues and I'm going to go in alphabetical order so Adam please.

03:18

Hi, good morning. Yes, Adam Durham senior sustainability and built environment specialists at ECC represented on climate change and greenhouse gases.

03:28

About

03:29

Claire Tomlin principal Planning Officer Essex County Council's minerals and waste planning team and the case officer for revenue historically and now.

03:38

Good morning, everybody. My name is Claire Wilkinson. I'm a principal planning officer in the ACF team for Essex County Council. I'm also a royal member of the Town Planning Institute.

03:50

Rob Yeah. Good morning, Rob Mansfield work for Jacobs, UK Limited and supporting Essex County Council is a specialist in acoustics. Thank you, sir. Okay, thank you very much. And of course, welcome to us well, Braintree District Council, please.

04:10

Good morning. I'm Julie O'Hara. And I am a Senior Planning Policy Officer.

04:17

Hi, I'm Josie Falco. And I'm head of environment at Braintree District Council. Okay, thank you very much. And welcome. Okay. Is anyone from the ambulance service on? I'm not sure there is?

04:31

No, okay. In that case, we'll come on to Essex County Fire and Rescue Service, please.

04:38

Hello, good morning, everyone. My name is John Webster. I'm a station manager in the risk team, and one of the elements we look at is infrastructure, your infrastructure developments and risk within ethics and how that might affect our service and the service we offer. Thank you. Okay, thank you Mr. Webster.

05:01

Okay, is there anyone else here who I haven't requested introduced themselves that needs to?

05:11

Okay, I'll take the silence as a as a no. Okay, we'll come on to agenda item two, which is the procedure for running the issue specific hearing this morning.

05:21

So there's generally four points that I just quickly need to run through. The first is a few words to acknowledge the format of the event today. It's obviously a virtual event through Microsoft Teams. To avoid visual noise distractions, please keep your cameras and microphones off and so I invite you to speak

05:41

in relation to the timings of the event today. I like to take a break around about 1130 this morning, and the lunch break around 1pm.

05:52

If you decide to leave the meeting during the breaks, you can rejoin using the same link provided in your invitation email. If you are watching the live stream, then please refresh your browser to resume each subsequent section.

06:08

I can move on to the general data protection regulations and live streaming. I'd like to make you aware that this event is being both live streamed and recorded, the digital recordings that we make are retained and published.

06:22

And they form a public record that can contain your personal information, and to which the general data protection regulations do apply the planning Inspectorate practices to retain and publish recordings for a period of five years from the Secretary of State's decision on the development consent order.

06:42

Consequently, if you participate in today's issue specific hearing, it is important that you understand that you will be recorded and you therefore consent to the retention and publication of the digital recording. Where it's very unlikely that I will ask you to put sensitive personal information into the public domain. Indeed, I would encourage you not to do that. However, if for some reason you feel it is absolutely necessary. To refer to sensitive personal information, I would encourage you to speak to the case team in the first instance, I would then explore with you whether the information can be provided in a written format, which might be redacted before being published.

07:25

Okay, thirdly, the purpose of the hearing.

07:30

And the substantive matters of today's hearing have been set out in an agenda, which was published on the planning Inspectorate national infrastructure project webpage on Tuesday, the 28th of May. Those are the only matters for discussion today. To be clear, it is not intended discuss all matters relating to the application. So matters may be pursued through the next round of written questions. For example,

07:57

it is a fairly full agenda for today, I will keep progress under review. And I may request certain aspects will be addressed potentially through the second round of written questions, if we do run out of time.

08:13

And fourth and final point is regarding post hearing actions should they arise during the hearing. I will be noting hearing actions down as they emerge. And at the close of the meeting, I intend to go through the list, which will then be issued as soon as possible after the hearing closes. The assumption is that post hearing actions will be expected at the next deadline, in this case deadline three on the 18th of June.

08:41

However, acknowledging any resource constraints on your end, if you feel meeting that deadline will be difficult for you please do raise it today. And we can try and accommodate those within the deadlines

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as we move forward.

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Okay, are there any questions on anything to do with the running of the hearing this morning?

09:10

No, okay, thank you very much.

09:15

Okay, in that case, we'll come on to Agenda Item number three, which is the first area of discussion for the hearing this morning. And it's in relation to climate change.

09:26

And we'll first come to matters associated with the assessment methodology. And my first question is for the applicant, please. Assets county council and branch District Council both considered there should be consideration within the assessment of local and regional effects as their view that such effects can be evidenced. Is there anything you wish to add from what you've already said? In your written submissions about the appropriateness of this

10:00

study area please?

10:16

Yes, it's Steven Olson representing.

10:20

So in terms of the study area, so our view is that the impact of carbon emissions is global, or maybe national rather than local. And so the study area is global,

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supported by the IMO guidance assessing greenhouse gas emissions and evaluating their significance, which specifically says that greenhouse gas emissions are not geographically limited, they have a global effect rather than directly affecting any specific local receptor to which a level of sensitivity can be assigned. So the receptor for greenhouse gas emissions is the global atmosphere.

10:55

Therefore, the carbon assessment has compared the change in carbon emissions as a result of the proposed development with baseline emissions in the UK and SX, and also with the UK carbon budgets in terms of assessing their significance.

11:12

Okay, thank you. And could I ask both Essex County Council and Bucha District Council to set out why they consider particularly in light of the IEMA guidance, why that shouldn't be complied with in this case? And if I could ask Essex first.

11:36

Yes, is presented with your hand up if you'd like to come in now.

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Thanks, Mr. Manning. Yeah, Adam, Darren on behalf of Essex County Council.

11:46

From our point of view, we kind of see that we have a responsibility as a local authority to

11:53

meet our net zero targets. And as this is a substantial emitter as a project, I think we expected that there will be a significant amount of evidence for us to make a decision as to the

12:07

significance of this project in relation to the county's total emissions. This, this information is available and published in terms of the county's total emissions, and we believe it would be suitable to predict and estimate the total emissions of the project against this, this baseline and further towards the net zero target of 2050. Okay, so in terms of the guidance, could I just get your reply to what that says in terms of the study area. So in relation to the AMI guidance, it gives three different aspects to predict projects carbon footprint against sector based local and national and this is kind of this is identified in Figure four as of the aim of guidance as good practice approach for contextualising a project carbon budget.

12:58

Okay, and then

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branch Judicial Council would like to add,

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it's reinforcing the Essex argument. You know, the only other thing for me is obviously, that in 2021, central government, in their,

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in their guidance towards climate specifies that local authorities have a role to play in that. And we have our strategies in place, and we attempt to monitor the district's emissions.

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And in this was in the role of local government in delivering net zero and discussion and in terms of as county has said, the guidance, we cannot, we cannot we have no idea from this climate impact how the

the the site, the permitted development, plus this under review today will affect the local carbon emissions.

14:00

And we'd like more transparency in that.

14:04

Okay, thank you. We will come on to such matters shortly, but in terms of the study areas that can wish to reply to any of those points.

14:18

Yes, so, in terms of the comparison with sector level, and local and UK level, so that is what we have done. So that's included in this table 7.4. And the ES sits on the baseline figures for UK waste management sector, and SX, and then table 7.5 picks up the UK carbon budgets. So we agree that's what the impacts of the proposed development should be compared with.

14:46

I think the disagreement which I think we will come on to later is we have assessed the impact of the proposed development which is the increase in power generation because

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the project

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but it's the overall project

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has already got permission and is not being changed as a result of this apart from the change in, in power generation.

15:12

Okay, thank you.

15:16

Okay, we'll move on to our next question. There's a little bit of context to set out for this one. So please do bear with me. But Braintree District Council have raised some concerns about the assessment methodology, particularly the relevance of the Defra 2014 energy recovery for residual waste a carbon based modelling approach to the assessment.

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Secondly, the use of this to argue that displacement by combined cycle gas turbine whether it's appropriate or not, and in relation to the 0.31

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co2 equivalent per mega watt hour, so it's a bit of a mouthful displacement figure, whether that's been correctly used. And the assessment that's made it an assumption that all of the carbon dioxide can be offset by taking the footnote comparator app context.

16:08

Yet, but it did reply to these points at deadline to by stating that the Defra 24 2014 document is a guidance note designed to consider climate change impacts of energy from waste plants. And it is that not all of the document is relevant by the applicant.

16:29

As the baseline is not landfill, but the consented development, but the the sections in the 2014 guidance relating to displacement of electricity are directly relevant. The applicant also noted that the key footnote in the 2014 guidance has been confirmed to be the correct approach and a number of recent Secretary of State decisions. And lastly, the applicant sets out that it was not assume that all of the carbon dioxide can be offset is assume that all of the additional electricity can displace other sources of electricity. And the footnote has not been taken out of context, the footnote confirms that the margin or source of electricity would be displaced. And that this is CCGT. In the opening year, however, the lifetime benefits of being evaluated on the assumption that the margin or source would be decarbonized.

17:25

So really, I just wanted to get Braintree District Council's thoughts on the reply from the applicant, please. Maybe we can sort of take take one by one in terms of the different 2014 document and the relevance of that first, please.

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So obviously, the in terms of it's an old document, I think in the 2020 A eunomia sort of

17:52

review of the documentation, it's quite out of date.

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Whilst I except obviously, that it's standard, and it's been used, I think there are other ways that it could have been done. In terms of the methodology, I think a good starting point potentially could have just been the range from the environments, pollution inventory, for

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manage,

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and then that could have been applied with a range rather than a specific, I think, in terms of the methodology.

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Without evidence, it comes out, you know, without evidence in within the actual statement defines sort of tonnage is and I think it's

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if we're going to do that, we need to have the evidence within the methodology

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of you know, the the tonnage throughput and accept that this is permitted development, but we don't have effectively an anticipated carbon emission per tonne of waste. To determine obviously, the output, we we haven't got that within the document. So you know, the Environment Agency states with a range of 0.7 to 1.7. We could have had that within the actual sort of evidence, and then I accepted sort of endpoints in Nevada, and then a range in terms of potential displacement rather than just a quoted figure. It feels very specific without evidence.

19:33

Okay, is there any guidance ultimately, instead of the 2014 different report that could have been used? It's more up to date you will refer to it being quite old, but is there anything that should replace it? There is I believe there there could have been other things that could have been used. You know that there are the environments. The environment agency records the output of incinerators. They produce an inventory

20:00

They do the Environment Agency potentially has a calculation for global warming potential. There's also a calculation, as I say, for inventory, sort of pollution, inventory pollution. I think that could have been as a starting point, and then a range in terms of displacement. So there are there were other options that could have been used, I think, for assessing the methodology.

20:25

Except that this methodology is used elsewhere.

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I'm just saying that in terms of this particular sort of statement of climate impact, there were other, again, slightly more transparent methodologies that could have potentially been used.

20:42

Okay, thank you.

20:44

Okay, coming back to the applicant, please. Before maybe if you want to address any points raised there,

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would you possibly be able to set out which Secretary of State decisions that you referred to, in your deadline to submission, it was a general sort of statement that has been considered and accepted elsewhere, but there was no specific detail on which schemes?

21:07

It is. Okay, so Steve knows the numbers respond in for into that.

21:12

So in terms of the specifics, seems to have been quite a few, the two most recent into the DTOs are firstly, the slam article extension decision, which was given to the Olympics and to order it in 2000. But this year, earlier this year.

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And before that, the Riverside energy project, which was given a DCO in 2020.

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There have been a number of other planning decisions, if we could give a list going back was towards 2014. But in terms of the two most recent those are the ones I'm most aware of.

21:50

Okay, thank you. And is there anything else that you'd like to add to reply to bring your district capsule?

21:58

Yes, so there has a couple of different points to address. So the first one is in terms of

22:07

why we presented MIDI, the chain. So the Defra guidance we've referred to sets out the various different

22:18

types and sources of carbon emissions and changes as a result of an energy waste project. But the vast majority of those have not changed them that set out in paragraph 7.4 point 20 of the environmental statement. And most importantly, the type of waste and the amount of waste that is combusted will not change as a result of the proposed development. So while I do agree that

22:45

the direct carbon emissions can vary depending on the waste, that is not actually related to the product development, what proposed development does is increases the amount of electricity and that is the only change and we've been I think transparent about how much electricity the plant is currently limited to generating as in just under 50 megawatts, because it is not the DCO

23:13

and then how much it will move up to which is between 60 and 65 megawatts, and the design points which is a reasonable average position over the year is 62.37 megawatts. So those are the two critical numbers that affect things. Therefore, the key point is what type of power it will displace.

23:32

So that is where the the guidance of the Deaf for energy recovery guidance and also actually another 2014 document about which is energy from waste that guys the debate, both have the footnotes in referring to the marginal source of electricity, but I did want to expand a little bit on that. So,

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the reason that we talked about the marginal source is because of how the UK electricity system works.

24:01

UK electricity is provided at the moment primarily by nuclear plants, gas fired CCGs and various non fueled renewables. So wind and solar, and the reality is that nuclear plants will run in baseload whatever we do, and wind and solar are supported by reasonable subsidies and effective and very low operating costs. So, they will run whenever it is appropriately windy or sunny. And therefore, the difference between electricity demands and electricity supply is made up by the flexible source which is CCGT. And the effects of providing a new base load generator or an expanded base load generator, which is also an energy from waste plant is is that the CCG TS will fire slightly less. So that is why they are the marginal source. That was the case in 2014. And since 2014,

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the electric

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As the system in the UK has changed in that we've very successfully failed out coal.

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But the amount of power generated from gas has actually barely changed. There's data in UK, statistics digested UK energy statistics that shows in 2014, we generated 100 terawatt hours of power from gas. And in 2022, we generated 98 terawatt hours of power from gas, we have successfully reduced a cop got rid of coal and replaced it with renewables, but gas carries on. So that's why we consider that CCGT remains a balancing marginal source of electricity. And that's also why that is continued to be accepted. In the two cases, I referred to earlier cases.

25:47

But I did want to repeat the point which you made in your introduction, sir, that while that is what we've used as our baseline opening year, we haven't assumed that's the case, the entire life of the project, we've assumed that the UK will decarbonize its electricity, I'd refer you to figure 7.1 in the environmental statement, which shows grid displacement factors. And what we've shown there is the UK government's projection for what the marginal source will be, while we are headed on a net zero trajectory.

26:21

And we've done two cases of abuse the UK government's figure, we've also used the figures I've just explained where we started gaps now and gradually work our way down.

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The effect of that is that the grid displacement factor starts at point 371 in 2023. By 2035, we're down to less than point 05 is the factor.

26:46

And it's those numbers we've used to compare with the UK carbon budgets in the future.

27:00

Okay, thank you. So yep, carry on, if you know.

27:05

Okay, thanks. Okay, thank you, can I get the thoughts of Braintree in relation to the point made there about in terms of CCGT, that it's actually even since 2014 stayed fairly stable in terms of its use,

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except, except in terms of, it's a lot to take in verbally to actually listen to that and sort of take that all in? So, so? Yes, you can't accept in terms of the CCT G.

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The, the, I suppose we go back to, I go back to and this is

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it's difficult for me to work through in terms of my views, but in terms of the permitted development, and I think we've already sort of in Nevada, have just accepted that the outputs will vary depending on the composition. And so I suppose that's where I struggle in terms of the displacement is that we are displacing the full, the full tonnage.

28:09

And we are the, the, I can't understand how we just come up with a definitive figure and why is it won't be a range in terms of that. So but I need to, I need to think about or re listen to this and maybe come back with

28:25

more clarity in terms of understanding and dividers response, if that makes sense. Yeah, absolutely. And obviously, that opportunity is available to you in the future deadlines. Thank you. Okay, thank you. Let's move now on to a point which has been touched on Oh, sorry, I think we got Essex County Council's hand up if you'd like to come in, Mr. Durham.

28:49

Thank you, Mr. Manning. I just had a point to add to this discussion if that's okay.

28:56

So, I just thought it'd be useful to kind of contextualise the point that that Braintree District Council have made in their local impact report about the kind of the scale of emissions, that that are at play here. So there's the kind of the three aspects of this there's the direct emissions from the development itself. There's the equivalent emissions associated to alternate management of the waste that is being utilised by the development. And then there's this this figure finally of this displacement of energy being utilised elsewhere.

29:31

As the the applicant is identified, there's the grid, decarbonisation down to 2050. And effectively this will kind of decrease the significance of the displacement by the energy from waste facility as the rest of the grid decarbonize is as more alternative electricity generation. facilities that are low carbon will be in practice this figure that will be offset again

30:00

against the direct emissions from the facility and the equivalent landfill, or alternative waste facility waste management,

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emissions will be put against each other. The point I'd like to make here is that we haven't had that information given to us directly as part of this discussion that the total emissions by the development itself, and the equivalent for an alternate Waste Management Facility. The methodology that's been adopted and has been mentioned in this part of the argument has been directly aimed as this being specifically an energy facility, whereas we still consider that this is and has been, as the consented scheme suggests an integrated waste management facility. And we don't think it's suitable to solely discuss this as an energy equation, there needs to be the consideration of the waste management in that as well.

30:54

Okay, just on the last point, we will come on to the relationship between the you know, the existing consent and the proposed development later on. But

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in terms of its main principle, but yeah, anything from the applicant? Please reply to any of those points, if you wish.

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And

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I think I think we're moving on to the next question. So, but I would, so if this were an application for a new waste management facility, then I would agree that we need to compare that with the baseline of the alternative waste management uses, as it is an applicant application to increase the power

generated by this facility. The baseline naive perspective is the existing development. And therefore, we don't agree we need to consider what would have happened if the existing project did not exist, because the existing project does exist.

31:57

Okay, that is a fundamental problem. Moving on to the next question that that? Yeah, I mean, ultimately, I just like to explore, you know, this issue in relationship between

32:08

the existing consent and the proposed development and ultimately, maybe Komova. Question for for the council's please. I mean, ultimately, the applicant on this matter hit deadline to set out that the carbon emissions data is the same ultimately 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.

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Therefore, presenting the unchanged data does not at Examination, or the consideration of the proposed development.

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Again, this is the first opportunity that the counsellors have had to

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give their thoughts on that position. So maybe, again, I'm quite happy, whether it's Essex or Braintree, if you'd like to jump in now. Whoever feels like they'd like to answer that one first please.

33:12

No volunteers. I'll be mean and pick Essex, then please.

33:18

Thank you, Mr. dira. Apologies. I was trying to be courteous.

33:23

So could you Sorry, could you just repeat the last part of that question, I had a bit of a breakup in connection. Yeah. So the,

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I just set out that ultimately, the applicant set out that the carbon emissions data was ultimately the same for the proposed development and the consented scheme said that the proposed development will lead to the generation of additional electricity, which would otherwise be generated from non renewable fossil fuel sources, and therefore presenting the end change data does not add to the examination and consideration of the post development.

33:57

So just really getting your thoughts and whether providing such evidence,

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you know, is appropriate given that it's not ultimately your whole new scheme, which is a point made by the applicant just now. Thank you. Yes.

34:12

So I guess our points of view on this is that there is there is a significant change in the difference between the kind of the consented scheme and the proposed development whilst in the in the kind of the technical aspects of the kind of machinery and reducing or taking off the cap that would allow them to generate more energy through the energy from waste

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aspect itself. It still kind of avoids the the idea that this is an integrated waste management facility. And there is the aspect of the waste management that doesn't get taken into account when it's solely discussed as the output from the energy from waste part of the the consented scheme.

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This then kind of, you know, we do need to understand what the differences between the kind of the proposed development and the the energy output

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And the emissions in relation to the energy being produced, and then what the equivalent would need to be to manage the wastewater. And alternatively, if there's, you know, discussion is kind of being taken into more of an energy generation facility as opposed to a waste management facility.

35:17

Okay.

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If it was we will cut. So we'll come up with a different agenda item later on today.

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But if it was ultimately determined that the

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facility could can operate

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purely just the energy from waste part of it lawfully, would that ultimately make this argument fall away, if that was determined?

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To do and please.

35:53

Thank you. I guess the the idea that it would fall away, is kind of a difficult one, because we still haven't received the full transparent set of information. I think that there's there's still some some information to be scrutinised in terms of what are the direct emissions from the facility. And kind of the the information as I previously discussed, I think that would give us or would go some way to allowing us to make a judgement that would, you know, allow us to understand the significance of the project in relation to local impacts relating to climate change.

36:26

So I think it is a matter of increased information that will allow us to make a more educated decision. The case, but But would you ultimately accept in that circumstance, the applicants view that the carbon emissions data would ultimately be the same for the proposed development and consented scheme, given that it could ultimately lawfully operate with the existing concern?

36:49

I think, again, that's that's difficult on me, because it's not it's going to be something that will be discussed later on, like, like you've mentioned, a proposition if I find a certain way, would you therefore accept the applicants view in relation to this matter?

37:03

The numbers that they've put forward would suggest that that is the case and if it is relation to the operation surrounding the energy from waste, taking the waste, incinerating it and the output of energy then then yes, it would demonstrate that there is no additional emissions through the change in the in the energy from waste mechanism.

37:25

But again, you know, the the additional point is something that is to be discussed. Okay. Thank you. Thank you. And do you agree that the scope one and scope three emissions will be entirely unaffected?

37:45

Bones do most of us well celebrate the holidays. Yeah. No worries, no worries. One in three emissions are you do you accept the applicants view that the US will be unaffected

37:59

the scope one emissions, again, taking it in a face value from the uplift in energy, it would suggest that there is no uplift in the in the emissions based on the change being suggested. The scope three emissions is a bit more difficult to identify as there is kind of wider aspects that are at play. And there's some more combined effects that that take place when you consider the scope three emissions, notably, kind of transport issues and wider issues relating to emissions.

38:31

I guess the operation of the facility itself, again, it's understanding whether there are any changes to the operation of the facility by kind of not having certain parts of the of the application and carrying forwards. So other parts of the application, whether that will have any impacts on the the operation of the facilities is something that I don't have the information to, to kind of provide a judgement on.

38:56

Okay, thank you. Thank you. Before I get back to the applicant, anything further from Braintree from what we've heard from Essex County Council? No, no similar, really, it's difficult to make a decision without sort of clarity of information in terms of if the various, you know, the two facility types and the operation.

39:19

Thank you.

39:21

Okay, applicant, please. And if there's a few different points out anybody want to just run through them in turn

39:29

statements and from the applicant. So in terms of the principal identity, we have anything to add to what you to what you read out of what our response was in the to the local impact report.

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As in that, post development does not lead to changes in carbon emissions during

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construction decommissioning operation. So there was scope one and scope three do not change

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in terms of how it's affected

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and how that wouldn't change, if it was agreed that it was legally acceptable to operate just yet, and you can waste blood. I think that was the other points that you're making. So I think the same principle applies. That's almost an independent point, which I know we'll be discussing later.

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But

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that that isn't that doesn't affect the situation of the endocrine waste plant, generating more electricity, and therefore, having the ability to displace additional power generation, the actual direct emissions from the engine and waistband and of view, the wider development don't change.

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Okay, could I ask just your thoughts on the point made about

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that slight change to the sort of the processing of the waste on site, if it was just simply an energy from waste plant that was operational on the site in terms of no linkages with the other facilities, such as the recycling facility, which may process waste before ultimately arrives at the energy from what is plant? There was a suggestion that if there's changes to that process, then there may be carbon emissions? Which might be different. Could I get your thoughts on that?

41:12

I think, would you like to come in on that? So I think that's slightly at the legal point, to be honest, I think we have to be very careful here in understanding what this application is. Or it's for the changes internally to allow, which will allow additional electricity to be produced by the same amount of tonnage input. Any I know, we're coming on to it. And that's jumping in a little ahead. But I think it seems we could get ourselves very confused. I don't think anything that the the way the DCO is drafted, it absolutely doesn't touch the existing commission. And any debates that Essex wanted to have with us about whether all of the development has to be completed in order for it to lawfully comply with that planning permission, are legally entirely outside of the scope of this application and wants to be considered by the Secretary of State when granted. So I think we need to be very careful and asking Steven to comment on that. Because it's, it's, I would say, could be looking this misleading as to what the matter under discussion, but a termination is Miss DCR application.

42:25

Okay, I'll consider that further. And I'll follow up with a written question if I consider it necessary.

42:32

But what do you like? I think a written response would be better because yes, how different

42:40

types of the facility interact with each other is I don't know when to speculate sort of without thinking more carefully. So I think I respond to do that. Better if we need that. The point is, it wouldn't change, it wouldn't change. Whether that does what does not happen does not affect what happens as a result of this proposed development if the recycling is or isn't built as an independent points.

43:04

Okay, thank you. I understand those points.

43:09

Okay. My next question was in relation to

43:15

Essex County Council's multiple scenarios, ultimately, you know, variability in terms of calorific content and things. But ultimately, I think the the sort of nub of the disagreement is ultimately the same as what we've just discussed.

43:29

So, ultimately, I don't propose to go into that one into any more detail because I think the points are the same.

43:38

The Braintree District Council referred to the EAS pollution inventory.

43:44

And the applicants reply to one of my written questions set out that, ultimately, it's required to make an annual submission to the inventory, which include an estimate of co2 emissions.

43:58

Does this go any way to address the concerns of the council's in terms of the availability of estimates of co2 emissions?

44:11

I could come to Essex first. Oh, no, I think Reggie District Council, that's fine. Thank you. And

44:18

I suppose my my sort of thing there is, you know, if you're going to do the annual submission to the Environment Agency, I can't see why it can't actually be included with or an anticipated sort of annual emission value included within this climate impact statement accepted for the permitted development then the displacement factor. So that again, you know, we have an idea of what we will be looking at as a district wide emission. We have a strategy we monitor as part of that strategy. The as a performance indicator of our climate strategy, the district's emissions, and we can't determine effectively

45:00

From this, the statements that submitted effectively what what this will mean for us as a district? So if they're going to report it to the Environment Agency can't see why we can't include that within the statement.

45:15

Okay, but in terms of you the obligations of the council in terms of net zero and future targets, does that information provide enough for you in terms of your local and I guess even regional potential effects?

45:31

That will, obviously,

45:35

I suppose, at the minute as it as it is, as it stands at the minute is trying to determine exactly what what that will be and the work we will have to do to to, you know, working with in divider in terms of that, as a climate partner, you know, how we can mitigate the effects locally? And we, you know, we would ideally like to have that within the statement.

45:57

The actual climate impact statement

46:01

is that that's effectively what this document is, is the climate impact impact assessment effectively, you know, and in terms of local to us,

46:11

we can't reading the statement, we can't we can't determine the full effect

46:17

beforehand to sort of even look at any form of mitigation beforehand.

46:24

Yeah, I mean, obviously, I won't go into my points about whether, you know, assessing the whole development as a whole is appropriate. We've kind of discussed that to some degree. But okay, that's fine. Thank you. I see a six, you've got your mysterium. You've got your hand up. So would you like to come in on that point?

46:42

Yes, thank you, Mr. Manning. I think it's just worth kind of echoing what what Braintree have said there in terms of the the kind of reliance that we we don't have an unknown number that we can kind of work towards in terms of what will be the annual emissions of the

47:00

energy from waste facility. And I think that the point that you raised there in terms of our, our obligations towards these netzero targets is that there are these action plans that we had local authorities, both ourselves and Braintree have put in place to kind of set the pathway to decarbonisation. And I think without these predicted numbers, it's hard for us to estimate what trajectory we need to take appreciating that these budgets and you know, the estimations of annual emissions are all based upon all of the different industry inputs, it's hard for us to kind of make a decision in terms of where this sits or is on the trajectory, whether it's going to have a significant impact on our trajectory to net zero, it's hard for us to tell without it being an operation, or as having the information at this stage to estimate what the what the emissions will be. I think it's a difficult one to kind of go into the unknown of, of what it might be. And then I'd have to kind of make a response. At some point, once we know what the emissions are after, say, year one, and then it has to set a path of mitigation, it feels like at this point, we should be able to understand what those emissions are likely to be.

48:13

Okay, in terms of just trying to understand slightly in terms of what the council's need for further future planning, if you like.

48:21

Obviously, you have an overall estimate of co2 emissions from the years pollution and venturi. What what more detailed than that do you do you actually need for for future planning, as it were?

48:36

I think the the point here of what will the kind of impact beyond on those those sums, there's the you know, the reduction in terms of emissions of waste management as a as an emitter for the county and for the for the local district. And then the same for any any kind of uplift in terms of the the industry around energy generation. And I think those those aspects are something that all get added into that some and we need to understand what the decarbonisation scale is going to be of those different industries. I think there's the there's the separate point in terms of mitigation of emissions once the emissions have been

49:12

emitted

49:14

to the atmosphere. I think that's a separate point on this, but is still kind of included in this this overall decarbonisation. We don't necessarily have that. That point now in terms of knowing what the total emissions will be once the development is an operation or any sorts of mitigation strategies down the line.

49:36

Okay, thank you.

49:39

Anything from the applicant? In reply to any of those points, please.

49:48

Steve knows them from the Atkins. I don't think we have anything further to add, to be honest. So

49:56

the carbon benefits of the overall

50:00

all facilities were were assessed originally when it got planned vision in 2010.

50:08

As you've indicated the pollution adventure will be so as a result, as part of the plan is operational, there'll be needed to submit data to the Environment Agency pollution of entry will be published, which will say what the direct emissions from the E FW part of the whole IWM F are.

50:28

That will be a reduction in emissions from assuming waste as land but then assets from landfill. So it's there's a complicated picture, but again, none of that is being changed by the proposed development we're considering today.

50:47

Okay, thank you for that. Okay, we'll move on to my next question.

50:53

Essex County Council has noted

50:56

that annual performance reports are currently provided by energy from waste facilities. There's a mandatory requirement under the industrial emissions directive, article 55, two

51:10

requirements on reporting and public information on waste incineration plants and coal incineration plants.

51:17

I was just it wasn't clear from that submission, the relevance of that to your concern? I don't know whether you could just explain the context in why you refer to that for me just to aid my understanding, please.

51:32

Yes, Mr. Do.

51:35

Thanks for money. I guess it kind of follows a similar point to what's just been discussed. There is going to be this, this reporting of emissions once the plant is in operation. And I think it's a difficult point for us now to not know what those are predicted to be.

51:52

That level of information should be available and in such circumstances should then be reported to allow us to make a judgement as to what not necessarily a judgement but at least have a better understanding as to what the predicted emissions are likely to be rather than just waiting for operation to for these reports to come up directing the emissions.

52:15

Thank you.

52:17

Okay. Another question for Essex County Council. You suggest that similar methodology

52:24

for the med worth energy from waste combined heat and power facility should be adopted? And you're of the view that that's an appropriate sort of comparable scheme. But you're not in terms of the slough multifuel extension? I just interested in your thoughts, given the similarities of the cloud, this flower, as far as I understand it, the similarities of the flower multifuel extension, why you consider that that that particular scheme is not not directly relevant to this one. But you consider that med worth is

53:00

is to do and please.

53:03

Thank you. I guess there's a couple of points here. Without again, getting into the the kind of discussion as to the the later on discussion regarding the the DCO against the consented scheme. I think it's, you know, useful to provide an appraisal of both of the methodologies and what would be considered robust and transparent. I think the the med worth facility, as the applicant, rightly mentioned in their response suggested, obviously, that this is a new facility, which has an undergoing further amount of scrutiny put on it. But I think it's worth kind of highlighting that that information provided during the met with energy facilities, environmental environmental statement was never presented to us at any point during the kind of proposals for the scheme. I appreciate that this is for the consented scheme, but that information hasn't been readily available to us to make make a decision on at this point or previously.

54:07

Okay, thank you.

54:09

Anything from the applicant, please, in relation to those points around the two schemes, which should be referred to I think I'm fairly clear on the applicants view, but, you know, if you wish to add anything more than then please do now.

54:25

Yes, it's the super nose and from the advocate, there were two two points you raise. So the first in terms of the reporting this just to clarify the funded environmental permits, there's a need to put an annual report in about four months of the plant, which would include emissions of polluting substances. Strictly that isn't carbon dioxide. Carbon dioxide is reported as the collusion in venturi, which is a different piece of legislation.

54:52

The effect is the same just wanted to clarify that in terms of the other scheme, so yeah, so the net worth DCO application was for a brand

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Hands new energy from waste plant. And so the methodology,

55:05

which we've referred to effectively from the different guidance, and the guidance was followed, comparing the new facility with the alternative uses of waste. As we said, we haven't done that here. In terms of what was done with this plant. It is it is going back to 2009 2010. A great assessment was carried out for the idea of IWF as a whole. And that was that was the the evidence submitted as part of the planning inquiry, then there was quite a lot of data in there. And we that was shown the overall climate benefits of the IWM F. It wasn't it wasn't done. It was just slightly different methodologies done in 2010.

55:48

Okay, thank you for those points.

55:52

Okay, thank you. All right. Well, we will move on to mitigation measures. Now, which is the final part of climate change.

56:04

For this agenda item, as this counts Council note in their local impact report that the opportunity for carbon capture should be considered with reference to the government's decarbonisation readiness consultation from 2022.

56:20

The applicant has noted that the consultation clearly states that there is a clear case for exempting plants which are under construction, or substantially or substantial refurbishment at the time the requirements are proposed to come in, which is really the first of July 2024. The consultation also recommended moving these requirements to the environmental permitting regime. Is all of that accepted by Essex County Council please.

56:52

Thanks, Mr. Manning.

56:55

Yes, so the the information provided by the applicant

57:00

was was factually correct. I think the the point that was made in the in the local impact report was, you know, highlighting the kind of increased scrutiny that we have on on our kind of climate mitigation and our decarbonisation of too weak to reach our net zero 2050 targets.

57:18

I think the, without trying to quote the whole the whole document, I think it was trying to paraphrase to show that that significance in how our new facilities are kind of being given this. This, this AI that suggests that mitigation is something that we really need to consider now to allow us to set our path for

decarbonisation. And I think it's difficult to kind of sit in this position scrutinising a scheme as the one that's been put forward without understanding what any level of mitigation is going to be in the future.

57:48

As you know, as we've discussed already, there's there's our responsibility as a local authority to hit those netzero targets and decarbonisation. And as this will be a significant carbon dioxide emitter, we do need to understand what mitigation is going to be put in place to allow us to reach our net zero targets.

58:06

Okay, thanks. But just the council therefore set given the, you know, the guidance that ultimately the proposed development should be exempt from requiring carbon capture.

58:18

I guess it's not necessarily guidance, it was part of National Infrastructure assessment report. I think that can be obviously interpreted in the two ways that that we as the the responding and the applicant have have both interpreted I think it's a matter to kind of understand what that that significance is in terms of what our responsibilities are. Okay. Obviously, is it conceivable to have relied on that to make its point? So absolutely, even the reply of the applicant? Is it now accepted that the client should be exempt?

58:53

Based on that document what it says on that document that that would be aligned to take? Yes. And is there anything that's been more recently, which has just taken a different view?

59:02

Not that I'm aware of. This is a report from 2023, or it was published in 2024. So it's, it's possibly the most up to date information.

59:14

There may be others available, but I can have a look and respond in a written response. If that's something that's possible. Okay. That's fine. Thank you. Thank you. Okay, anything from the applicant on those points.

59:30

As Steven has drawn the applicant, out in terms of more recent drivers towards carbon capture, so as the Bucha, the last act of the outgoing government on 23rd of May this year, that consultation was issued by the UK Emissions Trading Scheme authority, which is confirming the intention to expand the UK emissions trading scheme to include energy from waste plants. So that there is there for a financial

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incentive for energy from waste plants to reduce their carbon emissions by capturing carbon. So the intention is that by 2028, that will be in place. And that is what's driving a number of waste companies to look at carbon capture.

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I think last week, Endeavour confirmed that they are looking at a carbon capture facility on this site blethen independent that's obviously separate from the development. And that, again, is being driven by

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the UK Emissions Trading Scheme approach, which is effectively part of the government's policy towards decarbonizing the waste sector nationally. All that really means is we don't think there's a reason to incorporate that into this specific process. There's a separate process going on, which will lead you moving towards mitigating.

1:00:51

Okay, okay.

1:00:54

Okay, my last question on climate change that is in relation to the suggestion of Essex County Council in their local impact report about the potential use of mitigation such as solar panels, water reduction measures,

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etc. So, really, I think probably the underlying points are the same from what's already cropped up. But Middleton My question is, is is this justified, given the limited nature of the proposed development? And the findings of the Yes.

1:01:24

If the County Council's response will be, in terms of the issues around understanding the overall permissions, then we can probably just skip it. But I just wanted to give you the opportunity to say anything further.

1:01:39

Yeah, it kind of came into that that same discussion, as you've mentioned them estimating. It's it's definitely just options for mitigation, things that, you know, we believe should be considered and stuff and elements that we believe should be kind of provided to us as information at this stage. Thank you. Okay. Thank you.

1:01:58

Okay, I will just offer it over to the applicant. If you wish to say anything more on that particular point, the counts were made in their local impact report.

1:02:08

Thank you.

1:02:10

Okay. Thank you. Okay.

1:02:13

Is there anything at all from anyone else in relation to climate change before we move on to Agenda Item number four?

1:02:25

Nope. Okay. Thank you very much. Okay. We'll move on to Agenda Item number four, then, which is the consented development and issues around that.

1:02:36

So we'll firstly come to whether it's ultimately an issue for the examination.

1:02:41

The applicant is noted that the draft DCO has been drafted to ensure that the energy from waste component must be constructed and operated in accordance with the existing planning permission for the consented scheme. And this ultimately applies regardless of how the extract permission is interpreted.

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and is therefore of the view that it's not something that should be considered in this examination.

1:03:05

Can I just check with Essex County Council why you disagree with that point of view?

1:03:13

I think we've we've said it's under discussion. I mean, we have, we still remain of the view that there could be a breach of planning control. If it's very clear time in Essex County Council, I do apologise to introduce myself.

1:03:25

We have explained that we feel there could be a breach of planning control, if the entity for my plant were to operate without all the other elements of the IWM F. Having considered the issue further, we've considered that we consider that even if granted, it's not obviously a foregone conclusion that the plant would have implemented the DCO. And until such time as the actual energy from waste plant operates without the any of the other elements, and there isn't a breach of planning control. So it's not something at this stage that is a massive that needs to be taken into consideration as part of the DCO. Okay, in terms of maybe I'll ask the applicant now, if it was determined that ultimately the Essex County Council's position was correct.

1:04:14

And the proposed development could not be implemented as a standalone energy from waste plant.

1:04:19

Would that be a consideration for this examination if ultimately, the proposed development wasn't deliverable?

1:04:28

No, so you've summarised all session very succinctly. And yes, we deliberately drafted the DCO so that it absolutely doesn't touch the planning commission. So any debates that we might have and disagreements that we might have with Essex over the interpretation of the permission and enforceability and any action that ethics might like to take up disagree with our position, our position being that there's no requirement to operate both elements of the integrated waste facility myth

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By the planning commission all together with a worst disagree with that wants to take action. There's absolutely nothing in this DCA that stops them doing that if it were granted.

1:05:12

Okay, thank you.

1:05:15

Okay, just obviously the the evidence being put before the examination about the potential for a breach of planning and control. So I'd like to understand a little bit more about why Essex County Council considered that might be the point, it might be the case. And as we've just heard, it's of the view that it would be at the point where it became operational. I mean, I'm slightly unclear still about what planning controls, ultimately the council are seeking to rely on in terms of that view, particularly as conditions 66. I think it was from a previous section 73 application has now been removed. So ultimately, I'm just trying to establish is ultimately the planning mechanism, the word integrated in the development description. And Essex is councils interpretation of condition to in relation to the proof process flow drawings. Yeah, that's the other two things like Claire Tomlin from Essex County Council. Yes, it's the fact that the whole consideration of the application by both the planning Inspectorate and Essex County Council in sub the applicant application in 2015, was on the basis of it being integrated facility, there is no mention in either the 2008 or the 2015 application that the Fw would operate alone without any of the other elements of the integrated Waste Management Facility. It is in the title in the description of development. And under condition two, there are two drawings, which are placed this probe drawings which are specifically show how waste was to move through various elements of the integrated Waste Management Facility to maximise the waste management, pushing waste management up The waste hierarchy, and also using the heat and steam most efficiently by using on site. So and that was what amounted to sustainable development. So the authority feel that there could be a breach of planning control if the ESRB were to operate without the other elements. Okay. The applicant has rebutted those two arguments in Section Five and six of annex one of its written questions. Has the county council considered those responses in? Are you able to provide a reply? I think I'd prefer to provide a written response.

1:07:32

All right. Okay.

1:07:35

Yeah, we can also set out that

1:07:38

the character counsel requested

1:07:41

a condition ultimately be

1:07:46

imposed securing the complete implementation of the project. And that was ultimately rejected during the call in inquiry for the original permission in 2009.

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Given it was rejected that and I just would like to ask the county council, what's changed since that time in terms of why it would be appropriate now, but not then?

1:08:10

Well, at the inquiry, the inspector wanted to give a certain amount of flexibility as to how the IWF would operate. But it did not consider the Fw operating on its own.

1:08:25

Okay, in why was Why would there be a need for flexibility? And does that still apply now? I think that was at the time in 2008. It was unclear exactly what what size of different elements of the of the of the facility might be needed. And obviously, technology changes.

1:08:44

Okay.

1:08:46

I mean, ultimately, the applicant has set out that it's taken a phased approach to the development

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in terms of, you know, generating income to then facilitate the delivery of the other components of the integrated Waste Management Facility. Is that an unusual approach to take? And is that quite common across other developments? I believe it is quite a common approach. But at the current time of Endeavour, I've only indicated that we'll be developing the energy from waste plant and the other elements, either either not commercially or practically viable. So at the moment, we only only have certainty that they are going to be developing the energy from waste glom. Okay. I mean, the applicant has set out that it is intending to deliver the other aspects, but he's taking a phased approach, as we've just discussed, what what makes us kind of how we think that that's not genuine.

1:09:38

In dealing with the application to address condition 66 endeavour have made it quite clear that at the moment, they consider that there isn't a need for anaerobic digestion, that the paper pulp facility is probably not commercially viable anymore because markets with respect to paper have changed. And in talking about implementing the materials recycling facility, it's not intending to use

1:10:00

it in in the manner that was proposed within the application which was for sorting mixed dry recyclables and putting material that are come from mechanical, biological treatment through the mixed recycles facility in order to recover, you know what materials that could be reused at the moment, the only proposal but with respect to the mix with materials recycling facility, is actually to use it as a pretreatment facility for bulky household waste. And it's not clear at this stage, how much of that would actually be material that might be reused and recycled or reused or simply still put through the energy from waste facility. So we're not we're not gaining the elements of integration in terms of waste management that we thought were going to be delivered in terms of maximising

1:10:44

the recycling, recycling of materials.

1:10:48

Okay, is the market quite fluid in that regard?

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And sometimes uncertain, is that a fair thing to say about the waste management industry?

1:10:58

Yes, I think that is a fair thing to say. Yes. So position in five years time could could potentially be different to the previous position of Endeavour. Yes.

1:11:10

Thank you. Just finally, has the county council taken any legal advice about its interpretation of the development description and condition to? We have indeed, yes. Okay. And with that, would you be able to provide that? Now we consider that some legally privileged information, and obviously, we'll be everbearing on whatever future of enforcement action we consider we might be necessary.

1:11:38

Right.

1:11:43

Okay, anything from the applicant on anything that we've I've just run through with the County Council?

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She said,

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Yes, I mean,

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I feel you've got our main points, put in a really thorough, thoughtful submission on this. There does seem to still be a disagreement between ourselves and assets on this point.

1:12:08

To ask, it's really clear that the inspector considered ease matters thoroughly at the callin inquiry, as you say, the unnecessary putting on suspicion, ethics did ask or a condition that that inquiry asking for the full implementation of all elements that was knocked back with reasons that it's that quite intersections don't agree to it, clearly recognising the need for flexibility on commercial grounds as to dealing with the phasing and when various elements of waste management might or might not come forward. That's still a position today. And it feels like the county council might be seeking to have a second bite of the cherry at that seeking to enforce all elements to come forward commercially viable or not, through this application, which our submission is that wholly unjustified when this is not touching the original consent, the whole approach being to feed the planning commission exactly as it was, and simply to use this application to get more power out of the same tonnage coming through that's already consented. And so a net benefit, which we'll see Franco nope, no brainer from a climate change point of view. And UK power point of view, not touching any of these other debates, as I say, ethics is it's it's open to them to take such action as they wish to take if their legal advices that complete implementation is required, for reasons that we've submitted. don't propose to go over that slightly, too. We don't think that's the correct legal interpretations.

1:13:52

Okay, thank you.

1:13:55

Miss Thompson, you've got your hand up, would you like to come in again?

1:14:00

As Claire Tomlin says, Can't hear us, I just wanted to say, I mean, in terms of the interpretation, we would like to resolve this issue. And we have invited the applicant to submit a closed pod so that we could go formally through the process of their view and our view, and come to a resolution of this issue, prior to the Fw operating, which obviously, would be the best in best way forward. But at the moment, they've declined to follow this approach.

1:14:27

Thank you. Um, can I just ask one question about the condition to the the applicant ultimately said that they are indicative drawings, so therefore, ultimately aren't binding on, you know, the existing concern? Could I just get your thoughts on that particular issue?

1:14:46

I think it's just, you know, it's quite clear through the description of the application and through those drawings, that the intention was that weight would go through multiple processes to maximise the amount of recycled recovery

1:15:00

And to just build the energy from waste client potentially just operate the energy from a plant departs from those drawings. Okay, but in terms of them being indicative, Is that accepted by the council? I don't think the I think a lot of the drawings do say indicative, but I don't think the process flow diagram sent indicative. I will check that and come back to you. Okay, thank

1:15:25

you. Okay, anything from the applicant before we have our break?

1:15:36

Yeah, I mean, I suppose the process flow diagram, if we're talking about big O one, nine, A, it does talk about Indicatively, where the sets indicative only where the different waste processing facility would be nothing in that or in any other condition says that they must all be built. It just shows where they would be if they are built, and what the processes might be if they are built in those locations. So completely irrelevant to the legal question of whether you have to completely develop all of these facilities in order to lots of operating.

1:16:14

And then there's finger finger 110 A is the other one, which is basically refers to kind of condition 29. Clearly, the purpose of that drawing is to set out the types of ways but can enter the site under condition 29. Again, nothing requires that will update its processes are carried out all of those types of wastes like to carried out on the side. And condition two is just a very standard condition, as you know, for all planning applications, saying that things will be built out in accordance with the approved plans, those types of conditions are not to be read as meaning that you must drop them below everything else, in accordance with those conditions. To the extent you're building something out, it must comply with those conditions, doesn't mean you have to build everything.

1:17:06

We'd like to retrace it's a very interesting legal debate this it's just not relevant to the decision on this DCO in our legal view.

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I understand the applicants position. Thank you.

1:17:21

Miss Tomlin, you

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did have your hand up that you

1:17:26

do not wish to come in. Okay. No, that's fine. Thank you. Okie dokie. Thank you. All right. That concludes discussion on the agenda might have item for that's a logical place to have our mid morning break. So we will adjourn into until 1135.

1:17:47

As I said in my introduction, if you do leave the meeting, you can rejoin on the same link that you were provided in your invitation email. And if you're on the watching on the live stream, then please refresh your browser to resume the next session. Okay, thank you. We'll adjourn until 1135. Thank you