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WITHAM

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Mr Gavin Jones
Chief Executive
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Our Ref: ZA71234

11 November 2021

Dear Mr Jones,

Rivenhall Incinerator, Planning Application: ESS/34/15/BTE/66/01

Further to my previous correspondence regarding the latest planning application for the Rivenhall Incinerator and the proposal by Indaver to discharge condition 66, you will be aware of the continuing concern, disappointment and frustration locally with the application, the so-called 'plan of action' proposed and the process by which this application is to be considered.

First, local residents are extremely concerned that this application has succeeded in being validated. As you will know, condition 66 stipulates that:

the operator shall within 6 months of the end of the 5 year period submit a plan of action for an alternative use or a scheme of rehabilitation for the site for approval by the Waste Planning Authority. The plan of action for an alternative use or scheme of rehabilitation shall be implemented within 6 months of approval by the Waste Planning Authority.

Many residents do not feel that the document submitted by Indaver constitutes a 'plan of action'. The document submitted constitutes little more than a very brief summary or menu of potential options for further consideration and decision. It is not a 'plan of action' but a plan to delay and stall. It makes no firm commitments on the approach being taken and it appears it is being used as a tool to keep open the prospect of more damaging development taking place on this site and because, by their own admission, the currently approved scheme is not commercially viable.

Moreover, the reason given for the condition states that the plan of action is proposed so:

that the site is either planned for an alternative use or the site rehabilitated in the interests, of minimising the adverse environment impacts of incomplete implementation

The submission from Indaver is neither a substantial plan 'for an alternative use' nor is it a plan to rehabilitate the site. Consequently, it remains unclear as to why the Council has deemed this application to discharge condition 66 to be valid and I would welcome more

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details of the rationale behind it and any legal advice that has underpinned the decision to validate the application.

Moreover, it is important to note, that condition 66 is designed to provide people with certainty about the future of the site if the consented scheme is not developed as approved within the designated five year timescale. Condition 66 was put in place to give a reasonable time for the site to be fully completed as proposed, which it has not been. The document from Indaver and the three options it suggests provides no such certainty over the future and no clarity about what they will develop. It merely concedes that the development cannot take place as currently consented. A clear alternative is not given and no timetable to deliver such an alternative is provided either.

Consequently, any decision to discharge condition 66 based on the document and evidence provided by Indaver would not provide further certainty and clarity and would have the opposite effect. The application does not constitute a clear 'plan of action' and as such it must be refused by the Council.

Furthermore, as you will know, the proposals from Indaver covers three options, one of which includes the prospect of new build incinerator of a larger and more environmentally damaging scale than the one that falls within the existing consented scheme (Option 3). Although such a proposal would need to go through the Development Consent Order process, the Council should consider in relation to the discharge of condition 66 whether this proposal is viable and credible. A development on this scale would not be viable or credible and given how damaging it would be for the environment the Council should not accept this as being a credible 'plan of action' for the site for the purposes of discharging condition 66.

Options 1 and 2 are also not credible as 'plans of action' for the site as they give no details of timescales and both options would represent a significant net increase in the environmental harm caused by the site by focusing on developing and putting into the use the incinerator first or the incinerator only. As such, all three options listed are not credible and as they do not represent a 'plan of action' and do not provide certainty over the future of the site they should be rejected.

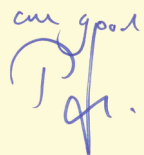
In the addition to the points raised above, I have received a number of comments and questions from residents about this application and the process. I have copied them below and would welcome your response to them:

- Given the recent liaison meetings, attended by the ECC principal officer, and the plan of action issued 2nd Sept 2021 in response to condition 66 clearly stating they are only 'bringing forward the Incinerator', constructing the remaining elements' only if they are commercial and technically viable',
When do you consider you have been 'officially informed' of the changes?
- The operator Invader stated at all liaison meetings and in writing to the planning authority that the only element they are committed to constructing is the waste incinerator.
How will you mitigate the risk that the applicant only builds the Incinerator under option one contravening the authorised planning permissions?
- Further to the above and given the EA response, when do you consider the integrated nature of the authorised panning is breached?

- Given the original application was controversial and only allowed AFTER ministerial call in and WITH the application expressly including ALL elements, and it was the clear wish of the then Secretary of State that all would be delivered together,
Why is ECC not requiring a plan for all elements to be built, as per condition 66?
- Please can you identify what beneficial use has been cited and that will allow the discharge of condition 66?
- Please can you identify how the plan of action provided complies with condition 66 and the authorised planning?
- Please provide supporting information on how the application fits with the revised ECC policy on climate change, net zero CO2, etc.
- Given the 'uncertainty risk' now associated with this development, why is Essex County Council not stopping this development?
- The delivery of just the Incinerator is a different development (Condition 66 what put in place for this very reason).
Why are you not asking for a separate new application?
- Please can you provide me with a copy of the legal advice you have been given? I do not consider this confidential at this stage.
- Since the only way residents, stakeholders, and statutory bodies can adequately engage and given the significant level of risk and uncertainty, will the Council and its Development and Regulation Committee stop the currently unauthorised development and require a new application?

As you will note, concerns about this application and the process are very strong amongst the local community and they would like the Council to refuse this application to discharge condition 66 and for action to subsequently take place to put a stop to the incinerator. I look forward to your reply.

Yours sincerely,

with our good wishes,


Rt Hon Priti Patel
Member of Parliament for Witham