

TRANSCRIPT_RIVENHALL_ISH1_SESSION2 _04062024

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00:05

Okay, welcome back, everyone, it's now 1135. And I'm resuming for session two of the issue specific hearing.

00:14

Before I move on to Agenda Item number five, we will things noise, I'd just like to say thank you for those that participated in session one for for their contributions.

00:25

Okay, in terms of noise, we'll come on to matters associated with the methodology and assumptions used in the assessment first. And my first question is around the source noise data and the county council have raised a concern that there's insufficient information

00:43

and also raises a number of queries with regard to their robustness requesting the noise modelling files themselves, the applicant has committed to providing these in a deadline to submission. I just wanted to check when that's likely to take place and when the character Council we're likely to be able to consider those. Maybe if I could come to the applicant first place.

01:10

On behalf of the applicants, yes, you're correct. So we are going to share the one file as soon as possible article is hearing. That's it. Okay, fantastic. Thank you. And from the County Council's point of view, are you likely to be able to look at those by deadline three potentially.

01:34

Hi, Romans short hair reps in Essex. When was deadline 3/18 of June?

01:46

I'll be in Rome, but I'm sure I can find.

01:51

Who can assist that? That's depends when we get them. I mean, that's, that's, you know, if we get them next week, then we're going to be struggling as it late next week. If we get them this week or early next week, we should be okay.

02:05

Okay.

02:07

All right. Will send it tomorrow, then then tomorrow. Okay. Fantastic. Thank you. Okay, thank you. And the appellants response did also

02:18

answer some of the specific concerns that the county council had expressed about some of the assumptions or or the not understanding some of the assumptions. Is the county council managed to consider that responses yet?

02:38

Yes, so there is still some missing information from from within that. So we've asked for, within within the written response, quite specific information with regard to, in particular, how the source term noise levels have been obtained from the from the manufacturer. At the moment, we've just got values of face value. So we've got to take those as as read, but you know, we would, we would want to see how these were obtained. You know, the conditions, they were measured in test certification, that kind of things are basically evidence to cut them out. We just got a table of noise levels without much evidence as AI how they were obtained. So we would still be seeking that information. Okay, okay.

03:30

Okay.

03:34

Okay, moving on to my next question. The county council consider that the noise limits determined.

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Sorry, the applicant did you wish to say anything?

03:44

Yes, sorry. So yes, I just think on that point, and it should be. It should be noted that the noise source data utilised in the assessment of the auditing provided by the EPC contractor he themselves

04:00

to mark data of similar projects.

04:04

These levels were assigned that he lied in order to meet the consented night limits limits and also utilising a model commissioned by he lied. We spoke stated I thought through those, the nice data that was provided here, and then we use that in our own model to verify HMI predictions, they must be reiterated that

04:24

basically, it's also confirmed that he said I have to undertake performance guarantee monitoring to show the specified limits for the consensus team I met at the noise sensitive receptors. So it's really in their interest by far today robust data to ourselves, we spoke spoke with along the 28th of September.

04:46

Okay, thank you.

04:51

Okay, got next question was the county council consider that the noise limits determined in the consensus scheme. Were not

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suitable, as they were based on guidance for minerals workings.

05:05

The question of the county council was ultimately, do you ultimately contest that the consent scheme can awfully operate at the noise limit set out in the conditions of that existing consent?

05:23

So is the question.

05:27

Does the current DCO application would it be able to meet those consented noise levels? No, it's It's simply in terms of the existing concern, and ultimately, whether the county council disagree with the fact that it could lawfully come forward and operate within the noise limit set within those planning conditions, and therefore consequently form a new baseline?

05:51

Well, that's the essence is the basis of our argument is that we, we consider

05:59

the 2009 Inappropriate noise limits were set as part of that consented scheme.

06:05

To give some context to that the

06:09

the the noise limit set through that consented scheme, and through that inquiry, were actually originated in 1998. So you can see that the noise level limits on the original Bradwell quarry site still exist for the receptors now, so they're the same noise levels. So what what appears to have happened is that through through the due process, the inspector has seen that the predictions were well below those existing limits. And it would appear that he's is, therefore retain those sort of existing conditions, and pulled them through,

06:48

perhaps the appropriate approach would have been then to at that point, 2009, to move to a a more relevant standard, which would be the base form for two standard, and actually, at that point, set more relevant conditions, which could then that then would be, you know, tested against, and would be set now. But that that, in essence is our argument now is, if this was a fresh application in front of us now, we would certainly be pushing for an assessment against new criteria, as we'll come on to later, set those out. Okay, my question was in relation to ultimately I acknowledge all that, but is there anything that could legally stops the consent is given coming forward and operating within those noise levels?

07:36

Well, we're planning question. Yeah, I'm gonna say

07:41

someone else for message, I could jump in and answer that that would be appreciated.

07:50

That homily, and I did put my hand up, you might have missed it. Because

07:54

I thought there was a bit of a tougher, it is acknowledged that the scheme as permitted could operate lawfully, with with the currently permitted conditions for noise. However, in assessing the noise as part of the

08:11

as part of consideration of forthcoming planning applications, it's become apparent that it is likely that that noise limits some of the noise limits in those conditions could actually end up with a noise limit whereby there could be justifiable complaints from nearby residents that then the HOA would have to deal with. And so that is why our concern is to ensure that we have up to date

08:35

limit set on up to date guidance to ensure that we don't end up with a situation whereby there could be adverse impact on a nearby resident based on the existing noise limits.

08:46

In terms of the limited scope of this proposed development, is that is it appropriate to revisit that,

08:52

I just feel that this time, it would be not appropriate not to look at it because we are we are aware that there is potential for an adverse impact on a nearby resident and therefore there is a deep dish provides an opportunity to set limits that are more appropriate in accordance with current guidance and ensure there is an adverse impact on residents.

09:12

The applicant noted that the county council has not requested such a detailed be yes for for two assessment until now.

09:26

But there has been several section 73 applications made what why is the county council considering it relevant now and not not before?

09:34

I think it's fair to say it should have been considered in 2015. And it was an oversight it should have been considered against the the current guidance, subsequent section 70 threes have not been of a nature that would have impacted noise and therefore wouldn't a bit wouldn't have been appropriate to look at at the noise conditions. Okay.

09:54

We've obviously just heard that the noise limits you know,

10:00

imposed by the conditions of the original consent,

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were inappropriate or your county council considered them to be inappropriate. Did the contractor not considered challenging the decision if they were considered to be

10:15

the noise advice that we were provided for at that time did rely on mineral planning buoyancy guidance rather than 4142.

10:24

The thing to notice that that, you know, the circumstances have changed quite a bit now in the fact that actually, when the IWF was proposed, there was active minerals happening nearby the IWM f, now, the actual mineral extraction has moved significantly away. So the actual IWF is more isolated from the the minerals activity.

10:47

Okay, thank you. I think I'm probably just struggling emotionally with with the notion that ultimately the, you know, the the existing consent can operate within those existing noise limits lawfully.

10:59

And therefore, would ultimately,

11:03

would you agree would create a new baseline in terms of noise lawfully,

11:08

it just is concerned that although it will be operating lawfully within the complaining conditions, it could actually result in a breach of noise standards that would result in a complaint.

11:21

Okay, could I get the applicants thought on that particular point?

11:25

I'm keen.

11:28

Once I started that off, the assessment we have undertaken for the DCO is CF incentive scheme appears in line with consensus limits. And that's fine, it's fine. And, you know, what we stand by?

11:42

We don't feel that there's processes for sort of setting being utilised to be set new noise limits really

11:51

bad the matter is that the

11:53

most of elements is making more No more noise and the consensus scheme anyway and the change of valves being confirmed but making more than large generating aspects of the proposed relevant step by ourselves that just basically assessing to mean consenting.

12:26

Okay, thank you.

12:30

The applicant has set out that in their report is Question one, point 6.2, a separate section 73 application for the Integrated waste management, it is currently being prepared by the applicant, which includes an updated noise assessment, and an assessment in accordance with Bs 4142.

12:53

should ultimately be provided to the examination. And is that the same one that's been referred to as Essex County Council in local impact report?

13:14

Hello, I'm calling on behalf of the applicant, we are able to submit that application in the examination once it's submitted to Essex County Council. And it may not be submitted by the end of the examination. And so we would need to think through the practicalities of perhaps submitting that directly to the Secretary of State so mindful that you wouldn't be able to receive that thing. Your recommendation

13:40

is to bet directly, it'll just come down to tiny but very happy to share that.

13:46

Okay.

13:48

Ultimately, given it's an assessment supporting application, would it not be prepared before the submission of application? And could it not be provided to the examination before that takes place?

14:05

We think the application will be submitted in

14:10

theory is actually new for and we will share it as soon as it's ready. But we are still going through the EIA scoping exercise for that section 73 and associate application so we're still in a relatively early stage. So I'm not able to confirm exactly when the application will be readily ignored the assessment will take it away and we'll see if we can be a bit more of an accurate programme in our deadlines. resubmission.

14:43

I would not be able to say something from a legal point of view about that as well. I think if we did when we do submit it, which we are both happy to do. We will probably explain it a note covering note why Nevertheless, we don't think it's equally relevant to the determination of this the

15:00

ACO because any any conditions any requirements that you wanted to impose on this DCA would need to be necessary to mitigate the impact of the post development. Post Development. It's no change the valve allowing more electricity to be created. It's not going to create any more noise. So I would not see. Regardless, in fact, what that information were to show related to Section 73. If we submit it, I wouldn't see how that could be relevant to the determination of this application. If for some reason, it shows that the noise

15:36

muted noise be noisier than expected or anticipated that would be a matter for the

15:43

Town and Country Planning Commission, which is if it's said and made clear on the face of our DCM is going to continue to operate and control the development as it does now.

15:54

Okay, thank you.

15:56

Mr. Mansfield, you've got your hand up.

15:59

Yeah. So I just wanted to add that obviously, there's time constraints, such as reviewing the model, but reviewing a new noise assessment would impose some difficulties as well, subject to what that ultimate deadline would be for submission. But I just wanted to get out there. It's not a quick process to review.

16:16

An assessment. Noted. Thank you, Mr. Mansfield.

16:21

Okay. The applicants noted that the definition of the Town and Country Planning Act permission in Indian share includes any other variations there to whether granted before or after the date of the potential order. And therefore, Article Six of the draft DCA would require the applicant to comply with any amended noise conditions attached to any future section 73 Permission following such an updated assessment?

16:54

What's the view of the county council on such an approach, that that's in their view sufficient to rely on?

17:05

That on an Essex County Council, I mean, obviously, it would provide an opportunity to impose new noise limits. However, we have no control over whether that planning application is submitted, whether that planning application is likely to be positively determined or whether that planning permission if issued were to be implemented. So it doesn't really give us any surety that there'll be future control over noise

17:28

or change to the control over noise. Okay, any other thoughts or from the applicant on that particular point?

17:42

I think I've got nothing to add to what I already said in terms of ring fencing of the Town and Country Planning process, which is outside of what is appropriate. So they've been discussed and determined and conditioned as part of this DCO application.

17:59

Okay, thank you

18:07

okay, we'll move on to the cumulative assessment methodology in relation to particularly the dry silo mortar plant at Bradwell quarry,

18:17

the applicant has set out the cumulative assessment could not be undertaken due to the lack of third party data, and also that the dry soil and water plant benefits from intrinsic mitigation, which reduces noise levels at the closest sensitive receptors.

18:32

The applicant also notes that monitoring under planning permission, ref ES E ws 1220. BT e 22 05 has shown that the dry soil and water plant was not audible from Herons, farm, and baseline levels are dominated by Birdsong, aircraft and vehicles. Can I just check that that's the same monitoring data that Essex County Council referred to in its deadline to submission? And does the county council accept the applicants findings in relation to the noise from the dry mortars? The dry silo motor plant?

19:21

I'm not I'm not aware of it is the same noise monitoring that's been referred to in terms of the principles

19:29

we will still want to see what the cumulative effect of those would be.

19:36

I mean, if it is inaudible, then that would suggest the cumulative impact that well though there wouldn't be one. But I would, I would need to see sort of further evidence of that that has been undertaken. You know, it's like a thorough monitoring procedures been undertaken. And oral observations have been made on not just one occasion, but maybe a number of occasions, and then guarantees that the actual plant

20:00

was operating during that time. But if all those are met, then in principle, yes. So, you know, I'd agree that I wouldn't be a cumulative effect. Okay. Is that is that ultimately something that you and the applicant will discuss following the applicants? review of that monitoring data? Maybe if the applicant can jump in, as well?

20:21

Yes, that's yes, that's fine.

20:24

We can speak to Essex and garden. Now.

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We'll make another point that the predictive noise levels from the consented scheme at the most closest locations to the dry silo plant

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27 decibels, which is the way the load centre limiter 1442. So even if the partners across if a client was operating at its conservative limits, that was not big on the conservative side. Okay, thank you. Well, if I

could ask the parties to discuss, you know, those points slightly further and hopefully come to an agreement

21:01

with deadline three be possible for that?

21:09

Yes, from our perspective, that's okay. Thank you.

21:16

Okay, thank you, counsel.

21:18

I'm just a little bit concerned that because I know Rob has got leave whether that might be possible, but perhaps Rob couldn't comment whether he feels he might be able to manage that or not. But obviously, we will need to provide data. I mean, there is available data online as to when it with the dry stone and mortar plan has been monitored, whether that's adequate enough for the applicant to be able to demonstrate this to utilise as part of their community assessor. Rob might be able to comment, but I'm just a little bit concerned that I know he has got some leave on whether that might be an issue.

21:50

Yeah, so my, my leave finishes, I returned the 24th of June. I have three days this week, that I could review anything.

21:59

So we're not sure if that fits in with the deadline. It doesn't sound as if it does. But if we can get something with immediate effects, I'm sure I could review that pretty sharpish this week. Okay, thank you. Is that possible from the applicant? Source? I can see your hand up, I'm not quite sure who it is. You can potentially get somebody to sex. Yeah. Students possible this week.

22:22

Okay.

22:27

So Mr. Vijay,

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thank you so much dresses county council.

22:34

Given that obviously, noise is of paramount importance to all parties in relation to this, and to seek to to ensure that any consented development takes place without adverse impact. And also, given our noise consultants on availability, I would actually like to request that we put comments back on deadlines to deadline for if at all possible, quite clearly Mr. Mansfield's got limited amounts of time available to him

this week, because he's already explained to I think, deadline for maybe maybe we may be able to give you a much more informed comment rather than potentially a rushed comment, if possible. Thank you.

23:10

Okay, that's fine. Again, anything obviously, like I'm concerned about is deadline for you know, you're getting towards the end of the examination with only one deadline then afterwards, which

23:21

Yeah, is,

23:23

is tight. So I would just encourage, you know, as early as possible engagement on on those points, because it sounds to me as though there is possibly sufficient information to come to an agreed view, which hopefully, you know, wouldn't take too long. But yes, sir, making.

23:42

That's an excellent, thank you.

23:47

Mr. Mansfield.

23:51

Just wanted to add there actually,

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I think the risk of cumulative effects here is very low, given that

23:58

southern just said about the predictive level at that receptor being very low, you know, 27 decibels. So I think the risk is very low. And it's just, it might be there for quite a smooth process once I've got that information to process it. So if we can get it through this week, I I should be able to turn it around. Just put that way. Okay, that would be greatly appreciated. Thank you.

24:21

Okay, thank you. We'll move on now to

24:25

the sort of more assessment findings as it were.

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And Essex County Council has set out its own rating, noise level limit recommendations in table 1.2 of its local impact report for the sensitive receptors.

24:44

Now, notwithstanding, obviously, I'm aware of the applicants view in terms of the relevance of all of this, but I do have a couple of questions about what the county council have presented there. And the first one is why is the county council use the LA 90 re

25:00

It seems rather than the LA EQ T ratings to make its calculations, and ultimately use this justify given the noise limits are expressed in La que tu RT.

25:16

Okay, so we to determine the rating level, we first must look at the background sound levels, which are the early 90s.

25:25

So once we have that data and that's been provided, then we've processed that we determine a representative background sound level and from that we then impose a rating level or limit on top of that. So for example, we've, for the majority of the receptors, we have a plus five decibel rating. So if the background is 40, as an ELA 90 is 40, will then put a rating level of 45. So that's why the two are interlinked in that way.

25:54

Okay, thank you. Is there any observations from the applicant in terms of that approach?

26:04

agree the approach from Robert, we went further discussions about those limits of the outside of this hearing. Because I think there's a question there whether cinema appropriate we have some queries and pushing back.

26:21

Okay, thank you.

26:23

I mean, further, I didn't know that the local impact report determines that a maximum of 45 decibel is in line with relevant guidance would not result in adverse effects in the daytime rating.

26:37

So ultimately, in the daytime, for the lodge, to which I, you know, you understand is the sensitive receptor of concern for the county council is the daytime rating actually, therefore, a particular concern based on your own calculations,

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but the font the fundamental determiner for the base form for to assessment is first and foremost, what is the rating level exceedance over the background, that is the first point of call when you look at impact assessment, it then tells you to look through almost like a list at absolute levels, if your rating level or

and your background levels is very low. And we've determined that through our comments, which, which we determine that to be so we say,

27:22

based upon previous versions of the standard and based upon

27:27

advice from the

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various bodies I've quoted, know, the ANC, the acoustic noise consultants, that a low level is a rating level 35 And a background level 30. Now during the day, we're above those, so therefore the relevance of absolute levels is less. Hence, we were relied back back on the fundamentals, which is the the exceedance of the rating level over the background.

27:57

Okay.

28:04

Is there anything the applicant would like to say you're too I mean, obviously, if you just said you're going to maybe discuss those, the approach to the County Council and its local impact reports that further

28:15

mean, obviously I've noted that, you know, in terms of nighttime, there's a potential for a three decibel increase over background noise survey levels. Just really, if the applicant wish to say anything around that.

28:31

I mean, we will be in further conversations, I don't want to sort of say our approach and listen fine.

28:38

Limits, well, queries on how they're going to be set up during this hearing. We've all been contacted. So it's about five zero.

28:48

Okay, okay.

28:58

Okay, I will kind of just record that in the hearing action, if you like for the applicant to formally engage

29:07

with Essex County Council on that.

29:11

Okay, um, the cumulative assessment findings. Now, this finds that there's a potential adverse effect on sensitive receptor, Rs 03, which is Hayward's is there could be an exceedance of the noise limit. The states that this would not be significant in EIA terms.

29:32

But I'm mindful of the applicants reply to written question one point 6.4 Which ultimately accepts that any exceedance of the noise limits could result in significant effects or receptors. So I just wanted to ask the applicant if the finding is therefore justified in that regard.

29:53

I think it was a an increase exceedance by one decibel. So I think the the US took the view that the

30:00

It was fairly limited increase.

30:02

But I was just Yeah, the question is how that marries up with the acknowledgement that those noise limits are kind of maximums?

30:12

Yeah, so first of all, the increase in Munis assessment is actually the year.

30:20

Quality is the main

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nice consideration, and that's predicting a nice number 46 is already above one dB, that one dB is already back in the quarry alone.

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The predicted noise level from the proposed development is only had started 5.4, which is only adding another point for him with Sol Sol. This aquarium is the main sort of main

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source of causing exceedance.

30:44

At one dB, it seems it's considered

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as a minor or minor impacts in the what we've used in our EIA. It's not an audible change.

30:57

human ear plus or minus three copy is usually the minimum to maximum change, you can hear the human ear

31:06

I suppose

31:09

it doesn't exactly marry up with the comments. And then it seems to be

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maybe a, you know, an adverse impact on past that response to the limits.

31:24

Those incentives, suppose we'll consider the maximum maximum go to however small suppose and more smaller teams will be treated in the same way. And that will also depend whether that's daytime or nighttime because

31:38

residential services are more sensitive and non

31:43

kinky with cans cat so agree with that position.

31:51

The limits are limits. I mean, I would I would contest

31:57

I would contest the fact that we should be able to exceed those limits because fundamentally, they've been derived for the reason not to exceed those limits. And in theory, going above those causes, undue effect impacts etc.

32:11

On the other hand, though, I completely agree with what Mr. Sutton is saying there that the noise levels from the IWM F on Hayward's is well below that predicted from the quarry existing quarry at the moment. So therefore, that that that exceedance that you see is actually due to the quarry itself not not from the IWF.

32:33

Okay, taking that kind of lining, you know, that that into account?

32:39

Is the approach to cumulative assessment. So ultimately to blame it on the other development, or should mitigation be considered given this is ultimately coming after the operations of the quarry

32:55

going through the applicant plus.

32:58

I mean, it's noise mitigation, that incentive scheme will make any difference to the outcome of that community assessment.

33:07

I mean, I've said 30, environmentalism 46.4, but we would ramp that down. Or we present that in a four point yes, about granted to 46. So any basically any mitigation incentive scheme and making no difference that means

33:27

it's

33:33

it's been your point that no mitigation is possible. Couldn't acoustic barriers not be put around the sensitive receptor? That would be mitigation when

33:42

it's not, not if it's not possible, it would remain if we mitigated the noise from the consented ski, it would make no difference to the community level at the at the Hayward's because the exceedances down to the quarry loading

33:58

point or the decibel, which is not adding anything to the winter do plant inquiries for a tonne either from the quarry load.

34:08

In fact, the pit igniter from the incentive scheme alone is 10 decibels below Hello. So Tivoli payments, what better way to get

34:21

in the way or just chip in the way that always works. I was being told this does not additive or they want the louder noise essentially to drown out. Oh, yes, it's a logarithmic

34:32

scale. So to noise assays for say six to nine sources of 80 decibels it would have been 60 decibels could be at three decibels

34:43

because the quality is so much noisier than Yeah. So the scheme is contributing quite poor but so far, it's not changing the conclusions of the music assessment. One decibel increase because that's what we presented to in the s one this will be

35:00

trees down to work

35:08

maybe the County Council could help here what in relation to noise controls either from the quarry itself?

35:16

Maybe a planning question for

35:19

you Yeah. The the quarry is required to monitor noise and the quarry has monitored noise and in terms of the sense receptors that are have to be measured. The the current quarry operations, which are to the east of IWF have been in compliance with the planning conditions

35:43

and we've received no complaints with respect to noise. Okay, so the noise

35:49

sorry, the noise levels allow from the quarry therefore higher than what they are from the consented scheme in this case, that the noise levels are the same for the quarry and the IWM F.

36:01

Right, okay.

36:07

So, limits per se. Yeah, sorry. Yeah. Sorry. Apologies. Yes. What's the Noise Contribution? Not soon? No, no, no, no, sorry, the noise limit says in the conditions.

36:17

I mean, all I will say is what I took from your submission. Thank you.

36:22

What I will say is that the assessment for the quarry, that 46 prediction, which we've lifted off of it, we have success, and we've been based on our worst case situation where we will find with working approach. So let's add monitoring now. But again, but again, find it within those first three minutes.

36:41

Okay, thank you. That's been useful. Thank you.

36:45

Okay, just moving on to the last matter associated with noise.

36:51

The county council has raised concern that the requirements set out in the draft is to do not require the monitoring of noise levels.

36:59

My question for the county council, please is is this actually necessary, given the measures that were already secured in the planning conditions for the existing concern?

37:16

We I mean, there are conditions on the planning commission, that quiet monitoring, but in the draft DCO, we've suggested amended noise monitoring, limits at noise lit maximum noise limits, and also additional monitoring to ensure that there is nighttime and daytime monitoring in accordance with modern standards.

37:37

Okay.

37:39

Any reply from the applicant on? What's been just proposed there?

37:46

No, that's fine.

37:49

So we don't want to

37:53

sorry. I see. I think I think it's about a point of principle again, if I might, I think you know

38:00

how we actually planning commission we think it's really important important for assets as well and ourselves and for clarity that it is what it is it's ring fenced to add to it. Some certain requirements to this DCA, was kind of muddies the waters between what is a clear

38:18

principle two, our approach here and what it's appropriate and legally compliance, the mitigated which is just the impact of the proposed development here, which is the valve change, which isn't actually going to create any little noise. It doesn't actually change the font in that composition, but consented skis

38:41

Okay, thank you.

38:44

Anything I shouldn't counsel counsel in reply to that?

38:51

No, thank you. Okay. Thank you.

38:54

Okay, anything else at all in relation to noise from anyone before we move on?

39:03

No, okay.

39:05

The next thing on the agenda was the lunch break, but we have rattled through quite quickly. So I suggest we move on to Agenda Item number six before lunch.

39:16

If no one has any objections to that.

39:22

No, okay. Well, we'll move on to general miscellaneous matters. And my first question is around environmental permitting. And the county council has noted that the Environment Agency has indicated that there may be a requirement for an amendment to the environmental permit. If elements of the integrated waste management facility are not developed and operated. Now the enforcement agency has written in which is rep one dash zero 20 and confirm that no alterations are likely to be needed. Has the county council seen that?

40:00

plie does have any further comments on it?

40:05

Yes, we have seen that reply, it was just that when we dealt with the discharge of conditions 66 and the applicant set out that they might not develop all elements of the IWM F, they stated in that response to that application that there might be a need for variations to the environmental permit, if not all elements were operated when the energy from plants start to operate. So that was where that comment come from. But if the Environment Agency have confirmed in relation to the DCO, there might not there might not be an environmental permit variation, then, you know, we accept that, but that was their comment when we originally consulted them on the previous application. Okay, thank you noted anything from the applicant on that particular point?

40:53

Oh, yeah, so Steve Nelson on behalf of the applicant,

40:58

there is one

41:00

specific point in the permit that does needs to be varied

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if the power plant is not operating on the site with the E W plant is operating.

41:10

This is because the power plant uses quite a lot of surface water. And in the permit for the IWM F it was ever assumed that all surface water would be used and they'd no been no need to discharge any surface water.

41:24

As the pot plant is not going to be operating at the time the W starts to operate, we need to add a discharge points. And I believe there's been a non material amendments that planning, which similarly add that point into the planning. So it's a small variation, but there doesn't need to be a variation

41:42

until the plant is operating.

41:45

Apart from that, we agree with the see that if elements of the ideal do not operate, that doesn't mean me we need to vary the permits that permits give permission for the mods to be operated, it doesn't require them to be operated.

42:03

Okay, thank you. Counsellors put your hand up.

42:07

Just Just to clarify and there is a non material amendment to allow water to be discharged from the site, but that is only during the construction phase of the IWF. Because no water is already limited water is needed apart from dust suppression during the construction phase, but we will have to reconsider that non material amendment when the when the construction of the energy from waste plant ends, because it is only a temporary non material amendment.

42:33

Okay, thank you.

42:36

Back to the African, please.

42:38

In terms of the

42:41

potential for that to happen, you'll probably be expecting my question are about any impediment that that could potentially cause? So can I get your thoughts on that?

42:55

So the

42:57

that that that need for that variation, essentially doesn't impose any environmental impact would be to discharge on contaminated surface water. So there's no reason that should cause an impediment.

43:19

Okay, thank you, will the applicant update the relevant documentation to make that clear that a revision to the permit is likely to be needed, because I

43:32

can't remember the reference off the top of my head. But there is a document which sets out what other things need to be done. So it sounds like that needs to be updated. If I could ask you to do that.

43:44

Update the other consensus licence, it shuts off that deadline threatened.

43:50

So I could just make a point, we can definitely make that point. But I don't see that.

43:57

Again, this application for the vowel change isn't driving the need for that permit variation.

44:05

As you can see, the variation is needed just if the Fw operates alone, which is something which we can choose to do or not do under the currently consented skied. So it's kinda like, it's not directly related this issue to GCL application for the post development.

44:24

But yeah,

44:25

that's in our submission. Yeah, that's absolutely fine. Thank you.

44:32

Miss Thomas. Thank you.

44:36

Yeah, the only point I'd make is is that if the energy if the

44:42

paper pulp plant were to be developed, then the heat and steam that would be needed for the paper coal plant would actually probably mean that the the energy from waste plant couldn't generate more than 50 megawatts of electricity. So there is a relationship between the paper bulb plant and the

45:00

The outputs of the energy from waste plant.

45:03

Okay. Okay.

45:07

Anything else from the outcome?

45:12

Thank you.

45:14

Thank you. Okay, we'll move on to the Emergency Preparedness and Response Plan.

45:22

Ultimately, that was provided a deadline to by the applicant. And it was just a quick question about whether ultimately compliance with that should be can secured in the draft department consent order. Because I believe there's nothing in there that ties it to the Town and Country Planning Act permission.

45:45

It's a requirement of the

45:48

construction design and management regulations 2015. So we feel that there is already sufficient control of that,

45:59

that document which already exists, and therefore we don't see a need to duplicate that requirement, which isn't the job to do.

46:08

And we will pick this up with Mrs. may separate, he's done consciously stop here, just to make sure that she's aware of that we'll do that outside of this mistake.

46:20

Okay.

46:22

So as to where the spoke, emergency preparedness response should be prepared specifically for this proposed development? We do not consider it's reasonably related in scale or to the nature of the proposals, nor will it make it acceptable in planning terms, and therefore we don't feel a fresh plan is necessary nor an amendment to the existing plan.

46:48

Okay, okay.

46:50

And he talks to the county council on that position.

46:57

No, no.

46:59

Okay, thank you. I didn't know that the Essex County Fire and Rescue Service were here earlier. And I wondered whether they might be have anything useful to say, but I've got a feeling they may have left. So I'll maybe direct your written question to them about whether they have any thoughts on on this particular matter.

47:19

Okay, thank you. Moving swiftly on then, in terms of the ambulance service. Again, I was going to ask if they will present to reply to the applicants reply to their concerns,

47:33

in their absence could ask the applicant whether any further discussions with the ambulance service has taken place, about their concerns, and whether there's likely to be agreement before the end of the examination.

47:47

We are hoping that there will be agreement ahead of the code of the examination, I think is most recent submission, they do accept that these engineering labs are unlikely to have a material impact on its operation. And so we're hopeful, but we didn't get

48:07

to the brigade statement of common ground already dead letter confirming that between the parties.

48:12

Okay, I know is a hearing actually, again, just to to, you know, engage with with them in the hope of reaching agreement.

48:21

Well, thank you. Thank you.

48:28

Okay.

48:32

All right, we are quite ahead of schedule. So I think we will continue to push on.

48:39

And the last substantive sort of matter to discuss today is Item seven of the agenda which is in relation to the draft relevant consent order.

48:48

And my first question is in relation to

48:52

the potential for a cap in energy generation to be imposed in the draft DCO. Now, the applicant sets out in their response to written question one point 5.2, that it's not of the view that what is required is there would not be any environmental impacts from doing so.

49:12

And the county council over the position that there was one isn't necessary. So really just like to ask the county council, what additional environmental impacts are they have the view could result from more than 65 megawatts being generated from the plant?

49:29

I think we would need assessment is based on 65 megawatts. So the environmental impact assessment has been based on that it hasn't been based on a higher level. So I consider you know that the the application is for 65 megawatts, not more than 65 megawatts. And while I appreciate that the planning permission limits the amount of waste and the traffic movements into the site that will control the amount of waste that goes into the site.

49:53

You know, we're considering this DCO now on what is national and local cloud compelling policy now

50:00

An environmental impact assessment Regulations now, in the future they may change and what environmental impacts need to be considered for an increase belongs 65 megawatts may be different. So it doesn't seem appropriate at this stage to not have a limit based on what is has been assessed currently, you know, circumstances may change, and

50:22

an output of more than 65 megawatts may require a different consideration.

50:27

Okay, thank you, Mr. Wood. Joe, would you like to add to that?

50:32

Like so, excuse me, not witnesses county council, just draw your attention to the applicant submission with a reference a PP zero to nine. So this is the the assessment of alternatives. And I note the comment that you made earlier on about India, but not thinking that the capital necessary, just take you take you to paragraph four point 4.3 of a PP zero to nine, where the applicant states, the turbine proposed to be installed under the consented scheme as a maximum output potential to generate electricity greater than 65 megawatts, a larger turbine and generator is likely to be required, this will require a significant change to the consented building envelope.

51:19

Therefore, if we were to go above 65 megawatts, I contend that this may result in significant changes as necessary by the DCO above 65 megawatts, which you do not have in front of you to consider at this time. So therefore, I'm what we would ask you to do is to put a 65 megawatt limit on it, because that impact of anything above that at the moment in time is not proven. Thank you. Just Just if you just didn't know, Mr. Would you just for a second, on the last point about it would require significant works, would that in itself require further permission?

51:58

I would consider that to be highly likely. So whether or not that comes forward in in the on the basis of a planning application for for changes to the building is one thing, whether or not it requires another DCO submission to take it above 65 megawatts is something completely different. So it may be a combination of the two or a future insert proposal.

52:22

Okay, thank you. Anything from the applicant? And, Mr. Wood, you made the point about alternatives. And I was also going to ask a question of the applicant about the considerations of alternatives by the proposed development and ultimately, if there was the potential to generate more than 65 megawatts, should it have been considered as an alternative in yours?

52:50

Thank you, the applicant.

52:55

Yes, I suppose, frankly, a bit slightly puzzled by what the planning need to impose a cap of any description would be the reasons that we've set out in our in our submissions.

53:09

In summary, because there won't be any further environmental impacts and adding on the number of electrons laying down wires. If we did want to generate more than 65 megawatts,

53:22

yes, it's likely that we would definitely need to make by seeing another application for physical development, which would need to be either a variation to the DCR application to apply, or, more likely a submission to assets to bear in the planning commission for the physical development. The approach that we've taken to the assessment was to assess just to state and to be transparent about the fact that we are assessing at a design point of the turbine, which I understand is 62.37 megawatts, and that represents the average power generation likely, the desk recognises that in practice, the amount of energy generated will fluctuate. And in general, expected level of fluctuation between 60 and 65 megawatts

54:14

fluctuates around the design point. I think that's not to say that, you know, in certain circumstances, it might not be 65.1 megawatts. But

54:27

we don't see that that would make any difference it wouldn't that make any difference to the environmental impacts. And hence, we can't see the planning justification to apply a requirements capping at 65. When the only effect that would be that any slight increase, though that fluctuation then be an offence for no good reason, if you like, and I suppose I might, I might go so far as to say, would it not be of benefit

55:00

LM to it. If for some reason I'd actually don't think this is possible, but save save bargeman. A few more mailbox work has been generated in future by some efficiencies internally to the workings of the plant.

55:17

I can't see that that increase in Benjamin Pitt, and I'm more electricity created through the same impacts the same time, it shouldn't be anything other than just simply a benefit, there'd be no further detrimental effects. Therefore, planning terms, I don't see the justification for account.

55:35

Okay, to turn back to alternatives

55:40

is the potential given that the US doesn't assess an alternative above 65 that the if there wasn't a cap, it would run afoul of the EIA regulations.

55:53

So, BIA regulations require us to assess the reasonable alternatives that the applicant studied.

56:02

And in chapter four Ps, there were two alternatives which we explained that we did study. So one was a lower capacity valve. So carry out works to be inlet control valves to increase the capacity of existing generating station to a lower capacity than with the design point, so less than the 60 megawatts. And the other alternative that we said we did consider study was installing an alternative turbine a different

turbine than the one we are going forward with, which has a design point that bumped 65 megawatts. So the fluctuation would be 65 and beat the average and we fluctuate around that. So we considered that and then there would have been associated design changes to the envelope of the building for that either of those alternatives are the ones that we actually went both, they reassessed what we're actually getting to gain for which is

56:56

a turbine with a design point of 62.37 and the fluctuation and likely to be between 60 and 65. Around that

57:06

design point.

57:08

So therefore, the potential to go above 65 hasn't been assessed in the year so as an alternative as

57:17

of this of this scheme. Now, that tells me what it is. It's, though further impact. That is the that if it were 100 megawatts on the same turbine, which isn't technically possible, there would be no further environmental impact of 100 megawatts, because the input is still exactly the same. The noise is exactly the same. It's we've not we've not as fair we've not assessed it, it's not likely we have assessed what the

57:44

what we what likely ranges, which is 60 to 65, but plug that will not have a different environmental impact. But that's not so certainly yes. That was a that's a verbal submission to this hearing now.

58:01

Me correct, as we put Smith at a technical date that would confirm that and which inform half the environmental statement. If that is it could be further environmental in relation to confirm that. It's a matter of common sense, I suppose. But we can we can have that. If that'll be helpful.

58:22

Can I get the County Council's thoughts on that approach?

58:28

Thank you so much, Harris County Council.

58:32

You've indicated already today that we're starting to hit sat now in a hearing where we're looking to do your time fulfil your timetable, and you've already indicated that, you know, time is precious on this.

58:49

You would, presumably in Davao would have to change the environmental statement in some way, shape or form in relation to this potential addition over 65 megawatts.

59:02

We'd have to wait and see what was submitted. Before we gave you a form of view as to whether or not we think it's either appropriate or we can we can respond to give them timescales. My comments that I'm that I immediately that are made to you, in the first instance still apply here. And I note your comment that 60 development over 65 megawatt has not been set out in the environmental statement. And the devil is really going to come down to it in the details. So this, you know, we are going forward on the basis that this is 65 megawatts and limited to that that's what the that's what the appellant has already was asked for. Yes, it's not unlimited within the DCA and we'll talk about that in a while. We would respond to it. But I think if you're actually fundamentally changing the description of the environmental statement, we're moving into quite difficult waters with with regard to assessing the appropriateness or otherwise of that given the timescales that you've been there with that we can thank you.

59:58

Thank you

1:00:01

Is the applicant got any idea of what sort of level of work would be required?

1:00:07

And

1:00:08

that very little work as it just seems my colleagues here have exactly put in the technical name, which technically would be further environmental information. I can't imagine it'd be more than a page also to confirm what I've said already, as I understand it, you know, it's highly unlikely that this turbine that we've got go much above 65, I'm on display and status just in cold weather that it might possibly go just above 65 megawatts. And so we can put that down in a in a technical note, which will form part of the environmental segment, and I don't think we'll take anyone very long to understand. Okay, well, given what you've just said, Why is the applicant opposed to having a cat?

1:00:55

Job? I think so Steve knows them for the update. If there's a cap of 65, it means that it's illegal to go above 65. That simply means that there's a situation when it happens, the plant happens to be running. Well, it happened very cold. So there's that pressure from turbine is very low in Eclipse, obviously, despite wanting to put it up again, to stop that happening. But it's been deliberately generating less electricity. It isn't. That's the only real reason. I think, is that and I think it's recognising that there's been other recent DCA decisions that have been sought. See, to limit the megawatts, there's a there's a national benefit to generating energy. And if that can be harnessed. Well, and there's no additional environmental impact that

1:01:43

then I can't, I can't from a planning perspective, and just to sort of practicality, I just can't see the home. Yeah, I would agree. And I think the question more should be on the on the other side, why is what what would the planning justification of imposing that be they get the sake of argument, say in future, there are some internal tweets which the app which either wouldn't counters development or workout was permitted development, that could be done to generate more electricity from exactly the same tonnage coming through, so that a few more megawatts could be generated? It would seem very strange if the applicant was required to

1:02:24

submit a change to your DCO go through this type of process, again, material variation, or non material variations, the DCO, simply to get a few more megawatts, which, as my colleagues have said, would be a net benefit to the UK with absolutely no further environmental impact. So it's, it's sort of rather a point of principle and we don't understand the justification, we can only see the benefit of not having a cap, and we don't think it will, it will not we can confirm it and writing, it will not change the Assessment, Environmental Assessment outcomes that we've set out.

1:02:58

Okay, thank you, couch, couch. So you've got your both you've got your hands up, don't mind who jumps in first.

1:03:07

I was just going to make the point that, that, you know, the most recent slough energy from waste plant has a limit on it, it was obviously considered appropriate with respect to that DCO, which was of similar energy from waste plan to have a limit. If you don't have a limit, what's to say that you can generate 80 megawatts of electricity? And while I understand that, the argument is that based on the current controls in terms of waste inputs, that they wouldn't be in further environmental impacts. I just feel that it's appropriate to limit it as what has been proposed at based on what is the current guidance and policy and things could change.

1:03:49

The other details I think Carly was referring to were solar farms, which is a very different set of circumstances. I just don't think there are appropriate examples to refer to.

1:04:04

Okay, mister, would you would you like to I don't think before we go back to the applicant. Thank you so much. We're just going to council. It's just county council are not moving away from us our stated stance that the use of this the use of this facility for the maximum generation of power is acceptable, because quite clearly is. You've heard evidence this morning from our climate change team to indicate that what we're talking about here is you being able to be make a decision on the evidence that's been presented to you at DC. The evidence that's presented to the DC at the moment quite clearly indicates that the producing over 65 megawatts could give rise to environmental concerns. That's my point. I've never said that twice. I don't think and my colleagues will shoot me down if I'm wrong. I'm don't think that as each county Councillor are of the opinion that if the if the applicant was to was to

1:04:56

exceed 65 megawatts for a period in any particular given

1:05:00

quarter or so of the BI yearly amount that there will be a significant breach of planning control. But we will we would still like to see that the average yield this is no more than 65 megawatts. Thank you.

1:05:14

Okay. Just in terms of the proposition to the county council,

1:05:19

ultimately, if the outcome was correct, and there would be no additional environmental impacts.

1:05:26

Would the county council accept that that would only be a benefit to produce more energy

1:05:31

isn't just in simple terms. Thank you so much, Essex County Council providing we have a we have a robust evidence base to suggest that then of course, because there would be no planning impact.

1:05:44

Okay, going back to the applicant, please. Any thoughts on what the county council have just said?

1:05:50

Just thank Mark for his verification and confirm we'll make a submission deadlines vary.

1:05:56

Okay, in terms of additional information, is that? Yeah. Okay. Could that also just request that considers you know, any potential issues around consultation or my, you know, information?

1:06:09

Of course.

1:06:10

Thank you. Okay. Thank you.

1:06:25

Okay, thank you. We'll go ahead turn to decommissioning now.

1:06:30

And I understand that the existing consent does not have any requirement to provide information in terms of decommissioning.

1:06:38

I note that the county council consider that a requirements should be put on that addresses that I was just interested from the County Council's point of view why anything wasn't

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imposed in terms of the conditions of the existing concern at the time.

1:07:00

I think it was because it was it was going to be a permanent facility and the thought of decommissioning unfortunately was missed. A concern is that, you know, while there is a requirement for decommissioning as part of the permit, that is really only to ensure that it's clean and safe, you know, pollution control issues, it doesn't look at land use planning issues as to what would be left behind in terms of turbines and plants and the beneficial reuse of that land in the future. And therefore, the DCO provides that open up opportunity to require decommissioning plan.

1:07:32

Okay, thank you.

1:07:36

I can tell you the applicant, please. How does the proposed development meet the requirements of MPs em one, particularly paragraph 4.23. In relation to weather, which states that the US should assess decommissioning as part of a development?

1:07:57

Thank you, sir. Yes, Kathy. Now, I'm saying so paragraph four. Point 2.3 refers to the environmental, social and economic effects of decommissioning is no closure plan under the environmental permit will control the environmental effects of decommissioning. The proposed development will not result in any additional social or economic effects than they compared with the incentive scheme.

1:08:22

This is clear from the nature of the proposed development, which is a change to the valve only. So we consider it to be dealt with under another regime, namely the environmental regime, and that will be known as the duplication in this consent.

1:08:41

Okay, I guess it probably comes up to the same point. We've just had a social and economic effects. I mean, that's not been assessed in Yes. Is that

1:08:49

That's a verbal submission to the hearing today, in the same manner as the previous discussion we just had.

1:09:00

But I think my point is simply that there is a closure plan under the environmental permit already. So it's all theirs. It's already covered just by a different regime.

1:09:14

And yes, I suppose I can't see I mean, I would have thought it gets it goes back to Catherine's earlier point, I think in the oldest application seeks to do is change the valve, all other controls under the existing planning permission, remain and therefore it feels

1:09:36

not, not the right path to have considered decommissioning. Nor had anyone requested decommissioning be assessed through the scoping stage. I think that's really unfortunate, but also Pacific. I think that's

1:09:53

self evident, but that actually there won't be any additional social or economic effects.

1:10:00

through this valve change which of all the proposed development is about.

1:10:05

I mean, it obviously were kind of in the Planning Act 2008. Now rather than a Town and Country Planning Act, and does that in itself mean, particularly the requirements of the MPs, which wouldn't have been, per se, considered when the existing consent was granted? Is that in itself grounds to have a requirement, which requires a closure plan as part of the draft DCA?

1:10:35

I mean, we say no, I think two points really,

1:10:40

as I say it's covered by a different regime. And I think the NPS is a really clear that where something is we are to assume that other regimes operate as they should to control things within their remit. So environmental permits already got that covered in our view. And I don't I think opposition's as it's probably quite clear, and throughout this is that

1:11:03

there is already a town planning consent, which carefully considered and controlled all of the actual effects of this proposed development. And there are no further impacts,

1:11:17

which will be created, just find this valve increase, which of all the proposed development is, and so we can't see there's any additional impacts, but you can troll under the NPS.

1:11:30

Okay, the county council reference just now that it won't consider land use matters. Good to get your response to that the closure about in terms of the closure plan, under the environmental permit won't consider land use matters. Could you just reply to that point directly, please?

1:11:46

That's correct. The closure plan under the

1:11:51

permanent will just

1:11:54

seek to address the environmental matters set out by those regulations. And we don't disagree. But that doesn't mean that we feel it's necessary to have a closure plan specifically for this DCI, they don't go hand in hand in that in that film. And

1:12:15

we can provide some further Britten's submissions on vacation that feel helpful. And referring back to the Yes. And sorry, the NDS and also pulling together the submissions that we will have made under the EIA scoping exercise that

1:12:34

all parties have agreed to we which when combined with that's probably the easiest thing for us to do for you to draw yourself to was okay, that would be useful RNA to damage another hearing action.

1:12:59

Thank you.

1:13:04

Okay, when we want to the section 106, or the existing section 106 agreement?

1:13:11

Yeah, because of the view that the definitions used within the, the section 106 In terms of waste management facility, particularly and also development and beneficial use are ultimately sufficient to kind of catch the proposed development. So therefore, a new or revised section 106 agreement isn't required. Is the county council. Does that. Do you agree with those submissions from the the applicant? Collect on Essex County Council?

1:13:42

The original section 106 specifically refers to the planning description of the original planning application. So I'm not sure I would agree that it's that broad, and we have in every section 73 that we've dealt with since had Add Variation to ensure that the section 106 remains associated with the planning permission. So I am concerned that without a deed of variation to that section 106 If a developed consent order were granted, it wouldn't be associated with section 106.

1:14:12

Thank you,

1:14:15

anything from the applicant in response?

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We will follow this up in writing but the quite simply didn't really understand the need for a variation to the section 106 And that was say this application set relates to a valve it doesn't change.

1:14:44

Anything we there is a beneficial use. And the definitions of development, waste management are all tied to the planning permission under which we would continue to construct and operate the plants and

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it's the

1:15:00

because we just can't see the need, but we're very happy to follow up with Claire. And Mark outside of this hearing to try and trembles about. Very interesting. We have actually made a submission in writing solely just to remind you that not sure we were doing now this submission, actually, we did one. It was our response to question one, point 5.5. But then, of course, it bugs me, but in simple terms, yeah. The key definitions of beneficial use, waste management skills and development are not tied only either to the existing particular planning permission or to the specific electrical output flag and we have put this in writing. But to address this NIMS point, definition of beneficial use does refer to the Town and Country planning permission, but the way it refers to it is not problematic for capturing DCO. Because it just uses the phrase it says, For the purposes beneficial use for firstly, for the purposes permitted by the town of by the town planning permission and the purposes and permitted by the Town and Country planning permission is a generating station producing electricity, heat and steam. So we've still got Generating Station producing those things. So we're very clearly caught by the existing terms, the existing section 106, without any need for further document.

1:16:28

Okay, thank you.

1:16:30

Coming back to the couch, couch, please if you take in any sort of legal advice in terms of the appropriateness of the existence section 106.

1:16:42

We haven't at this stage, but we will do before the next deadline. Okay, thank you. So I've altered the hearing action slightly to say that the parties would engage further in, you know, the consideration of the acceptance acceptability of the existing section 106.

1:17:01

Thank you.

1:17:02

On a related matter, I know, the county council consider that a new section when it will do a variation of the section 106 is required to secure funding for education or training skills, and offsite air quality monitoring.

1:17:20

I think I'm aware of the applicants kind of position on that, that those aren't required, but I'm given they were reiterated a deadline to I just wondered if the applicant wish to add to anything that they've already said.

1:17:36

Thank you call events on behalf of the applicant. And we're very mindful that planning obligations need to be directly related to the development make it acceptable in planning times and be fairly and reasonably related to the scale and client of the development. We do not accept that the requested training and monitoring meets any of these tests. And therefore we don't agree with the county council that a deed of variation is required. And we did set out our response to the question in the queue one,

1:18:10

point 2.2.

1:18:12

We don't feel that the educational the requested educational benefits are necessary or related to the proposed development. Nor would there be any significant adverse effects which require mitigation. And we are mindful in you will see when you visit site on Thursday, the Woodhouse farm complex, which will include a visitor and Education Centre, and that's all secured as part of the consented scheme. And therefore, we don't feel that anything necessary. Anything further. So isn't necessarily related in relation to this proposed abandonment before you.

1:18:51

Okay, okay.

1:18:57

Okay,

1:18:59

the county council also suggested several changes to the draft this year in its deadline to response.

1:19:08

Now, we've discussed some of those in relation to the potential for a cap in terms of noise levels, etc, etc. Is there anything else that the applicant wish to say in relation to any of those proposed changes that we've not kind of touched on already today?

1:19:27

Okay, thank you, sir.

1:19:30

I think we could deal with the definition of the the TCPA commission.

1:19:36

So in terms of that, we agree with reference to non material amendments to this definition. So we're happy to add in rapid non material amendments to the definition of the TCPA ignition. However, we don't agree with the proposed update of what we'll call the recognition from AFS 3415 beats

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VA

1:20:01

from 2016 that we'd like to entertain that rather than referring to the permission the ESS 3923 BTA.

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This there's a pending section 33 variation of Ess 34 Per Diem btw awaiting determination by ethics. And if the definition is updated as proposed by ethics, then any permission granted pursuant to that pending application wouldn't be caught by the DCO. And I think we all want it to be caught by the DCA. So that's just to explain why we're pushing back on that.

1:20:41

And in terms of I think, Essex also suggested that we deleted reference to any variations granted before the date the disorders. And just to explain, we don't agree with that, because we are not none of us here in history and in control of when your does actually granted relative to an admission I just talked about is granted. So I think we would all want the definition of TCP ignition to capture that ignition, I was just talking about regardless of whether it's granted before or after the date of this order. So I'm hoping that that isn't controversial. I think it's just to explain why I think our definition works well as it is.

1:21:29

Okay, thank you. Is that all the comments you have on on? Oh, sorry.

1:21:36

Sorry. That was probably, if you've got a long list, then maybe we'll do one by one. But if it's only a few points, then then I'm happy to hear them all from you now and then ask the council. But

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I think I've only got one more actually, because

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noise opposition on that being that we shouldn't be dealing with it. And I didn't see it. So then in that case, I think it's just Article Six, which Essex has proposed, which provides that the development,

1:22:08

that development, zero to what's normally known as dropping permissions granted and recessed within the order limits shouldn't constitute a fraction, DCA. We don't think this is necessary. And slightly positive. It's been proposed, because it's normally a sort of draft in the applicants proposed because they think it will help them in future to be able to drop in planning permissions within the order limits. If that's something that they want to do. I don't really see why ethics is

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wanting it. And when I say if they are seeking to help us in future, I think opposition isn't we don't need that help. We don't think that it's necessary. If we worked it as several times that DCO is only in relation to a very tiny part of the site, the valve area, and we can't see if we were to do any sort of Planning Commission's but other areas of Besides, we would have to comply with all planning controls, the hillside case and all of those to deal with overlapping consents in the normal way that any, anyone any developer does, and we're happy to connect that said, we don't really see the need for articles IPs in summary,

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feed that was my only response if we're not going to deal again with Article Seven and noise requirements. Okay, thank you. Okay, county council, please. Do you have any reply to those points raise. Thank you. Claire, Tomlin Essex County Council and I just had one of one point on the change of planning reference. And this to be fair, maybe slightly, because there are more than one planning consultant involved in the revenue site. And that is we've actually agreed with the agents that do or dealing with the outstanding section 73 that the description of development is actually amended to refer to the new planning consent 39 of 23. So that if Oh, 202, which is an outstanding planning application, were granted it will be a variation to 39 of 23, which is just a sort of a minor techie, but but I do understand where their position is, but perhaps they could have a chat with the other planning consultant and and discuss that point.

1:24:24

Okay, thank you. In terms of the other points raised, do you accept the applicants position in terms of those are? Well obviously we would, in terms of the various suggestions we've made in terms of decommissioning and noise, we would obviously prefer to see those changes included on the point of drop out and drop in permissions. I'm not happy to accept any change if they feel it's appropriate. Okay, thank you. That's useful.

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Okay. Anything else from me up to can?

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I suppose just just technically, Essex

1:25:00

also proposed a change to Article Seven

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compliance, the TCPA commission and requirements they just added on some tabs talking about yes, you have to comply with the existing Planning Commission, but also the new conditions that they propose that boosts we don't believe that any such additional conditions are necessary or appropriate. So we'll be deleting that in our draft

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that day, that's all Thank you, sir. Okay. Thank you very much.

1:25:31

Okay, anything else on the draft? DCO at all from anybody.

1:25:39

Okay, but we're running very ahead of schedule. So that really concludes the substantive matters for discussion for the issues that we're hearing today.

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I suggest

1:25:51

we'll have a short adjournment now. So I can you just tidy up the hearing actions for me to run through those after the short break, and then I'll carry on to then close the hearing. So we will adjourn now for 15 minutes. So we'll come back at 315 and I'll run through those final matters. Thank you