

Indaver Rivenhall IWMF DCO

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure)

Regulations 2009

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

Applicant's Comments on ExA's Proposed Schedule of Changes to the dDCO

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Indaver Rivenhall Ltd

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Contents

Glossary	1
1 Introduction	3
2 Purpose of this document	4
3 Response to Examining Authority's proposed changes to the dDCO (DC1)	5

VERSION HISTORY

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Glossary

Abbreviation	Definition
Applicant	Indaver Rivenhall Limited
The Consented Scheme	The IWMF as approved by the IWMF TCPA Permission that is currently under construction at the IWMF Site.
dDCO	Draft Development Consent Order. This being the draft Order prepared by the Applicant.
DCO	Development Consent Order. A DCO is the form in which the Secretary of State grants consent for development applied for under the Planning Act 2008.
DSM plant	Dry Silo Mortar plant
ECC	Essex County Council
EfW	Energy from Waste. Treatment processes and technologies used to generate a useable form of energy and which also reduce the solid volume of residual waste.
EIA	Environmental Impact Assessment. A process for predicting the effects of a proposed development on the environment that informs decisionmakers in relation to planning permissions, consents, licences and other statutory approvals, as required by Directive 2014/52/EU (the EIA Directive).
Environmental Permit	Environmental Permit (No.: EPR/FP3335YU), as varied by (No. EPR/FP3335/YU/V002, date 03 June 2020), and transferred to the Applicant (No. EPR/CP3906LP).
ES	Environmental Statement. The document reporting the process and outcomes of the EIA. Book 6 of this Application.
ExA	Examining Authority
Examination	The examination of the DCO Application submitted by the Applicant by the Planning Inspectorate on behalf of the Secretary of State, which began on 9 th April 2024.
ExQ2	Examining Authority's second written questions and requests for further information (issued 25 June 2024).
Host Authorities	The relevant planning authorities within which the Proposed Development is located, being Braintree District Council and Essex County Council.
IWMF	Integrated Waste Management Facility
IWMF Site	The location of the IWMF as approved by the IWMF TCPA Permission.
IWMF TCPA Permission	Planning permission reference ESS/39/23/BTE (as amended and superseded from time to time, including by permissions granted pursuant to sections 73 and 96a of the TCPA 1990), dated 26 January 2024, for the development of an Integrated Waste Management Facility at the former Rivenhall Airfield.
MW	Megawatt of electricity
NIA	Noise Impact Assessment
NSRs	Noise Sensitive Receptors

NSIP	Nationally Significant Infrastructure Project. A project that, by reason of its scale and/or Infrastructure Project (NSIP) importance, needs Development Consent before it can be built or operated.
PINS	Planning Inspectorate
Proposed Development	The application for which Development Consent is being sought – the proposed extension to the electrical generating capacity of the EfW component of the Rivenhall IWMF.

1 Introduction

- 1.1 This document (Doc Ref 9.4.3) has been prepared on behalf of Indaver Rivenhall Ltd ('the Applicant'). It forms part of the application ('the Application') for a Development Consent Order (a 'DCO') that was submitted to the Secretary of State ('SoS') for the Department of Energy Security and Net Zero ('DESNZ') under section 37 of the Planning Act 2008 ('the PA 2008') on 10th November 2023. The Application was accepted for examination by the Planning Inspectorate on 8th December 2023, and the examination started on 9th April 2024.
- 1.2 The Applicant is seeking development consent for the extension of the electrical generating capacity of the Rivenhall Integrated Waste Management Facility ('the Consented Scheme') at land within the former Rivenhall airfield near Witham, Essex ('the Site').
- 1.3 A DCO is required for the extension as it would result in the onshore generating station having a capacity of more than 50MW and would constitute a Nationally Significant Infrastructure Project ('NSIP') for the purposes of section 14(1)(a) of the PA 2008.

2 Purpose of this document

- 2.1 The purpose of this document is to set out the Applicant's responses to the Examining Authority's proposed changes to the draft Development Consent Order (DC1), as published on 25th June 2024.
- 2.2 The Applicant's responses to each proposed change is provided in **Section 3** of this document (Doc Ref 9.4.3). The ordering of the responses corresponds to the order in which the topics appear in the ExA's document.

3 Response to Examining Authority’s proposed changes to the dDCO (DC1)

Ref	Respondent	Proposed Change	Applicant Response
DC1.1 PART 1 Preliminary			
DC1.1.1 Article 2			
DC1.1.1.1	Applicant	<p>The ExA considers that there is no need to refer to variations granted before the date of the Order, such as those pursuant to Section 73 of the 1990 Act, in line with the suggested wording of ECC [REP3-014].</p> <p>“TCPA permission” means:</p> <p>(a) the planning permission granted by Essex County Council with reference ESS/39/23/BTE dated 26 January 2024; or</p> <p>(b) any planning permission granted by the relevant planning authority pursuant to planning application ESS/02/22/BTE,</p> <p>and any other variations thereto whether granted before or after the date of this Order (which shall include for the avoidance of doubt any variations pursuant to Section 73 of the 1990 Act) and any non-material amendments whether granted before or after the date of this Order under Section 96A of the 1990 Act);</p>	<p>The Applicant considers that variations granted before the date of the Order should be referenced in the definition of the TCPA permission.</p> <p>Neither the ExA, ECC or the Applicant has any control over the date upon which the Order may be granted. Even if the Order is granted in line with the timetable set out in section 107(1) of the Planning Act 2008, it cannot be guaranteed that the Order could be the subject of a third-party challenge resulting in the application being re-determined.</p> <p>The omission of references to variations granted before the date of the Order will mean in practice that the Applicant would be prevented from obtaining any section 73 permissions (other than pursuant to planning application ESS/02/22/BTE) until the Order has been granted.</p> <p>The Applicant does not consider that such a sterilisation of the site is necessary. Applications for section 73 permissions would be assessed and</p>

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			<p>determined by ECC in the same way whether granted before or after the date of the Order. Regardless of the timing, the Order (or the Application) would form part of the environmental information accompanying such an application, whether as a cumulative scheme or included in the baseline.</p> <p>In particular, it should be noted that proposals are being developed by a separate entity for the development of low carbon greenhouses on land adjacent to the site (a scoping opinion with reference ESS/08/24/BTE/SPO was issued by ECC on 21 March 2024). The Applicant expects that it will need to apply in due course for a variation pursuant to section 73 of the 1990 Act to facilitate the connection of such greenhouses to the IWMF.</p>
DC1.2. PART 3 Miscellaneous and General			
DC1.2.1 Article 9			
DC1.2.1.1	Applicant ECC	<p>The ExA considers that the Land Plan should also be a certified document.</p> <p>9. d) The undertaker must, as soon as practicable after the date on which this Order is made, submit to the Secretary of State copies of—</p> <p>(a) Land Plan</p> <p>(ab) Works Plan;</p> <p>(bc) Environmental Statement;</p> <p>(ed) Existing Generation Station Plan;</p>	<p>The certified documents listed in the dDCO are those which are referenced elsewhere within the Order and so which would need to be used in any proceedings.</p> <p>The Land Plan is not referenced within the Order (as no compulsory purchase powers are sought) and it does not include any information not already shown on the Works Plan.</p>

Ref	Respondent	Proposed Change	Applicant Response
		(de) Indicative Design and Location of Work No 1 and Work No 2 Plan; and (ef) TCPA permission	Therefore, it is not considered necessary for the Land Plan to be included in the list of certified documents in Article 9.
DC1.3 SCHEDULE 1 – Authorised Development			
DC1.3.1 Part 1			
DC1.3.1.1	Applicant	<p>The ExA proposes the following amendments to ensure there are not any adverse effects above those assessed in the ES:</p> <p>1. A nationally significant infrastructure project as defined in sections 14(1)(a) and 15 of the 2008 Act —</p> <p>(a) Work No.1 – an extension to the existing generating station comprising mechanical modifications to the actuated steam turbine inlet control valves to allow steam capacity to be increased, with the effect that the extended generating station will have a gross installed generating capacity of over 50 up to 65MW; and</p> <p>(b) Work No.2 – an extension to the existing generating station comprising the installation and commissioning of unrestricted actuated steam turbine inlet control valves with a capacity of over 50 up to 65MW, with the effect that the extended generating station will</p>	<p>As previously discussed in the responses to ExQ1 1.5.2 [REP1-011] and in the oral submissions made at the Issue Specific Hearing (summarised at [REP3-012]), the Applicant does not consider that such a generating capacity cap is necessary or beneficial.</p> <p>The conditions attached to the TCPA permission and the limited extent of the authorised works will ensure that there are not any adverse effects above those assessed in the ES. There are no adverse effects which are likely to result simply from the uncapped generation of electricity.</p> <p>In the absence of such effects, it is not clear what benefit there is to limiting the amount of energy which can be derived from non-fossil fuel sources (such as the proposed development).</p> <p>In the event that the Secretary of State considers that the inclusion of a capacity cap is necessary, the Applicant considers that the following would provide the most appropriate wording for inclusion in the Order:</p>

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		<p>have a gross installed generating capacity of over 50 up to 65MW.</p>	<p>“A nationally significant infrastructure project as defined in sections 14(1)(a) and 15 of the 2008 Act —</p> <ul style="list-style-type: none"> (a) Work No.1 – an extension to the existing generating station comprising mechanical modifications to the actuated steam turbine inlet control valves to allow steam capacity to be increased, with the effect that the extended generating station will have a gross installed generating capacity of up to 65MW at an ambient air temperature of 15degC; and (b) Work No.2 – an extension to the existing generating station comprising the installation and commissioning of unrestricted actuated steam turbine inlet control valves with a capacity of up to 65MW at an ambient air temperature of 15degC, with the effect that the extended generating station will have a gross installed generating capacity of up to 65MW at an ambient air temperature of 15degC.

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			<p>This wording most accurately reflects the assumptions used in the ES, which reflect the design point of the turbine at that ambient air temperature.</p> <p>Similar wording has been proposed in the dDCO for the North Lincolnshire Green Energy Park which is awaiting determination by the Secretary of State. In that dDCO, the development is subject to a “gross generation capacity of up to 95MW at ISO conditions” (emphasis added). ISO conditions are the reference temperature, humidity and pressure conditions established by the International Standards Organisation.</p>