

Application by Sembcorp Utilities (UK) Limited for an Order granting Development Consent for the proposed Tees Combined Cycle Power Plant

The Examining Authority's Second Written Questions and Request for Information

Issued on 24 July 2018

The following table sets out the Examining Authority's (ExA's) Second Written Questions (SWOs) and Request for Information.

Column 2 of the table indicates to which Interested Parties (IPs) and Other Persons (OPs) each question is directed. The ExA would be grateful if all persons named could answer all questions directed to them, either providing a substantive response or indicating why the question is not relevant to them. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with 2 (indicating that it is from ExA SWOs) and then has an issue number and a question number. For example, the first question is identified as ExA SWQ 2.0.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the Planning Inspectorate's Project case team: please contact TeesCCPP@pins.gsi.gov.uk.

Responses are due by **Deadline 5, Tuesday 7 August 2018**. Please note that if this deadline is missed the ExA is not obliged to take account of your response. (N.b The ExA has agreed an extension until Thursday 9 August for the Environment Agency (EA) due to availability of specialist staff.)

The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be accessed via the following link:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010082/EN010082-000274-Internal%20Examination%20Library.pdf>

It will be updated as the Examination progresses.

SWQ	Question to:	Question:
2.0	Air Quality and Emissions	
2.0.1	Environment Agency	Is the EA content with the Applicant's explanation (as summarised in [REP4-011]) of why near identical air modelling results occur in the PIER (where the turbine hall building height is 21.3m) and the ES (with a turbine hall building height 31m)?
2.0.2	Applicant	<p>The ExA understands that the Applicant intends to submit a report on Carbon Capture Readiness (CCR) by Deadline 5.</p> <p>In the event of the CCR report finding that additional land is needed outside the order limits, the Applicant is asked to:</p> <ul style="list-style-type: none"> confirm whether the findings of this report would have any implications for the conclusions of the ES and HRA; Provide a timetable for the preparation and execution of a S106 obligation within the examination period.
2.0.3	Applicant Natural England	The Applicant maintains a position that it is not feasible to undertake a quantitative assessment of in-combination air quality impacts [REP4-011].

SWQ	Question to:	Question:
		<p>The finding of no likely significant effects with regards to the assessment of in-combination effects lacks authoritative evidence in the form of quantitative data. In absence of such evidence it is not obvious how the Applicant has arrived at the outcome of no likely significant effect. The Wealden judgement clearly demonstrates the importance of addressing this issue as a matter of legal principle.</p> <p>It is also important to note that the in-combination assessment suggests that there is a 'widespread reduction in emissions' in the surrounding area. The robustness of this assertion would be increased if the evidence to support it was provided.</p> <p>In order to address the points raised above can the Applicant and NE explain what information is available to support the Applicant's position of ongoing improvements to background emission levels? The Applicant should also explain how, in absence of a quantitative in-combination assessment, the findings of no likely significant effect have been derived.</p>
2.1	<p>Uncertainty, assessment parameters and the DCO</p> <p><i>It is apparent that the assessment in the Applicants ES has been informed by assumptions in order to address uncertainty e.g. stack height and location etc. However it is unclear the extent which the parameters used to inform the ES and which establish the envelope for the assessment of LSE are represented in the DCO. The questions below address these issues and are framed to ensure that there is a clear and unequivocal relationship between these matters.</i></p>	
2.1.1	Applicant	<p>The proposed DCO as drafted [version 3, REP4-005] does not preclude the final design of the Proposed Development from having a stack height below that which has been assessed in the ES (75m). However, the Applicant's own assessment</p>



SWQ	Question to:	Question:
		<p>acknowledges [AS-010] that a stack height below 75m may result in an effect which is greater than that which has been assessed for some receptors [REP2-080] <i>“the threshold for potential Likely Significant Effects would be exceeded at some habitats with a lower stack height.”</i></p> <p>It is therefore apparent that, in absence of a parameter which precludes a stack height less than 75m the proposed DCO if granted may result in a development that gives rise to likely significant effects which have not, or are different to what has been assessed in the ES. On that basis can the Applicant please explain the extent to which the assessment in the ES supports the development permissible by the proposed DCO if granted?</p>
2.1.2	Environment Agency	<p>The Applicant has confirmed in [REP2-080] the stack locations which have been utilised in the air quality assessment, as follows:</p> <ul style="list-style-type: none">• Western Stack: 456437, 520398• Eastern Stack: 456525, 520438 <p>The limits of deviation on the Works Plans allow for lateral movement of the stacks; it is proposed that the exact location of the stacks is confirmed at the Environmental Permitting stage.</p> <p>The Environment Agency expressed concerns [REP2-079] that changing the locations of the stacks from those specified in the air quality assessment may alter the findings of the assessment, and recommended that their locations are fixed by grid reference.</p> <p>In response, the Applicant has stated that movement of the stacks within the lateral</p>



SWQ	Question to:	Question:
		limits of deviation would not materially change the outcome of the air quality assessment [REP3-003; REP4-011]. In light of the Applicant's response, can the EA confirm its position as to whether stack locations should be fixed in the draft DCO?
2.1.3	Applicant	<p>The Applicant's position is that the stack diameter cannot be fixed until the gas turbine technology is selected; as such it would be determined as part of the Environmental Permitting process. The air quality assessment is based on an 'optimised' 8m stack diameter, with no sensitivity testing having been undertaken.</p> <p>It is possible that changing the diameter of the stacks from those specified in the air quality assessment may alter the findings of the assessment. The ExA considers that there must be a clear relationship between what has been assessed in the ES and what would be consented through the DCO. The Applicant is requested to explain the extent to which the assessment in the ES addresses these concerns or alternatively amend the DCO to reflect the relevant parameters in the ES.</p>
2.1.4	Applicant	<p>The ES does not refer to the need for Selective Catalytic Reduction (SCR). Given the Applicant's intention to use a turbine which meets Best Available Technology (BAT), can the Applicant confirm if SCR is an option that is being considered? If yes:</p> <ul style="list-style-type: none">• To what extent has the Applicant considered SCR in the ES and HRA?• If SCR is implemented, could it affect the findings of LSE for the EIA or HRA?
2.1.5	Natural England	<p>The Applicant describes "embedded measures" as turbines that meet current Best Available Technology (BAT) for NO_x emissions and stack design to achieve sufficient dispersion [response to Q1.1.20, REP2-080]. The Applicant states that no further mitigation is required.</p> <p>a) To what extent does NE agree that BAT and stack design are 'embedded</p>

SWQ	Question to:	Question:
		<p>measures' and not avoidance or reduction measures as described in the Sweetman judgement?</p> <p>b) The Applicant's position is that the Sweetman judgement does not affect the Applicant's HRA screening exercise, on the basis that no mitigation measures have been relied upon [REP4-011]. Can NE confirm whether or not it is in agreement with the Applicant's position?</p>
2.2	Biodiversity, Ecology and Natural Environment	
2.2.1	Natural England	Please confirm whether or not NE is content with the Applicant's revised HRA screening matrices [Tables H3.2 – H3.6, REP1-001].
2.2.2	Environment Agency Natural England	The EA indicated at the ISH that it would like to run the Applicant's detailed air quality data through its model. The Applicant has now submitted this data to the Examination [REP4-010]. Do they EA or NE have any comments in this regard?
2.2.3	Environment Agency	<p>The ExA is aware that it is intended to submit an updated SOCG between the Applicant and the Environment Agency. The current version [Paragraph 3.9, REP2-061] states that: <i>'the EA does not yet agree that the HRA demonstrates that it is unlikely the Project will not have significant effects upon European Designated Sites alone or in combination with other projects and plans'</i>.</p> <p>Can the EA confirm whether there is any change to this position?</p>
2.2.4	Applicant	For clarity the Applicant is requested to provide updated versions of ES Annex G tables 1.4 to 1.7 (as agreed at the ISH on Environmental Matters), along with updated versions of NSER Tables 1-4, which populate the 'PEC' and 'PEC/CL' metrics.
2.2.5	Natural England	The Applicant has confirmed [REP1-001; REP4-011] that it is not relying on any mitigation to reach the conclusions of the NSER. The ExA notes that the draft DCO (R13)(2)(f) refers to <i>'...mitigation measures designed to protect controlled waters'</i> , with such measures described in the Updated Mitigation Summary Table [REP2-006]

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		<p>as primary and/or tertiary mitigation. The Applicant has confirmed that the River Tees is hydrologically connected to the Proposed Development via the existing Wilton International drainage system.</p> <p>To what extent does NE agree that the proposed measures to ensure safe discharge of water to the existing drainage system (as described in REP2-006] are 'embedded measures' and not avoidance or reduction measures as described in the Sweetman judgement?</p>
2.3	Draft Development Consent Order	
2.3.1	Applicant	Please provide an up-to-date schedule confirming all documents which are to be certified as forming part of the ES, to include all of the 'supplementary and further information' as described in the definition of the ES in Article 2 of the dDCO. A final version should be submitted by Deadline 8 at the latest.
2.3.2	Applicant	Please confirm that all document references in Schedule 1, Part 2 'Requirements' reference the most up-to-date versions of the document e.g. 'CEMP', 'CTMP', CHP assessment, CCS proposal.
2.3.3	Environment Agency	Does the EA have any concerns regarding Article 6 of the dDCO [REP4-005], which allows the Applicant to ' <i>deviate vertically to any extent downwards as may be found necessary or convenient</i> ' (noting the Applicant's justification in this regard [Q1.3.12, REP2-080])?
2.3.4	Redcar and Cleveland Borough Council Environment Agency	<p>An updated version of the Construction Environmental Management Plan (CEMP) has been submitted at Deadline 4 [version 3, REP4-003].</p> <p>Please confirm whether you are content with the contents of the updated CEMP and provide any comments you may have.</p>

SWQ	Question to:	Question:
2.4	Landscape and Visual	
2.4.1	Applicant	Can the Applicant confirm the size and placement of the air emissions monitoring platforms on the stacks? Please explain how these elements have been taken into account in the ES Landscape and Visual Assessment.
2.4.2	Redcar and Cleveland Borough Council	Is the Council content with the amendment to Requirement 5 of the draft DCO [version 3, REP4-005], which secures that the external lighting schemes for both construction and operation of the Proposed Development must accord with the Guidance Notes for the Reduction of Obtrusive Light GN01:2011?
2.5	Water Environment	
2.5.1	Environment Agency	Does the EA consider that the Applicant has addressed the points raised in the EA's WR regarding the Water Framework Directive (with the exception of opportunities for enhancement measures, which the ExA understands is to be covered in the forthcoming revision to the SOCG)?
2.6	Noise	
2.6.1	Applicant	Can the Applicant confirm what noise monitoring would be undertaken during construction to ensure that the threshold levels within BS5228 (as set out in Table 8.3 of the ES [APP-050]) would not be exceeded? For example, frequency and type of monitoring.