



**Wheelabrator**  
TECHNOLOGIES



## Statement of Reasons

### Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy facility Development Consent Order

PINS Ref: EN010083

Planning Act 2008  
The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009  
Regulation: 5(2)(h)

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## **1. Introduction**

- 1.1 This statement accompanies an application for development consent (the "Application") by WTI/EFW Holdings Ltd ("the Applicant") for two onshore generating stations - the Wheelabrator Kemsley K3 Generating Station ("K3") and Wheelabrator Kemsley North Waste-to-Energy Facility ("WKN").
- 1.2 As the draft DCO is not seeking compulsory purchase powers and all land required for the Proposed Development will be acquired through private treaty or under alternative measures, a Statement of Reasons is not strictly required.
- 1.3 However, it is considered beneficial to provide this statement to explain how the Proposed Development relates to the existing landholders and how the third party interests will be treated.
- 1.4 The Statement of Reasons should be read alongside the following documents:
  - (a) The Funding Statement (Application Document Ref. No. 2.6), which confirms the Applicant's ability to fund the construction, operation and maintenance of the Proposed Development and the provisions contained within the draft Order.
  - (b) The Land Plan (Application Document Ref. No. 5.4) showing all of the land within the Order limits that is required for the Proposed Development.
  - (c) The Book of Reference (Application Document Ref. No. 2.4), which schedules all owners, lessees, tenants and occupiers and those with other interests in the land within the Order limits and those who may be entitled to make relevant claims.
  - (d) The draft Order (Application Document Ref. No. 2.1) that includes the consents, authorisations and powers that are being sought by the Applicant in respect of the Proposed Development and the Explanatory Memorandum (Application Document Ref. No. 2.2) that explains the purpose and effect of the draft Order.

## **2. The Proposed Development**

- 2.1 The Proposed Development comprises the construction of K3 at its total generating capacity of up to 75MW (49.9MW consented + 25.1MW upgrade) together with its proposed tonnage throughput of up to 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase).
- 2.2 K3 will combust post-recycled solid recovered fuel waste, commercial and industrial waste and pre-treated municipal solid waste to produce electricity which is exported to the national grid and steam which is supplied to the adjacent DS Smith Kemsley Paper Mill for use in the paper-making process.
- 2.3 K3 as consented under its current Town and Country Planning Act 1990 planning permission is under construction and is expected to be operational in late 2019.
- 2.4 Development consent is also being sought for the proposed new WKN waste-to-energy facility, capable of processing 390,000 tonnes of waste per annum, with a generating capacity of 42MW. The electricity produced will be exported to the distribution network, owned and operated by UK Power Networks. The grid connection will be via the existing substation located within the DS Smith paper mill site to the immediate west.

2.5 A detailed description of all the elements of the Proposed Development is provided in Chapter Two of the Environmental Statement - "Site Description and Proposed Development" (Application Document Ref. No. 3.1).

2.6 It is currently anticipated that (subject to a DCO being granted and a final investment decision being made) work will commence on the Proposed Development in 2021, with construction of WKN expected to take 40 months.

### **3. The Application Site (the Order land)**

3.1 The Order land lies to the north east of Kemsley, which forms part of the wider urban area of Sittingbourne. Sittingbourne is situated approximately 2.6km south of the Sites. A detailed description of the Application Site is provided in Chapter Two of the Environmental Statement - "Site Description and Proposed Development" (Application Document Ref. No. 3.1).

3.2 The Order land itself extends to approximately 32 ha and its extent is shown on the Order Plan (Application Document Ref. No. 4.2). The order land comprises of the following areas of land that are for the most part within the Power Station site:

3.2.1 Immediately to the west the Order land is dominated by the extensive Kemsley Paper Mill complex. The paper mill was first constructed in 1924 and has continued to evolve and expand since. DS Smith, the operators of the Kemsley Paper Mill, obtained Development Consent in July 2019 for the construction of K4, a gas fired Combined Heat and Power plant, to serve the paper mill which will be developed on land within the eastern part of the paper mill complex.

3.2.2 To the north of the Order land lies an area of scrubland, beyond which sits an anaerobic digestion plant serving the Kemsley Paper Mill. Beyond the AD plant, to the north and north-west of the site are further industrial premises of Countrystyle, Knauf, the Ridham Dock and the Morrisons Distribution Depot. The jetty to the north-east of the WKN site is used by Knauf for the importation of gypsum. The area to the east of the Morrisons depot is allocated for further industrial/commercial development, as is the area immediately to the west of the Kemsley Paper mill.

3.2.3 To the south of the K3 Site lies a capped former landfill immediately north of the confluence between Milton Creek and the Swale Estuary. The Swale Estuary lies immediately to the east of the K3 and WKN sites, beyond which lies the Isle of Sheppey.

### **4. Purposes for which the Order Land is Required**

4.1 The K3 proposed development comprises the following works and associated development, as shown on the K3 Works Plan (Document 5.5a), and affecting the below plots in the Land Plan (Document 5.4):

<b>Work No.</b>	<b>Plots</b>	<b>Description</b>
Work No. 1	10, 11, 12, 13, 14, 15, 16, 30	An electricity generating station (K3) with a gross installed generating capacity of 75MW

<b>Work No.</b>	<b>Plots</b>	<b>Description</b>
Work No. 1A	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 21,	An underground electrical connection to the electricity grid network, running from the K3 generating station main process area and connecting to the South Eastern Power Networks substation on the DS Smith site
Work No. 1B	10, 11, 12, 29	A pipe running east from the K3 generating station to supply steam to the DS Smith paper mill facility
Work No. 1C	10, 21, 26, 27, 28,	Alteration of existing private access road to construct, use and maintain K3
Work No. 1D	21	A temporary construction compound and laydown area which is currently in use for construction of K3 pursuant to its existing town and Country Planning Act 1990 planning permission
Work No. 1E	17, 18, 19	Construction and operation of an outfall to the Swale Estuary for clean surface water from K3

4.2 The WKN proposed development comprises the following works and associated development and affecting the below plots in the Land Plan (Document 5.4):

<b>Work No.</b>	<b>Plots</b>	<b>Description</b>
Work No. 2	21	An electricity generating station with a gross installed generating capacity of up to 42MW
Work No. 3	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 21,	An underground electrical connection to the electricity grid network, running from the WKN main process area and connecting to the South Eastern Power Networks substation on the DS Smith site
Work No. 4	10, 21, 26, 27, 28,	Alteration of existing private access road to construct, use and maintain WKN
Work No. 5	23, 24, 25, 26, 27,	Improvements to an existing private access and haul road running to the north of the WKN site, adjacent to the DS Smith anaerobic digester, for access to the temporary construction laydown in Work 6
Work No. 6	22	Temporary construction compound and laydown area for the construction of WKN

<b>Work No.</b>	<b>Plots</b>	<b>Description</b>
Work No. 7	17, 18, 19	Construction and operation of an outfall to the Swale Estuary for clean surface water from WKN

## **5. The Powers Sought for the Proposed Development**

- 5.1 The land required for the Proposed Development is primarily within the ownership of DS Smith ownership or that of subsidiary entities controlled by it.
- 5.2 The Applicant has entered into a lease with DS Smith in respect of the Order land required for K3, under which it is granted all the interests and rights that are necessary for the construction, operation and maintenance of K3. Therefore the Applicant does not seek any powers to acquire land or rights compulsorily.
- 5.3 Access to the Order land for both temporary construction and for operational access for K3 and WKN is via an existing connection to the public highway Barge Way, at the north of the Order land.
- 5.4 No new rights are required for the Proposed Development. No rights or covenants are required to be extinguished or overridden.

## **6. Status of Voluntary Negotiations for the Order Land**

- 6.1 The Book of Reference (Application Document Ref. No. 2.4) and the Land Plan (Application Document Ref. No. 5.4) identify those persons with an interest in the Order land.
- 6.2 No residential properties are located within or adjacent to the Order land.
- 6.3 As mentioned above, all interests and rights in the Order land for K3 and WKN have been or will be acquired by private treaty.
- 6.4 The only land within the Order limits that is not owned by DS Smith (or related entities or subsidiaries) and hence not covered by the above arrangements, is plots 17 and 18, which are owned by the Port of Sheerness and are required for surface water outfalls to the Swale Estuary.
- 6.5 The Applicant has reached agreement in principle with the Port of Sheerness for the acquisition of necessary rights by private treaty, and this agreement is being formalised and expected to be complete before the end of examination of the application.
- 6.6 DS Smith and the Applicant have also agreed various licenses as are necessary for temporary access and use of land for construction purposes that falls outside the demised lease areas but within the Order land.

## **7. Special Considerations Affecting the Order Land**

- 7.1 None of the Order land is subject to any special considerations. In particular the DCO does not affect any Crown land or any special category land as defined in Regulation 2(1) of the APFP Regulations, i.e. land forming part of a common, open space, National Trust land or fuel or field garden allotment.

### **Statutory Undertakers**

7.2 The Applicant has consulted extensively with statutory undertakers whose interests or apparatus in the Order land might be affected by the Proposed Development (see Consultation Report – Application Document Reference 4.1). The Applicant is seeking to agree statements of common ground with all relevant statutory undertakers that have equipment and apparatus on, under or over the Order land.

7.3 As part of the process of agreeing statements of common ground the Applicant will also seek to agree appropriate protective measures with statutory undertakers to ensure that their assets are adequately protected during construction and operation.

#### **PA 2008 - Section 127**

7.4 Section 127 of the PA 2008 applies to statutory undertakers' land held for the purposes of the undertaking if that statutory undertaker has made a representation to the relevant SoS about a proposed DCO before the completion of the examining authority's examination of the application.

7.5 Section 127 does not apply in this instance as no authorisation of compulsory acquisition of statutory undertakers' land or interests is sought in the DCO.

#### **8. The Human Rights Act 1998**

8.1 The European Convention on Human Rights (Convention) was incorporated into domestic law by the Human Rights Act 1998. The Convention contains Articles aimed to protect the rights of the individual (referred to as Convention Rights).

8.2 Regard has been had to the provisions of Article 1 of the First Protocol to the European Convention of Human Rights which protects the rights of everyone to the "peaceful enjoyment of possessions except in the public interest and subject to the conditions provided for by law". Any interference with possessions must therefore be proportionate and in determining whether a particular measure is proportionate, a "fair balance" should be struck between the demands of the general interest and the protection of the individuals' rights.

8.3 As the Application is not seeking compulsory acquisition powers, nor is it interfering in any way with any possessions or property of any individual, the Applicant does not consider that Convention rights are engaged in this instance.

#### **9. Conclusion**

9.1 By seeking agreement through private treaty the Applicant has negated the need for the inclusion of powers of compulsory acquisition in the Order for the purposes of the Proposed Development.

9.2 The Applicant has set out clear and specific proposals of how the Order Land will be used and the status of agreement with all affected landowners.

9.3 The requisite funds are available to meet any amount of compensation payable as a result of the exercise of powers under the DCO.