

Indaver Rivenhall IWMF DCO

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure)

Regulations 2009

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

Applicant Deadline 3 Cover Letter and Submissions

Document Reference: EN0101038/APP/9.3.1

Revision Number 1.0

APFP Regulation 5(2)(q)

18 June 2024
Indaver Rivenhall Ltd

Leading the field in
sustainable waste
management.

Our ref: Q220592
Your ref: EN010138
Email: carly.vince@quod.com
Date: 18 June 2024



The Planning Inspectorate
National Infrastructure Applications Team
Temple Quay House
Temple Quay
Bristol
BS1 6PN

For the attention of Mr Jonathan Manning

Dear Mr Manning

Application for a Development Consent Order by Indaver Rivenhall Ltd for the Rivenhall Integrated Waste Management Facility (PINS Ref EN01038) – Deadline 3 Submission

As set out in your Rule 8 Letter [\[PD-003\]](#), the Examining Authority ('ExA') has requested the following information of relevance to the Applicant to be submitted at Deadline 3:

1. Post-hearing submissions, including written summaries of oral submissions to the hearings (if held);
2. Post-hearing submissions requested by the ExA;
3. Comments on any other information and submissions received at D2;
4. Any further information requested by the Examining Authority under Rule 17 of the Examination Procedure Rules;
5. Updates from the Applicant on:
 - a. Statements of Common Ground;
 - b. Statement of Commonality;
 - c. Draft Development Consent Order ('dDCO')
 - d. Explanatory Memorandum; and
 - e. Schedule of Changes to the dDCO.

Details pursuant to each are set out below. A schedule of the Applicant's Deadline 3 submissions is provided at **Appendix 1**.



1 Post-hearing submissions, including written summaries of oral submissions to the hearings

- 1.1 Written summaries of the oral submissions made by and on behalf of the Applicant during the Issue Specific Hearing ('ISH') are included in this Deadline 3 submission.

2 Post-hearing submissions requested by the ExA

- 2.1 The ExA issued a number of actions following the ISH that took place on Tuesday 4th June 2024.
- 2.2 Table 1 below captures the actions and provides an update against each.

Table 1 - ISH Hearing Action Points update

| Action no. | Action | Party | Deadline | Applicant update |
|------------|---|-------------------|---------------------------|---|
| 1. | Provide source data from noise modelling to Essex County Council (ECC) and engage in further discussion to seek agreement. | Applicant and ECC | D3/Potentially D4 for ECC | Complete. This was provided to ECC on Thursday 6 th June 2024. ECC are in the process of reviewing and responding. |
| 2. | Engagement between the parties on cumulative noise assessment associated with the Dry Silo Mortar Plant at Bradwell Quarry. | Applicant and ECC | D3 | A Technical Memorandum on cumulative noise effects of the Proposed Development and use of the Dry Silo Mortar Plant was provided to ECC on 7 th June 2024. A copy of that note is provided at Appendix 2 . ECC are in the process of reviewing and responding to that Note. |
| 3. | Provide new noise assessment being prepared for S73 application. | Applicant | When finalised | The current target is to submit the s73 application in Q3 or Q4 2024. It may be possible to provide the noise assessment ahead of submission but the timeframes for this remain uncertain. What is certain is that the noise assessment will not be complete until after the Examination has concluded. In any case, it is the Applicant's position that the noise assessment information provided to date (ES Volume 1, Chapter 8: Noise) is robust and suitable for considering |



| | | | | |
|----|--|-------------------|----|--|
| | | | | the noise effects of the Proposed Development. |
| 4. | Update List of Other Consents and Licences schedule to acknowledge potential need to vary the Environmental Permit. | Applicant | D3 | Complete. Version 2 of this document is provided as part of this Deadline 3 submission in both clean and tracked change versions. |
| 5. | Update on discussions with East of England Ambulance Service NHS Trust. | Applicant | D3 | EEAST have confirmed in writing to the PINS case officers (dated 11 th June 2024) that they do not wish to progress any agreements with the Applicant. |
| 6. | Note to be provided considering an ES alternative scenario that would allow above 65MW of energy to be generated. | Applicant | D3 | Complete, provided at Appendix 3 . |
| 7. | Note to be provided on decommissioning and the requirements of NPS EN-1. | Applicant | D3 | Complete, provided at Appendix 4 . |
| 8. | Parties to further discuss whether a deed of variation is needed to the existing Section 106 agreement, particularly with regard to its definitions. | Applicant and ECC | D3 | Ongoing – the Applicant has restated its position that no changes to the existing Section 106 agreement are necessary, either to its definitions or to include additional mitigation measures. |
| 9. | Provide written response to the Applicant's submissions to written question Q1.3.2 [REP1-011], particularly Sections 5 and 6 of Annex 1. | ECC | D3 | N/A |



3 Comments on any other information and submissions received at D2

- 3.1 The Applicant has no comments on Deadline 2 submissions in addition to the oral submissions made at the ISH.

4 Any further information requested by the Examining Authority under Rule 17 of the Examination Procedure Rules

- 4.1 No further information has been requested by the Examining Authority other than those actions that have arisen from the ISH.

5 Updates from the Applicant on various documents

Statement of Common Ground

- 5.1 Version 3 of the Statement of Common Ground with the Host Authorities (Doc Ref 8.1) is provided in both clean and track changed versions.

Draft Development Consent Order ('dDCO')

- 5.2 An update to the dDCO (Doc Ref. 3.1) has been provided. The changes made are to include non-material amendments within the definition of the IWMF planning permission. This follows discussion on this point that occurred during the ISH.

Explanatory Memorandum

- 5.3 As per the dDCO.

Schedule of Changes to the dDCO

- 5.4 No schedule of changes is necessary given the narrow scope of the changes made to the dDCO.

6 Summary

If the Applicant can be of any further assistance or the ExA considers any further clarification is required in response to the information and documentation submitted as part of this submission, please do not hesitate to contact the Applicant using the details already provided.

Yours sincerely

Carly Vince on behalf of the Applicant
Senior Director

enc. As per Appendix 1 – Deadline 3 Applicant Submission Schedule



Appendix 1 – Applicant’s Deadline 3 Submission Schedule

| Document No. | Document Title | Version |
|--------------|--|---------|
| 1.3 | Navigation Document | 4 |
| 1.3 | Navigation Document (TRACKED) | 4 |
| 3.1 | Draft Development Consent Order | 2 |
| 3.1 | Draft Development Consent Order (TRACKED) | 2 |
| 3.2 | Explanatory Memorandum to the Draft Development Consent Order | 3 |
| 3.2 | Explanatory Memorandum to the Draft Development Consent Order (TRACKED) | 3 |
| 7.4 | List of Other Consents and Licences | 2 |
| 7.4 | List of Other Consents and Licences (TRACKED) | 2 |
| 8.1 | (Draft) Statement of Common Ground with the Host Authorities | 3 |
| 8.1 | (Draft) Statement of Common Ground with the Host Authorities (TRACKED) | 3 |
| 9.3.1 | Cover Letter 18 June 2024 | 1 |
| 9.3.2 | Written summary of Applicant’s submissions to the Issue Specific Hearing | 1 |



Appendix 2 - Technical Memorandum on cumulative noise effects of the Proposed Development and use of the Dry Silo Mortar Plant

To: Robert Mansfield

From: Benedict Sarton

Company: Essex County Council

SLR Consulting Limited

Date: 6 June 2024

Project No. 403.064810.00001

RE: Rivenhall IWMF DCO – Cumulative Noise Assessment with Dry Silo Mortar Plant

1.0 Introduction

This Technical Memo has been produced to provide additional information regarding the cumulative effects associated with the Proposed Development and use of the Dry Silo Mortar Plant (DSM) at Bradwell Quarry.

2.0 Assessment

In order to determine the effects associated with the Proposed Development and DSM during the evening period between 1900-22:00 and the night-time period between 06:00-07:00, the noise assessment submitted for the extension of hours for the operations of the DSM (planning permission reference: ESS/20/17/BTE) has been referred to in order to predict cumulative noise levels at the closest Noise Sensitive Receptors.

The Noise Assessment, undertaken by Acoustical Control Engineers and Consultants in November 2016 (reference B4555/CB4450), predicts noise levels from the DSM at the closest Noise Sensitive Receptors at Bradwell Hall and Herons Farm.

The assessment states *“all predictions have been calculated with the plant working at the realistic closest point to the prediction location.”* The predicted noise levels from operations at the DSM are 39dB_{LAeq,1hr}. This level represents a reasonable worst-case scenario. Given noise levels have only been provided for these two receptors, a distance correction calculation based upon data provided in Appendix 3 of the Noise Assessment for the DSM has been used to predict noise levels at the remaining receptors assessed in the ES [APP-033] for the Proposed Development, with predicted noise levels from the DSM shown in Table 1. Receptors R11 and R12 within the ES assessment have not been included due to their greater distance away from DSM operations.

Further to the above Paragraph 4.18 of the Noise Assessment for the DSM states:

‘Acoustic screening is provided by the bowl shape bund that surrounds the DSM. The noise sources on the DSM are at greater elevation than other sources at Bradwell Quarry therefore the screening attenuation provided will be correspondingly lower. The bund will provide in the region of 8-10dBA screening attenuation to the DSM. Intervening soft ground will provide in the region of 5-6dBA attenuation due to ground absorption. It is standard practice that both screening and soft ground should not be used simultaneously in acoustic calculations. To provide a worst case it is reasonable to assume a minimum of 5dBA attenuation from either screening bunds or soft ground for the DSM and 10dBA screening attenuation for the mobile plant operating around the DSM.’

Therefore, the noise predictions and subsequent cumulative assessment has been based on the same assumptions regarding the attenuation provided by the acoustic screening. The total resultant DSM noise level has been rounded to the nearest value.

Table 1: Predicted Sound Level at Assessed Receptors from DSM Operations

| Location | DSM Plant | | | Mobile Plant | | | Total Resultant DSM Noise Level (dBA) |
|-------------------------------|--------------|-------------------------|------------------|--------------|-------------------------|------------------|---------------------------------------|
| | Distance (m) | Screening / Soft Ground | Sound Level (dB) | Distance (m) | Screening / Soft Ground | Sound Level (dB) | |
| R01 Herons Farm | 545 | 5 | 37.3 | 545 | 10 | 35.3 | 39 |
| R02 Deeks Cottage | 980 | | 32.2 | 980 | | 30.2 | 34 |
| R03 Haywards | 1270 | | 29.9 | 1270 | | 27.9 | 32 |
| R04 Allshot's Farm | 1620 | | 27.8 | 1620 | | 25.8 | 30 |
| R05 The Lodge | 1640 | | 27.7 | 1640 | | 25.7 | 30 |
| R06 Sheepcotes Farm | 1390 | | 29.1 | 1390 | | 27.1 | 31 |
| R07 Greenpastures Bungalow | 1000 | | 32.0 | 1000 | | 30.0 | 34 |
| R08 Goslings Cottage | 710 | | 35.0 | 710 | | 33.0 | 37 |
| R09 Goslings Farm | 670 | | 35.5 | 670 | | 33.5 | 38 |
| R10 Goslings Barn | 740 | | 34.6 | 740 | | 32.6 | 37 |

To determine the overall cumulative effects at the assessed receptors, the noise levels in Table 1 have been logarithmically added to the predicted noise levels for the evening and night-time period from operations at the Proposed Development, as detailed within the ES [APP-033]. The total cumulative noise levels are presented in Table 2 and Table 3 for the evening and night-time period respectively.

Tables 2 and 3 also compare the total cumulative level with the consented evening and night-time noise limits for the proposed development.

It must be noted that under Condition 20 of planning permission number ESS/12/20/BTE, the consented limits for the DSM are higher than those consented for the proposed development during the evening and night-time periods at Herons Farm (the closest receptor), as shown below, with the levels shown in brackets relating to the consented limits for the proposed development.

- Evening Noise Limit for DSM at Herons Farm = 44dB $L_{Aeq, 1hr}$ (42dB $L_{Aeq, 1hr}$)
- Night-time Noise Limit for DSM at Herons Farm = 42dB $L_{Aeq, 1hr}$ (40dB $L_{Aeq, 5-min}$)



Table 2: Cumulative Assessment with DSM Operations – Evening (19:00-22:00) dB

| Receptor | Evening Predicted Specific Noise Level $L_{Aeq,1hr}$ Proposed Development (dB) | Evening Predicted Specific Noise Level $L_{Aeq,1hr}$ Total Resultant DSM (dB) | Total Cumulative Level, dB $L_{Aeq,1hr}$ | Consented Evening Noise Limit, $L_{Aeq,T}$ |
|-------------------------------|--|---|--|--|
| R01 Herons Farm | 27 | 39 | 39 | 42 |
| R02 Deeks Cottage | 26 | 34 | 35 | |
| R03 Haywards | 28 | 32 | 32 | |
| R04 Allshot's Farm | 33 | 30 | 35 | |
| R05 The Lodge | 38 | 30 | 39 | |
| R06 Sheepcotes Farm | 33 | 31 | 35 | |
| R07 Greenpastures Bungalow | 29 | 34 | 35 | |
| R08 Goslings Cottage | 29 | 37 | 38 | |
| R09 Goslings Farm | 30 | 38 | 39 | |
| R10 Goslings Barn | 30 | 37 | 38 | |



Table 3: Cumulative Assessment with DSM Operations – Night-time (06:00-07:00) dB

| Receptor | Night-time Predicted Specific Noise Level $L_{Aeq,1hr}$ Proposed Development (dB) | Night-time Predicted Specific Noise Level $L_{Aeq,1hr}$ Total Resultant DSM (dB) | Total Cumulative Level, dB $L_{Aeq,1hr}$ | Consented Night-time Noise Limit, $L_{Aeq,T}$ |
|-------------------------------|---|--|--|---|
| R01 Herons Farm | 27 | 39 | 39 | 40 |
| R02 Deeks Cottage | 28 | 34 | 35 | |
| R03 Haywards | 29 | 32 | 34 | |
| R04 Allshot's Farm | 35 | 30 | 36 | |
| R05 The Lodge | 39 | 30 | 40 | |
| R06 Sheepcotes Farm | 31 | 31 | 34 | |
| R07 Greenpastures Bungalow | 26 | 34 | 35 | |
| R08 Goslings Cottage | 25 | 37 | 37 | |
| R09 Goslings Farm | 26 | 38 | 38 | |
| R10 Goslings Barn | 25 | 37 | 37 | |

As shown in Table 2 and 3, cumulative noise levels from the Proposed Development and worst-case (Total Resultant) DSM operations show that the noise limits would be met at all Noise Sensitive Receptors during both the evening and night-time period.

Therefore, in conjunction with the magnitude of impact and level of effect matrix included within the ES (APP-033) the cumulative effects associated with the Proposed Development and (Total Resultant) DSM during the evening and night-time period would have a negligible level of effect at all assessed Noise Sensitive Receptors, which is not considered significant in EIA terms.

Further to the above, compliance noise monitoring for quarry operations, including the DSM operations during the evening and night-time period, is required to be undertaken at regular intervals as part of planning permission reference ESS/12/20/BTE.

The compliance noise monitoring reports undertaken by Acoustical Control Engineers and Consultants in May 2023, June 2023, November 2023, and December 2023 have been reviewed. Although the noise level criteria for the DSM was exceeded during some measurement periods, it was confirmed that this was due to residual sources such as birdsong, aircraft and vehicles.

All reports concluded that noise levels associated with the DSM were not audible at Herons Farm during the evening and night-time period. Given that Herons Farm lies closer than all



other assessed Noise Sensitive Receptors, it is reasonable to assume that DSM operations would not be audible at receptors which lie further away.

3.0 Conclusions

This Technical Memo has been produced to provide additional information regarding the cumulative effects associated with the Proposed Development and use of the Dry Silo Mortar DSM at Bradwell Quarry. The assessment presented shows that cumulative noise levels during the evening and night-time period meet the consented noise limits at the assessed Noise Sensitive Receptors and would not be significant in EIA terms.

Kind regards,

SLR Consulting Limited



Benedict Sarton MIOA
Technical Director – Acoustics and Vibration



Emma Aspinall AMIOA
Senior – Acoustics and Vibration

Closure

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Appendix 3 – Technical Note on Energy Generation Cap and Alternatives



Technical Note

Rivenhall IWMF DCO – Energy Generation Cap and Alternatives

1 Introduction

- 1.1 This note has been prepared on behalf of Indaver Rivenhall Ltd, the Applicant of a Development Consent Order ('DCO') Application (PINS ref: EN010138) for the extension of electrical generating capacity of the Rivenhall Integrated Waste Management Facility ('IWMF').
- 1.2 An Issue Specific Hearing ('ISH') was held on Tuesday 4th June 2024. The following action for the Applicant arose from the ISH:

6. Note to be provided considering an ES alternative scenario that would allow above 65MW of energy to be generated.

- 1.3 This note responds to the above action by setting out:

- The background to the discussion;
- A summary of the latest position taken by Essex County Council ('ECC') on this matter;
- An overview of the alternatives that have been considered as part of the **Environmental Statement** ('ES') [[APP-029](#)]; and
- A description of the scenarios in which more than 65MW could be generated without additional environmental effects.

2 Background

- 2.1 The **Draft Development Consent Order** ('dDCO') [[APP-013](#)] sets out the Authorised Development within Schedule 1. For the purposes of this note, the relevant component of the Authorised Development as currently drafted is to allow the extended generating station to *"have a gross installed generating capacity of over 50MW."*
- 2.2 The Applicant's reasoning for this approach is set out in paragraphs 2.5 and 2.6 of the **Explanatory Memorandum to the Draft Development Consent Order** [[REP1-004](#)].
- 2.3 ECC have requested that the dDCO includes a cap on energy generation to no more than 65MW and have provided reasoning in paragraphs 12.1.4 to 12.1.7 of their Local Impact Report [[REP1-018](#)]. Table 8 of the **Applicant Comments on Deadline 1 Submissions** [[REP2-004](#)] responds to ECC's position in this regard.

3 ECC Position

- 3.1 Through the ISH and further discussions held with ECC, the Applicant understands ECC's latest position to be:
- It is supportive of the principle of making efficient use of the plant to generate electricity;
 - There is no assessment of an alternative in which the IWMF would generate more than 65MW;



Note continued

- Therefore, the dDCO should include a cap on energy generation to avoid the possibility of unassessed environmental effects arising.

4 Alternatives

4.1 A consideration of alternatives is provided in the **ES Volume 1, Chapter 4: Alternatives** [APP-029]. The ES Chapter sets out the regulatory framework, the crux of which is Regulation 14(2)(d) of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, which requires:

*'a description of the reasonable alternatives studied by the applicant, **which are relevant to the proposed project and its specific characteristics**, and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.'* [own emphasis]

4.2 The Proposed Development is for alterations to internal valves of a consented project without any other associated changes to said consented project. Alternatives to the Proposed Development have been considered in this context.

4.3 **ES Volume 1, Chapter 4: Alternatives** [APP-029] considers the alternative scenario in which the IWMF would reliably and consistently generate greater than 65MW at paragraphs 4.4.3 and 4.4.4. In summary, it would require:

- A larger turbine and generator, with associated changes to the Consented Scheme building envelope; and/or
- Increased fuel throughput.

4.4 To achieve either of these would require amendments to the IWMF TCPA Permission, namely:

- Condition 2 of the IWMF TCPA Permission which controls the layout and external appearance of the Consented Scheme.
- Condition 4 which controls the maximum daily number of Heavy Goods Vehicles that can enter and exit the Site each day.
- Condition 29 which controls the total amount of waste that can be imported to and processed at the IWMF each year.

4.5 It is common ground between ECC and the Applicant that amending these conditions would require permission from ECC.¹

4.6 As set out in paragraph 4.4.4 of the ES Chapter 4, it is clear that such amendments could result in negative air quality and noise effects and landscape and visual impacts (when compared to the Consented Scheme). However, further assessment of the environmental effects of such amendments is not required to establish that they are more likely to be

¹ See item reference PD-10 of the draft Statement of Common Ground V2 [REP2-005]



Note continued

significant than the effects of the Proposed Development (which does not require additional HGV movements, additional waste input or changes to the consented building).

5 Possibility of generating more than 65MW

- 5.1 The assessment of the Proposed Development has been carried out on the basis of it generating 62.37MW of power on average throughout the year.² The EfW plant is expected generate between 60-65MW when operating at full capacity. These assumptions are based on the design of the turbine and are considered a reasonable approach to assessing the likely environmental effects of the Proposed Development.
- 5.2 There are a combination of factors that influence the amount of power that is generated. These are:
- Climactic conditions, namely the external temperature. On very cold days, the EfW turbine would run more efficiently than on warmer days; and
 - The precise calorific value of the fuel (i.e., waste) that is used for combustion.
- 5.3 It is theoretically possible for the EfW to generate more than 65MW at least momentarily when these factors are at their 'peak' – i.e., the calorific value of the fuel is very high and/or the temperature is very cold.
- 5.4 In this scenario, no additional throughput of fuel or changes to the consented building would be needed to generate the additional electrical energy. There would therefore be no additional environmental effects compared to what has already been assessed for the same reasons as are set out in the ES. This is because:
- Any temporary increase in electrical energy generation would be de minimis in the overall calculations of operational effects set out in the **ES, Volume 1 Chapter 7: Climate Change** [\[APP-032\]](#);
 - The turbine would not spin any faster in this scenario, only more efficiently. All inputs and assumptions used within the noise model (set out in paragraph 8.6.2 of the **ES, Vol. 1 Chapter 8: Noise and Vibration** [\[APP-033\]](#)) would remain the same. Operational noise effects would therefore continue to be negligible.
- 5.5 Moreover, this scenario is unlikely. As set out at Regulation 14(2)(b) of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, the environmental statement must describe the "*likely significant effects of the proposed development on the environment*" (emphasis added). By virtue of being unlikely (although not impossible), this peak efficiency scenario would not result in any likely significant effects.
- 5.6 It is not reasonable or necessary to consider this unlikely scenario as either an alternative for the purposes of an EIA or as part of the assumption underlying the assessment of the

² Paragraph 7.6.2 of the ES Volume 1, Chapter 7: Climate Change [\[APP-032\]](#).



Note continued

Proposed Development given the absence of any likely significant environmental effects should this scenario occur.

6 Summary

- 6.1 An assessment of the alternative scenario where the EfW reliably generates more than 65MW has been considered in the **ES Volume 1, Chapter 4: Alternatives** [[APP-029](#)]. To achieve this would require amendments to the IWMF TCPA Permission, which are outside the scope of this DCO Application.
- 6.2 There are possible, albeit unlikely, scenarios in which the EfW plant could generate more than 65MW as a result of the Proposed Development. These scenarios are unlikely, would be temporary in nature, and would not give rise to any additional environmental effects.
- 6.3 This scenario is not an alternative to the Proposed Development (and so does not require assessing as a reasonable alternative in the ES).
- 6.4 Instead, it is a potential (albeit unlikely) effect of the Proposed Development. The ES is only required to assess the likely significant effects of the Proposed Development. Therefore, the assessment in the ES has been based upon the likely generating capacity of the Proposed Development.
- 6.5 The Applicant is not in control of the climatic conditions or the precise calorific value of the fuel. Including a cap within the DCO at 65MW could require the Applicant to take steps to prevent the plant from operating at its peak theoretical capacity (given the risk to the Applicant in operating the extended generating station in contravention of the DCO). This would be counterproductive and unreasonable given the urgent need for electrical energy, the unlikely and temporary nature of the scenario, and the lack of effects which would result from this energy being produced.
- 6.6 Given that there are controls on the environmental effects of the Consented Scheme by way of the IWMF TCPA Permission and that these will also control the Proposed Development, the Applicant does not consider there to be any planning merit to introducing an energy cap within the DCO.



Appendix 4 – Technical Note on decommissioning and the requirements of NPS EN-1



Technical Note

Rivenhall IWMF DCO - Decommissioning and the requirements of NPS EN-1

1 Introduction

- 1.1 This note has been prepared on behalf of Indaver Rivenhall Ltd, the Applicant of a Development Consent Order ('DCO') Application (PINS ref: EN010138) for the extension of electrical generating capacity of the Rivenhall Integrated Waste Management Facility ('IWMF').
- 1.2 An Issue Specific Hearing ('ISH') was held on Tuesday 4th June 2024. The following action for the Applicant arose from the ISH:

7. Note to be provided on decommissioning and the requirements of NPS EN-1.

- 1.3 This note responds to that action.

2 Context

- 2.1 Section 4.2 of the Overarching National Policy Statement ('NPS') for Energy (EN-1) (2011) sets out the expectations for an Environmental Statement ('ES') which should describe *"aspects of the environment likely to be significantly affected by the project."*¹ Paragraph 4.2.2 encourages Applicants to use the ES to set out information on the likely significant social and economic effects of the development, including how significant negative effects would be avoided or mitigated.

- 2.2 Paragraph 4.2.3 of NPS EN-1 states:

"For the purposes of this NPS and the technology-specific NPSs the ES should cover the environmental, social and economic effects arising from pre-construction, construction, operation and decommissioning of the project."

- 2.3 Reading the above together, the NPS requires the ES to describe aspects of the environment (including social and economic aspects) likely to be significantly affected by the project arising from pre-construction, construction, operation and decommissioning phases.

3 Assessment

- 3.1 The Proposed Development consists of alterations to an internal valve to allow the electrical generating capacity of the Consented Scheme to be increased.
- 3.2 The construction of the Proposed Development is set out in Section 3.4 of the **ES, Volume 1, Chapter 3: Proposed Development and Construction** [[APP-028](#)]. Decommissioning of the Proposed Development would involve removing the unrestricted internal valve or (re)installing

¹ Overarching National Policy Statement for Energy (EN-1) 2011, paragraph 4.2.1.



Note continued

mechanical limitations to the internal valve. The scope of these works would be minimal – similar to the extent of works required to carry out the authorised development.

- 3.3 There would be no significant environmental, social or economic effects arising from the decommissioning of the Proposed Development. The decommissioning would be expected to take 1-2 weeks and would involve a nominal number of qualified engineers to carry out the works. It is not necessary to include any mitigation measures within the DCO in respect of the decommissioning of the Proposed Development given there are no significant environmental effects to mitigate.
- 3.4 The decommissioning and demolition effects of the extended generating station (following the completion of the Proposed Development) will be indistinguishable from those of the Consented Scheme.
- 3.5 This is because the Closure Plan required by the Consented Scheme’s Environmental Permit² would apply equally to the Consented Scheme as extended by the Proposed Development.
- 3.6 Moreover, to the extent that they were relevant, any conditions attached to the TCPA Permission would also apply to the extended generating station by virtue of Article 6(1) of the **Draft Development Consent Order [APP-013]**. An example of a potentially relevant condition is Condition 8 attached to the TCPA permission - an ongoing condition which prevents vehicular access to the IWMF site other than via the A120.
- 3.7 The Closure Plan required by the Environmental Permit would not address issues of land use. Clearly, however, there are no land use issues arising from the decommissioning of internal valves within a generating station. Where issues of land use would arise, these would be as a result of decommissioning the Consented Scheme (rather than the Proposed Development).
- 3.8 Section 120(1) of the Planning Act 2008 (as amended) states that an “*order granting development consent may impose requirements in connection with the development for which consent is granted.*” Section 120(2)(a) states that requirements may in particular include “*requirements corresponding to conditions which could have been imposed on the grant of any permission, consent or authorisation, or the giving of any notice, which (but for section 33(1)) would have been required for the development...*”
- 3.9 The conditions which could have been imposed on a grant of planning permission for the Proposed Development (but for section 33(1) of the Planning Act 2008) are limited to those which are: (i) necessary, (ii) relevant to planning, (iii) relevant to the development to be permitted, (iv) enforceable, (v) precise and (vi) reasonable in all other respects³.
- 3.10 The development for which consent is sought is the Proposed Development (which consists of works to internal valves). It is not the Consented Scheme.

² Ref: No.: EPR/FP3335YU), as varied by (No. EPR/FP3335/YU/V002, date 03 June 2020), and transferred to the Applicant (No. EPR/CP3906LP)

³ National Planning Policy Framework (2023), paragraph 55.



Note continued

3.11 Clearly, there can be no reasonable basis for imposing a requirement requiring a plan that would require details of the decommissioning of the Proposed Development to be set out. Any requirement requiring details of the decommissioning of the Consented Scheme to be set out would not be "*relevant to the development to be permitted*" and so again cannot reasonably be imposed.

