

planning
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Appendix 3.2: Planning Inspectorate (PINS) Scoping Opinion

Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator Kemsley North
(WKN) Waste to Energy Facility DCO

September 2019 -Submission Version

PINS ref: EN010083





SCOPING OPINION:

Proposed Wheelabrator Kemsley K3 Power Upgrade and Throughput Increase and Wheelabrator Kemsley North Waste-to-Energy Plant

Case Reference: EN010083

Adopted by the Planning Inspectorate (on behalf of the Secretary of State for Housing, Communities and Local Government) pursuant to Regulation 10 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017

October 2018

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1. INTRODUCTION

1.1 Background

- 1.1.1 On 07 September 2018, the Planning Inspectorate (the Inspectorate) on behalf of the Secretary of State (SoS) received a scoping request from Wheelabrator Technologies Inc. (the Applicant) under Regulation 10 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) for the proposed Wheelabrator Kemsley Power Upgrade Throughput Increase (K3) and Wheelabrator Kemsley North Waste-to-Energy Plant (WKN) (the Proposed Development). The Applicant's scoping request explains that these two projects will be progressed in a single DCO application.
- 1.1.2 In accordance with Regulation 10 of the EIA Regulations, an Applicant may ask the SoS to state in writing its opinion *'as to the scope, and level of detail, of the information to be provided in the environmental statement'*.
- 1.1.3 This document is the Scoping Opinion (the Opinion) provided by the Inspectorate on behalf of the SoS in respect of the Proposed Development. It is made on the basis of the information provided in the Applicant's report entitled 'Proposed Wheelabrator Kemsley K3 Power Upgrade and Throughput Increase and Wheelabrator Kemsley North Waste-to-Energy Plant DCO' (the Scoping Report). This Opinion can only reflect the proposals as currently described by the Applicant. The Scoping Opinion should be read in conjunction with the Applicant's Scoping Report.
- 1.1.4 The Applicant has notified the SoS under Regulation 8(1)(b) of the EIA Regulations that they propose to provide an Environmental Statement (ES) in respect of the Proposed Development. Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development is EIA development.
- 1.1.5 As the generating capacity of WKN would be below 50MW it would not comprise a nationally significant infrastructure project according to the Planning Act 2008 (PA2008). The Applicant made a request on 1 June 2018 to the SoS for Business, Energy and Industrial Strategy (SOSBEIS) to exercise powers under Section 35 (s35) of the PA2008 to direct that WKN be treated as development for which development consent is required. The SoSBEIS agreed the request and issued a s35 Direction accordingly on 27 June 2018.
- 1.1.6 Regulation 10(9) of the EIA Regulations requires that before adopting a scoping opinion the Inspectorate must take into account:
- (a) *any information provided about the proposed development;*
 - (b) *the specific characteristics of the development;*

- (c) *the likely significant effects of the development on the environment; and*
 - (d) *in the case of a subsequent application, the environmental statement submitted with the original application.*
- 1.1.7 This Opinion has taken into account the requirements of the EIA Regulations as well as current best practice towards preparation of an ES.
- 1.1.8 The Inspectorate has consulted on the Applicant's Scoping Report and the responses received from the consultation bodies have been taken into account in adopting this Opinion (see Appendix 2).
- 1.1.9 The points addressed by the Applicant in the Scoping Report have been carefully considered and use has been made of professional judgement and experience in order to adopt this Opinion. It should be noted that when it comes to consider the ES, the Inspectorate will take account of relevant legislation and guidelines. The Inspectorate will not be precluded from requiring additional information if it is considered necessary in connection with the ES submitted with the application for a Development Consent Order (DCO).
- 1.1.10 This Opinion should not be construed as implying that the Inspectorate agrees with the information or comments provided by the Applicant in their request for an opinion from the Inspectorate. In particular, comments from the Inspectorate in this Opinion are without prejudice to any later decisions taken (eg on submission of the application) that any development identified by the Applicant is necessarily to be treated as part of a Nationally Significant Infrastructure Project (NSIP) or Associated Development or development that does not require development consent.
- 1.1.11 Regulation 10(3) of the EIA Regulations states that a request for a scoping opinion must include:
 - (a) *a plan sufficient to identify the land;*
 - (b) *a description of the proposed development, including its location and technical capacity;*
 - (c) *an explanation of the likely significant effects of the development on the environment; and*
 - (d) *such other information or representations as the person making the request may wish to provide or make.*
- 1.1.12 The Inspectorate considers that this has been provided in the Applicant's Scoping Report. The Inspectorate is satisfied that the Scoping Report encompasses the relevant aspects identified in the EIA Regulations.
- 1.1.13 In accordance with Regulation 14(3)(a), where a scoping opinion has been issued in accordance with Regulation 10 an ES accompanying an application for an order granting development consent should be based on *'the most recent scoping opinion adopted (so far as the proposed*

development remains materially the same as the proposed development which was subject to that opinion)'.

- 1.1.14 The Inspectorate notes the potential need to carry out an assessment under The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). This assessment must be co-ordinated with the EIA in accordance with Regulation 26 of the EIA Regulations. The Applicant's ES should therefore be co-ordinated with any assessment made under the Habitats Regulations.

1.2 The Planning Inspectorate's Consultation

- 1.2.1 In accordance with Regulation 10(6) of the EIA Regulations the Inspectorate has consulted the consultation bodies before adopting a scoping opinion. A list of the consultation bodies formally consulted by the Inspectorate is provided at Appendix 1. The consultation bodies have been notified under Regulation 11(1)(a) of the duty imposed on them by Regulation 11(3) of the EIA Regulations to make information available to the Applicant relevant to the preparation of the ES. The Applicant should note that whilst the list can inform their consultation, it should not be relied upon for that purpose.
- 1.2.2 The list of respondents who replied within the statutory timeframe and whose comments have been taken into account in the preparation of this Opinion is provided, along with copies of their comments, at Appendix 2, to which the Applicant should refer in preparing their ES.
- 1.2.3 The ES submitted by the Applicant should demonstrate consideration of the points raised by the consultation bodies. It is recommended that a table is provided in the ES summarising the scoping responses from the consultation bodies and how they are, or are not, addressed in the ES.
- 1.2.4 Any consultation responses received after the statutory deadline for receipt of comments will not be taken into account within this Opinion. Late responses will be forwarded to the Applicant and will be made available on the Inspectorate's website. The Applicant should also give due consideration to those comments in preparing their ES.

1.3 Article 50 of the Treaty on European Union

- 1.3.1 On 23 June 2016, the United Kingdom (UK) held a referendum and voted to leave the European Union (EU). On 29 March 2017 the Prime Minister triggered Article 50 of the Treaty on European Union, which commenced a two year period of negotiations regarding the UK's exit from the EU. On 26 June 2018 The European Union (Withdrawal) Act 2018 received Royal Assent and work to prepare the UK statute book for Brexit has begun. The European Union (Withdrawal) Act 2018 will make sure that UK laws continue to operate following the UK's exit. There is no immediate change to legislation or policy affecting national infrastructure. Relevant EU Directives have been transposed into UK law and those are unchanged until amended by Parliament.

2. THE PROPOSED DEVELOPMENT

2.1 Introduction

2.1.1 The following is a summary of the information on the Proposed Development and its site and surroundings prepared by the Applicant and included in their Scoping Report. The information has not been verified and it has been assumed that the information provided reflects the existing knowledge of the Proposed Development and the potential receptors/resources.

2.2 Description of the Proposed Development

2.2.1 The Applicant's description of the Proposed Development, location and technical capacity is provided in Scoping Report Sections 1 and 2. K3 is described in Section 2.1 and WKN is described in Section 2.2.

K3

2.2.2 Planning permission (PP) under the Town and Country Planning Act 1990 (TCPA) was granted for K3 by Kent County Council (KCC) in 2012. K3 comprises an energy from waste (EfW) generating station with two 102 megawatt thermal (MWth) lines, and a generating output of up to 49.9MW. The EfW generating station is capable of processing 550,000 tonnes of waste per annum. The pre-treated waste will comprise solid recovered fuel waste, commercial and industrial waste and pre-treated municipal solid waste. The energy that will be generated will be exported to the grid and low pressure steam generated as a by-product of the process will be fed to the adjacent Kemsley Paper Mill. This PP has been subject to a number of subsequent approved amendments, and an application is currently before KCC for a further amendment to allow an increase in the permitted daily HGV movements from 258 to 348. Construction of the generating station began in August 2016 and it is expected that the completed station will be operational by August 2019. This development will hereafter be described in this opinion as the 'consented TCPA scheme'.

2.2.3 The Proposed Development would allow an increase in the power generation of the consented TCPA scheme from 49.9MW to 75MW and an additional tonnage throughput of 107,000 tonnes of waste per annum. The changes to the consented TCPA scheme (as amended) that would comprise the Proposed Development for the purposes of the DCO are described as 'purely operational' with no changes to the built form or layout of the site. The proposal would be enabled by derestricting the flow of steam to the turbine. It is anticipated that an additional 68 HGVs would be generated per day as a result of the increased throughput, waste delivery, incinerator bottom ash (IBA) removal and process outputs.

2.2.4 The K3 site is located on land immediately east of Kemsley, a residential suburb in Sittingbourne Kent, and adjacent to the Swale Estuary to the

east, with the Isle of Sheppey beyond. To the south of the site lies a capped former landfill site. The site lies in proximity to the A249, which links the M2 and M20 motorways to the south.

WKN

- 2.2.5 In respect of WKN, the Proposed Development is a new EfW plant on land adjacent to the K3 site, which would have a generating capacity of 42MW and be capable of processing 390,000 tonnes of waste per annum. It is stated that the design of the facility is not yet finalised but essentially it would be a smaller single line version of the adjacent consented TCPA scheme. The plant would comprise a series of interlinked buildings, the key ones of which would be:
- a fuel reception and storage facilities, tipping hall, shredder, storage bunker and cranes;
 - a combustion system within a boiler hall, comprising a single combustion line and associated boilers;
 - a steam turbine and generator housed within a turbine hall;
 - a bottom ash handling system to include stage hall and ash collection bay;
 - a flue gas treatment system, including residues and reagent storage silos and tanks;
 - one stack, and emissions monitoring systems; and
 - a cooling system with air cooled condenser units.
- 2.2.6 The WKN site is located immediately north of K3 with the Swale Estuary to the east, and Kemsley Marshes to the north, beyond which lies the Kemsley Paper Mill effluent treatment works and a jetty used for the import of gypsum by barge. The WKN site is currently in use as a laydown and parking area for the consented TCPA scheme, which is at an advanced stage of construction. The WKN site has been cleared of vegetation and laid to concrete and hardcore.
- 2.2.7 Both the K3 and WKN site are in proximity to the Swale Special Protection Area (SPA) and Site of Special Scientific Interest (SSSI), which lie approximately 100m east of the Proposed Development sites at their closest point. Milton Creek Local Wildlife Site (LWS) is within 400m and 550m of the K3 and WKN sites, respectively. A designated Scheduled Monument (Castle Rough) lies approximately 500m and 650m to the west, respectively. The North Downs Area of Outstanding Natural Beauty (AONB) is over 7km away from the sites.
- 2.2.8 Figure 1.1 in Appendix 1 shows the Proposed Development site location, and Figure 1.2 illustrates the respective locations of the K3 and WKN sites, together with accesses, utilities and drainage.

2.3 The Planning Inspectorate's Comments

Description of the Proposed Development

2.3.1 The ES should include the following:

- a description of the Proposed Development comprising at least the information on the site, design, size and other relevant features of the development; and
- a description of the location of the development and description of the physical characteristics of the whole development, including any requisite demolition works and the land-use requirements during construction and operation phases.

K3

2.3.2 The Inspectorate notes that little information is provided about K3 and it is described being purely operational changes to the consented TCPA scheme. The nature of these changes must be fully described in the ES, supported by figures and process diagrams as necessary. The information provided must include sufficient detail about the consented TCPA scheme so that the context of K3 can be understood. Whilst planning documents relating to the consented TCPA scheme have been provided with the Scoping Report, the information that the Applicant considers is pertinent to K3 should be concisely set out in the ES, rather than contained in a series of separate documents.

2.3.3 No information has been provided in the Scoping Report regarding the scale of the remaining and when the construction works of the consented TCPA scheme are anticipated to end, prior to operation commencing in August 2019. This should be set out in the ES, so that the position is clear at the time that the DCO application is submitted.

2.3.4 The Inspectorate notes that the application currently before KCC for an amendment to the consented TCPA scheme would allow an increase of 90 HGV movements/day, while it is anticipated in the Scoping Report that K3 would generate an additional 68 (or 136) HGV movements/day. The upgraded power generation of K3 would represent a substantial increase from that of the consented TCPA scheme, and the relationship between the increase in power generation and the additional vehicle movements anticipated to be required should be clearly explained in the ES.

WKN

2.3.5 The description of WKN provided in the Scoping Report is limited in detail and no plans or diagrams are included. The Inspectorate notes that the design of the facility is not yet finalised and the dimensions of the structures, including the stack, are not yet confirmed. The Inspectorate expects that at the point when an application is made, the description of the proposed structures will be sufficiently developed to include the design, size and locations of the different elements of the Proposed

Development. This should include the footprint and maximum heights of all proposed structures (relevant to existing ground levels) as well as land use requirements for all phases and elements of the development.

- 2.3.6 In particular, and to ensure a robust assessment of likely significant effects the ES should confirm the diameter and height of the stack and it should be clear what assumptions have been made regarding the placement of the stack, particularly with regards to air quality modelling and the landscape and visual assessment. The description should be supported (as necessary) with figures, cross-sections and drawings which should be clearly and appropriately referenced. Where flexibility is sought, the ES should clearly set out the design parameters that would apply, and how these have been used to inform an adequate assessment in the ES.
- 2.3.7 Limited information has been provided regarding the construction of WKN. The ES should provide specific details, including the programme, the nature of the works at each stage, the number of construction staff, working hours, etc, and how the work will be phased across the application site.
- 2.3.8 The Inspectorate notes from paragraph 7.6.13 of the ES that reference is made to a Construction Environmental Management Plan (CEMP) although it is not clear if there is an intention to provide one with the DCO application. A draft/outline CEMP should be provided with the application and the content agreed with the relevant consultation bodies where possible.
- 2.3.9 Paragraph 2.2.15 of the Scoping Report notes that a connection to the foul sewer will be needed for sanitary connection from the offices. These works should be described fully within the ES.
- 2.3.10 Paragraph 2.2.16 describes two drainage systems that will be constructed for WKN. Both drainage systems and any other measures required to attenuate surface water should be described fully in the ES. In particular, the ES should describe what the maximum acceptable capacity of the lagoon would be, and include information on any works or permit application that may be required in relation to the discharge of the excess water into the Swale Estuary. It should be confirmed in the ES whether WKN would utilise the K3 outfall pipe.

K3 & WKN

- 2.3.11 It is unclear whether the reference in paragraphs 2.1.10 (K3) and 2.2.12 (WKN) of the Scoping Report to 68 HGVs/day and 250 HGVs/day, respectively, is to vehicles or movements. This should be clarified in the ES.
- 2.3.12 The Inspectorate notes that an amended environmental permit will be sought for K3 and that a new permit will be sought for WKN. The ES should include cross-reference from relevant aspect chapters to

information provided within the other DCO application documents regarding the content and progress of all required permit applications.

- 2.3.13 There are discrepancies and omissions in some of the Figures that have been provided in the Scoping Report, eg Figure 1.5 does not identify all the features identified in the text. As a result of the scale or poor resolution of some figures they cannot be read in hard copy, eg Appendix 5 figures. The Applicant should take care to ensure that figures included in the ES are accurate, identify features by name, and are clearly legible.

Alternatives

- 2.3.14 The EIA Regulations require that the Applicant provide 'A description of the reasonable alternatives (for example in terms of development design, technology, location, size and scale) studied by the developer, 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'.
- 2.3.15 The Inspectorate acknowledges the Applicant's intention to consider alternatives within the ES. The Inspectorate would expect to see a section in the ES that provides details of the reasonable alternatives studied and the reasoning for the selection of the chosen option(s), including a comparison of the environmental effects.

Flexibility

- 2.3.16 The Inspectorate notes the Applicant's desire to incorporate flexibility into their draft DCO (dDCO) and the intention to apply a Rochdale Envelope approach for this purpose. Where the details of the Proposed Development cannot be defined precisely, the Inspectorate notes that the Applicant will apply a worst case scenario. The Inspectorate welcomes the reference to Planning Inspectorate Advice Note Nine: 'Using the 'Rochdale Envelope' in this regard.
- 2.3.17 The Applicant should make every attempt to narrow the range of options and explain clearly in the ES which elements of the Proposed Development have yet to be finalised and provide the reasons. At the time of application, any Proposed Development parameters should not be so wide-ranging as to represent effectively different developments. The development parameters will need to be clearly defined in the dDCO and in the accompanying ES. It is a matter for the Applicant, in preparing an ES, to consider whether it is possible to robustly assess a range of impacts resulting from a large number of undecided parameters. The description of the Proposed Development in the ES must not be so wide that it is insufficiently certain to comply with the requirements of Regulation 14 of the EIA Regulations.
- 2.3.18 It should be noted that if the Proposed Development materially changes prior to submission of the DCO application, the Applicant may wish to consider requesting a new scoping opinion.

3. ES APPROACH

3.1 Introduction

- 3.1.1 This section contains the Inspectorate's specific comments on the scope and level of detail of information to be provided in the Applicant's ES. General advice on the presentation of an ES is provided in the Inspectorate's Advice Note Seven: 'Environmental Impact Assessment: Process, Preliminary Environmental Information and Environmental Statements'¹ (AN7) and associated appendices.
- 3.1.2 Aspects/matters (as defined in AN7) are not scoped out unless specifically addressed and justified by the Applicant, and confirmed as being scoped out by the Inspectorate. The ES should be based on the Scoping Opinion in so far as the Proposed Development remains materially the same as the Proposed Development described in the Applicant's Scoping Report.
- 3.1.3 The Inspectorate has set out in this Opinion where it has/has not agreed to scope out certain aspects/ matters on the basis of the information available at this time. The Inspectorate is content that the receipt of a Scoping Opinion should not prevent the Applicant from subsequently agreeing with the relevant consultees to scope such aspects/matters out of the ES, where further evidence has been provided to justify this approach. However, in order to demonstrate that the aspects/matters have been appropriately addressed, the ES should explain the reasoning for scoping them out and justify the approach taken.
- 3.1.4 Where relevant, the ES should provide reference to how the delivery of measures proposed to prevent/minimise adverse effects is secured through DCO requirements (or other suitably robust methods) and whether relevant consultees agree on the adequacy of the measures proposed.

3.2 Relevant National Policy Statements (NPSs)

- 3.2.1 Sector-specific NPSs are produced by the relevant Government Departments and set out national policy for NSIPs. They provide the framework within which the Examining Authority (ExA) will make their recommendation to the SoS and include the Government's objectives for the development of NSIPs. The NPSs may include environmental requirements for NSIPs, which Applicants should address within their ES.

¹ Advice Note Seven: Environmental Impact Assessment: Process, Preliminary Environmental Information and Environmental Statements and annex. Available from: <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>

3.2.2 The designated NPSs which appear relevant to the Proposed Development are the following:

- Overarching NPS For Energy (NPS EN-1)
- NPS for Fossil Fuel Electricity Generating Infrastructure (NPS EN-2)
- NPS for Electricity Networks (EN-5)

3.3 Scope of Assessment

General

3.3.1 The Inspectorate recommends that in order to assist the decision-making process, the Applicant uses tables:

- to demonstrate how the assessment has taken account of this Opinion;
- to identify and collate the residual effects after mitigation for each of the aspect chapters, including the relevant interrelationships and cumulative effects;
- to set out the proposed mitigation and/ or monitoring measures including cross-reference to the means of securing such measures (eg a dDCO requirement);
- to describe any remedial measures that are identified as being necessary following monitoring; and
- to identify where details are contained in the Habitats Regulations Assessment (HRA report) (where relevant), such as descriptions of European sites and their locations, together with any mitigation or compensation measures, are to be found in the ES.

3.3.2 It is not clear whether it is intended to assess potential decommissioning impacts of K3 and WKN. Some of the technical chapters make no reference or refer to 'demolition'; it is not clear if this is intended to mean decommissioning. Paragraph 4.2.3 of the overarching NPS for Energy states that the ES should cover the environmental effects arising from decommissioning of a project. The Inspectorate advises that each of the ES technical assessments must include consideration of the decommissioning phase, which should describe the process and methods of decommissioning and identify any significant effects that are likely to occur.

3.3.3 The Inspectorate welcomes the reference to the Planning Inspectorate's Advice Notes and also draws the Applicant's attention to the advice contained in AN17: Cumulative Effects Assessment.

Baseline Scenario

3.3.4 The ES should include a description of the baseline scenario with and without implementation of the development as far as natural changes from the baseline scenario can be assessed with reasonable effort on the

basis of the availability of environmental information and scientific knowledge.

- 3.3.5 The Inspectorate notes that the baseline to be used for the assessment will assume that the consented TCPA scheme has been constructed and is operating in accordance with its extant PP. It is not specified in the Scoping Report when construction of the consented TCPA scheme will complete, other than that it will be by August 2019. On that basis and as construction will potentially still be ongoing at the time that the assessments are undertaken, the ES will need to clearly set out the stage that construction has reached and the nature of the ongoing activities at that time, and clearly explain and justify the assumptions that have been made in interpreting survey results.
- 3.3.6 In light of the number of ongoing developments within the vicinity of the Proposed Development application site, the Applicant should clearly state which developments will be assumed to be under construction or operational as part of the future baseline.

Forecasting Methods or Evidence

- 3.3.7 The detail within the Scoping Report regarding specific study areas is limited, and is not provided at all for some aspects. The Inspectorate recommends that the study areas should be identified for each environmental aspects addressed in the ES. The extent of the study areas should be on the basis of recognised professional guidance (whenever such guidance is available) and address the extent of the likely impacts. Where relevant the assessment should include reference to relevant models or approaches such as traffic modelling or Zones of Theoretical Visibility (ZTV). The study areas should also be agreed with the relevant consultation bodies and where this is not possible, this should be stated clearly in the ES and reasoned justification given.
- 3.3.8 The ES should contain the timescales upon which the surveys that underpin the technical assessments have been based. For clarity, this information should be provided either in the introductory chapters of the ES (with confirmation that these timescales apply to all chapters), or in each aspect chapter.
- 3.3.9 Section 3.4 of the Scoping Report explains in very general terms the approach to determining significance of effect but does not state what would be considered to constitute a significant effect. There are also inconsistencies in a number of the aspect chapters regarding the criteria to be used to determine sensitivity and magnitude. The Inspectorate requires the ES to include an overarching methodology that is applied to the assessment, which clearly distinguishes effects that are 'significant' from 'non-significant' effects, and describes the criteria that will be applied. Any departure from that methodology should be described in individual aspect assessment chapters.

- 3.3.10 The ES should include details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.

Residues and Emissions

- 3.3.11 The EIA Regulations require an estimate, by type and quantity, of expected residues and emissions. Specific reference should be made to water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases, where relevant. This information should be provided in a clear and consistent fashion and may be integrated into the relevant aspect assessments.

Mitigation

- 3.3.12 Any mitigation relied upon for the purposes of the assessment should be explained in detail within the ES. The likely efficacy of the mitigation proposed should be explained with reference to residual effects. The ES should also address how any mitigation proposed is secured, with reference to specific DCO requirements or other legally binding agreements.
- 3.3.13 If any construction mitigation measures are contained in a CEMP submitted with the DCO application, clear cross-reference should be made from the relevant technical chapters.

Risks of Major Accidents and/or Disasters

- 3.3.14 The ES should include a description and assessment (where relevant) of the likely significant effects resulting from accidents and disasters applicable to the Proposed Development. The Applicant should make use of appropriate guidance (eg, that referenced in the Health and Safety Executive's (HSE's) Annex to Advice Note 11) to better understand the likelihood of an occurrence and the Proposed Development's susceptibility to potential major accidents and hazards.
- 3.3.15 The description and assessment should consider the vulnerability of the Proposed Development to a potential accident or disaster and also the Proposed Development's potential to cause an accident or disaster. The assessment should specifically assess significant effects resulting from the risks to human health, cultural heritage or the environment. Any measures that will be employed to prevent and control significant effects should be presented in the ES.
- 3.3.16 Relevant information available and obtained through risk assessments pursuant to European Union legislation such as Directive 2012/18/EU of the European Parliament and of the Council or Council Directive 2009/71/Euratom or relevant assessments carried out pursuant to national legislation may be used for this purpose provided that the requirements of this Directive are met. Where appropriate, this description should include measures envisaged to prevent or mitigate the

significant adverse effects of such events on the environment and details of the preparedness for and proposed response to such emergencies.

Climate and Climate Change

- 3.3.17 The ES should include a description and assessment (where relevant) of the likely significant effects the Proposed Development has on climate (for example having regard to the nature and magnitude of greenhouse gas emissions) and the vulnerability of the project to climate change. Where relevant, the ES should describe and assess the adaptive capacity that has been incorporated into the design of the Proposed Development. This may include, for example, alternative measures such as changes in the use of materials or construction and design techniques that will be more resilient to risks from climate change.

Transboundary Effects

- 3.3.18 The Scoping Report concludes that the Proposed Development is not likely to have significant effects on another European Economic Area (EEA) State, however it also notes within some aspect chapters that the matter will be reviewed following the results of the modelling exercises, which is welcomed. The final position should be clearly stated in the ES.

A Reference List

- 3.3.19 A reference list detailing the sources used for the descriptions and assessments must be included in the ES.

3.4 Confidential Information

- 3.4.1 In some circumstances it will be appropriate for information to be kept confidential. In particular, this may relate to information about the presence and locations of rare or sensitive species such as badgers, rare birds and plants where disturbance, damage, persecution or commercial exploitation may result from publication of the information. Where documents are intended to remain confidential the Applicant should provide these as separate paper and electronic documents with their confidential nature clearly indicated in the title, and watermarked as such on each page. The information should not be incorporated within other documents that are intended for publication or which the Inspectorate would be required to disclose under the Environmental Information Regulations 2014.

4. ASPECT BASED SCOPING TABLES

4.1 Traffic and Transport

(Scoping Report Sections 6.1 (K3) and 7.1 (WKN))

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
4.1.1	6.1.3	Decommissioning of K3	The Applicant's Scoping Report suggests that decommissioning works for K3 are authorised through the consented TCPA application. The Inspectorate is content that if powers to decommission K3 are not sought through the DCO then this matter can be scoped out of the ES as a standalone assessment. However, the assessment of cumulative effects between decommissioning activities for WKN and other developments including K3 should be assessed where significant effects are likely to occur.
4.1.20	7.1.4 & 7.1.6 & 7.1.13	Construction and decommissioning of WKN	<p>The Inspectorate does not agree that these may be scoped out according to the justification that the vehicle movements will be higher during the operational phase. The ES should include an assessment of the impacts during all phases so that the effects of the Proposed Development throughout its life can be fully understood.</p> <p>The potential for significant effects on driver delay, severance of routes, pedestrian delay and amenity, accidents and road safety and hazardous, dangerous and Abnormal Indivisible Loads should be assessed for the construction and decommissioning phases of the Proposed Development in addition to the operational phase.</p> <p>The baseline year against which the assessment is made should be when construction rather than operation commences, and the future baseline should be when the Proposed Development becomes operational.</p>

ID	Ref	Other points	Inspectorate's comments
4.1.3	6.1.4	K3 baseline assessment	<p>The Applicant should ensure that the baseline assessments used to inform the ES appropriately take into consideration the likely timescales associated with the construction and operation of the consented TCPA scheme.</p> <p>It is noted that the 84 daily vehicle movements associated with the permitted IBA facility will be removed from the baseline in the event that the surrendering of the Integrated Pollution Prevention and Control (IPPC) permit is confirmed during the preparation of the DCO application. The Applicant should ensure that this is consistently reflected throughout the ES and in any other aspect chapters which are informed by the traffic and transport assessment.</p>
4.1.4	6.1.13	K3 Scope of assessment	<p>Although it is noted in para 6.1.2 that the removal by HGVs of additional IBA generated by the Proposed Development may give rise to changes those impacts are not reflected here; it is indicated that only the potential impacts resulting from the traffic generated by the additional delivery of waste will be considered in the assessment.</p> <p>The Inspectorate considers that the HGV movements generated by the IBA removal should also be assessed. In addition, any increased traffic movements from the Proposed Development site that result from the consented IBA facility not being constructed should be factored in to the assessment.</p>
4.1.5	6.1.23 - 6.4.24 7.1.25 - 7.1.26	K3 & WKN Receptors	<p>The receptors to be considered in the assessment should include species on which there could be potential significant effects in addition to ecological/nature conservation sites.</p> <p>Although a list of potential receptors is provided in para 6.1.23 (and notwithstanding the information in the table below), it is suggested that the only receptors sensitive to transport impacts would be people, and that the focus of the assessment will be on vulnerable groups. The Inspectorate does not agree with this approach and considers that the assessment should consider all receptor types which could</p>

			potentially be significantly affected by the Proposed Development.
4.1.6	6.1.31 - 6.1.32 & 7.1.33 - 7.1.35	K3 & WKN Cumulative effects	<p>No information is provided on the scope of the cumulative effects assessment (CEA) for K3 and WKN. The justification for and extent of the CEA study area should be clearly explained and the list of developments to be included in the CEA should be set out in the ES, as set out in the Planning Inspectorate's AN17.</p> <p>The Inspectorate does not agree that decommissioning of K3 may be scoped out of the assessment. There is potential for significant cumulative effects during decommissioning and this must be assessed.</p> <p>The Inspectorate does not agree that construction and decommissioning of WKN may be scoped out of the ES. There is potential for significant cumulative effects during these phases of the Proposed Development.</p>
4.1.7	-	K3 & WKN Mitigation and residual effects	<p>No information is provided about mitigation measures that would be proposed in the event that potential significant effects are identified, and no reference is made to the potential for residual effects. The ES should include a summary table that identifies any significant effects, the proposed mitigation and where it is secured in the application documents, and any residual effects.</p>
4.1.8	7.1.5	WKN Construction programme	<p>The ES should include details of the construction programme, including when construction is anticipated to start and finish in the event that development consent is granted.</p>

4.2 Air Quality

(Scoping Report Sections 6.2 (K3) and 7.2 (WKN))

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
4.2.1	6.2.6	K3 - Dust effects during demolition	The Inspectorate agrees that dust effects during demolition can be scoped out, except in respect of cumulative effects of decommissioning together with WKN and other developments, of which any potentially significant effects must be reported in the ES.
4.2.2	6.2.6	K3 - Dust effects during maintenance	The Inspectorate agrees that this matter may be scoped out.
4.2.3	7.2.16	WKN - Bio-aerosol emissions	The Inspectorate does not consider that the Scoping Report provides adequate information relating to feedstock to support the justification to scope this matter out. Accordingly, the ES should include an assessment of this matter where a likely significant effect may occur.

ID	Ref	Other points	Inspectorate's comments
4.2.4	6.2.2 & 7.2.4	K3 & WKN Baseline	<p>Very little information is provided in the Scoping Report on the existing baseline, other than a reference to local AQMAs, and how it will be determined. The inspectorate expects the baseline to be clearly described in the ES. Features such as AQMAs should be identified by name on an accompanying plan.</p> <p>The methodology relied upon and evidence to support the statement that air quality at the Proposed Development site is likely to be good on the basis that it is not within an AQMA must be set out in the ES.</p>
4.2.5	6.2.5	K3 Assessment	Impacts from increased vehicular emissions resulting from the decommissioning phase of the Proposed Development should be

			assessed during both the operational and maintenance phases.
4.2.6	6.2.7 & 7.2.8	K3 modelling	Details of the model used to forecast the effects of emissions and the inputs used to inform it, such as the Industrial Emissions Directive limits and meteorological data, should be provided in the ES.
4.2.7	6.2.8 – 6.2.9	K3 Methodology	<p>The Inspectorate does not consider that the approach to determining whether particular Process Contributions (PCs) of the Proposed Development are likely to be significant based on a comparison with the PCs presented in the ES for the consented TCPA scheme is sufficiently robust and has been adequately justified. The assessment of significance should be made against clearly identifiable and recognised criteria. In addition, the Inspectorate considers that impacts from increased PCs should be considered together with the PCs generated by other projects.</p> <p>Reference is made only to the assessment of PCs from the Proposed Development and not additionally to Predicted Environmental Contributions (PECs). The Inspectorate considers that PECs should also be modelled and considered in the assessment.</p>
4.2.8	6.2.11 & 7.2.18	K3 & WKN Cumulative effects	No information has been provided in respect of the cumulative assessment. The Applicant is referred to the advice contained in the Inspectorate's AN17.
4.2.9	7.2.1 & 7.2.5	WKN Assessment	It is not clear whether it is intended to assess emissions resulting from vehicular movements during the construction and decommissioning phases. For the avoidance of doubt, the Inspectorate considers that this matter should be assessed where significant effects are likely to occur.
4.2.10	7.2.14	WKN Methodology	The Applicant should explain in the ES why it is considered that the IAQM 'Guidance on the Assessment of Dust from Demolition and Construction' is the most appropriate source of advice for the assessment of dust impacts during the operational phase.

4.3 Climate Change

(Scoping Report Sections 6.3 (K3) & 7.3 (WKN))

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
4.3.1	6.3.4	K3 – greenhouse gas emissions (GHG) during construction, operation and decommissioning	The Inspectorate agrees that this matter can be scoped out during construction, but not during operation. Additionally, impacts from decommissioning activities at WKN should be assessed cumulatively with other developments including K3 where significant effects are likely to occur.
4.3.2	6.3.5	K3 - Assessment of climate risks, and adaption/resilience measures during construction, operation and decommissioning	The Inspectorate agrees that this matter can be scoped out during construction, but not during operation. Additionally, impacts from decommissioning activities at WKN should be assessed cumulatively with other developments including K3 where significant effects are likely to occur.
4.3.3	7.3.8	WKN – Direct GHG emissions from activities during construction	The Inspectorate does not consider that the Scoping Report provides adequate justification to support a decision to agree to scoping out these matters from the assessment. The ES should include an assessment of these matters where significant effects are likely to occur.
4.3.4	7.3.9	WKN – GHG emissions during decommissioning	The Inspectorate does not consider that the Scoping Report provides adequate justification to support a decision to agree to scoping out these matters from the assessment. The ES should include an assessment of these matters where significant effects are likely to occur.
4.3.5	7.3.13	WKN – Vulnerability to Climate Change	The Scoping Report notes that the operational lifetime is expected to be in the order of 25-35 years. As the operational lifetime of the Proposed Development would be limited in terms of the anticipated effects from predicted climate change, the Inspectorate is content that

			vulnerability to climate change can be scoped out (save for flood risk which will be assessed within the water environment chapter, and nitrogen deposition to be considered in the biodiversity chapter).
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4.4 Noise and Vibration

(Scoping Report Sections 6.4 (K3) & 7.4 (WKN))

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
4.4.1	6.4.7 & 7.4.7	K3 & WKN – Operational vibration	The Inspectorate does not consider that the Scoping Report provides adequate justification to support a decision to agree to scope out this matter from the assessment. The ES should include an assessment of these matters where significant effects are likely to occur.
4.4.2	6.4.8	K3 - Noise and vibration effects during construction	<p>The Inspectorate is content that the required works to K3 for the upgrade from the consented TCPA scheme would not result in significant effects and this matter may be scoped out.</p> <p>It is assumed that the additional inclusion of a reference to WKN in this statement is an error. For the avoidance of doubt, the Inspectorate does not agree that this matter may be scoped out for WKN, which is a new noise source and should be assessed.</p>

ID	Ref	Other points	Inspectorate's comments
4.4.3	6.4.2	K3 - Baseline data	The Inspectorate notes that it is proposed to use baseline noise data gathered for the consented TCPA scheme to inform the baseline for the Proposed Development. The Applicant should ensure that any data relied upon for the assessment is sufficiently up-to-date so that it characterises the existing environment at the time that the assessment is undertaken.
4.4.4	6.4.11 & 7.4.11	K3 & WKN - Modelling	Details of the model used to forecast the operational noise should be provided in the ES. It is unclear what is meant by the statement that the project engineers will provide the broadband internal noise levels.

			It should be explained in the ES how this informs the modelling and the assessment of likely significant effects.
4.4.5	6.4.13 & 7.4.13	K3 - Decommissioning	The potential decommissioning effects should be assessed in the wider context of identifying potential significant effects on the environment arising from the Proposed Development rather than on the basis of a comparison with the effects of the consented TCPA scheme.
4.4.6	6.4.14 & 7.4.14	K3 & WKN – Cumulative effects	It is not clear whether it is intended to assess the potential cumulative effects for all phases of the Proposed Development. For the avoidance of doubt, the Inspectorate considers that the cumulative effects should be considered for construction, operation and maintenance, and decommissioning.
4.4.7	7.4.6	WKN - Assessment	The list of potential noise impacts does not include noise generated by construction traffic. The Inspectorate considers that where there is the potential for significant traffic noise effects, including during construction, this must be assessed in the ES.

4.5 Human Health

(Scoping Report Sections 6.6 (K3) & 7.5 (WKN))

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
4.5.1	6.5.9	K3 - Operational noise and socio-economic health determinants	The Scoping Report explains that impacts from K3 from operational noise and socio-economic determinants are unlikely to be materially different from that currently permitted. However the Scoping Report does not provide a more detailed justification to support scoping this matter out. The Inspectorate considers that the ES should assess this matter where significant effects are likely to occur.

ID	Ref	Other points	Inspectorate's comments
4.5.2	N/A	K3 & WKN - Assessment - Electric and Magnetic Fields (EMFs)	There is no reference in the Scoping Report to the potential for health impacts from new EMFs. The Applicant should confirm in the ES that the Proposed Development does not include any sources of EMFs that could potentially impact on public health or ensure that an adequate assessment of the potential impacts is undertaken and reported in the ES where significant effects are likely.
4.5.3	N/A	Hazardous Substances	The Scoping Report suggests that Hazardous Substance Consent (HSC) is unlikely to be required. In the event that the threshold quantities for hazardous substances could be met or exceeded during any phase of the Proposed Development the need for HSC should be investigated. The ES should include an assessment of any likely significant effects associated with hazardous substances where relevant.

4.6 Ground Conditions

(Scoping Report Sections 6.6 (K3) & 7.6 (WKN))

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
4.6.1	Section 6.6	K3 – Ground conditions	The Inspectorate agrees that this matter can be scoped out from the ES. However, the Inspectorate considers that impacts to ground conditions from decommissioning activities at WKN should be assessed cumulatively with other developments including K3 where significant effects are likely to occur.
4.6.2	Section 7.6	WKN – Decommissioning impacts	The Scoping Report does not explicitly request to scope out an assessment of impacts from decommissioning. The Inspectorate considers that the impacts to ground conditions during decommissioning alone and cumulatively with other developments should be assessed for WKN where significant effects are likely to occur.

ID	Ref	Other points	Inspectorate's comments
4.6.3	7.6.2 & 7.6.16	WKN - Receptors	No reference is made to the inclusion of an assessment of impacts on ecological receptors, although there could potentially be pathways, such as groundwater, through which impacts could occur. The Inspectorate requires that the ES includes an assessment of impacts to ecological receptors where changes in ground conditions could result in significant effects. Where appropriate, cross-reference can be made to other ES aspect chapters such as ecology.
4.6.4	7.6.6	WKN – Existing baseline	It is not clearly stated but it appears that the Proposed Development site is underlain by a secondary A aquifer and a principal aquifer. This should be made explicit in the ES and any effects to these sensitive

			receptors should be assessed accordingly.
4.6.5	7.6.11 & 7.6.14	WKN - Assessment	If piling is required a piling risk assessment should be undertaken and used to inform the assessment in the ES. If it is not possible to provide precise details of the piling methods at that time the assessment must be based on worst case assumptions. Any assumptions used to inform the assessment should be clearly defined and explained in the ES.
4.6.6	7.6.12 & 7.6.15	WKN – Offsite effects	The Inspectorate recommends that potential ground gas generation effects arising from the Kemsley Waste Disposal Site are considered within the cumulative effects assessment for the Proposed Development.
4.6.7	7.6.13	WKN - Mitigation	Although reference is made to mitigation measures typically contained in a Construction Environmental Management Plan (CEMP) it is not stated whether it is intended to submit a CEMP with the DCO application documents. Any effects for which mitigation is required should be clearly described in the ES and explicit cross-reference made to any documents in which specific mitigation measures are contained and secured.
4.6.8	7.6.14	WKN - Design	Activities during construction, operation and decommissioning that could create new sources of contamination or new pathways for contamination should be identified in the ES.
4.6.9	7.6.25	WKN – Cumulative effects	The Scoping Report includes inconsistencies in the approach to the cumulative effects assessment. In particular it is not clear how a conclusion that no significant effects are likely can be reached prior to the carrying out of the assessment. For the avoidance of doubt the ES should include an assessment of cumulative impacts on ground conditions where significant effects are likely.

4.7 Landscape and Visual

(Scoping Report Sections 6.7 (K3) and 7.7 (WKN))

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
4.7.1	6.7.1	K3 – Landscape and visual effects during all phases	The Inspectorate agrees that landscape and visual effects may be scoped out during the construction and operational phases for K3. If significant effects are anticipated during the decommission phase these should be assessed in the ES.

ID	Ref	Other points	Inspectorate's comments
4.7.2	7.7.1	WKN - Construction	The ES should assess impacts with the potential to result in likely significant effects on landscape and visual amenity relating from loss of vegetation, use of the construction compounds and use of any other temporary structures/ features required for construction (such as soil stockpiles, bridges or cranes).
4.7.3	7.7.5	WKN - Viewpoints	<p>The Inspectorate considers that views from the Saxon Shore Way Public Right of Way (PRoW) and long distance views (for example from the Kent Downs AONB) should be identified and assessed where significant effects are likely. The Inspectorate recommends that neighbouring local planning authorities are included in agreeing representative viewpoints, and that these should encompass both winter and summer views.</p> <p>The Inspectorate considers that potential impacts on PRoW ZU1 and the England Coast Path should also be assessed where significant effects are likely to occur.</p>

4.7.4	7.7.5	WKN - Receptors	All residential properties where residents may experience likely significant effects on their visual amenity should be assessed in the ES. The ES should identify the specific guidance documents utilised for the assessment of impacts to residential amenity.
4.7.5	7.7.7	WKN - Lighting	The Scoping Report identifies that impacts from night-time lighting will be assessed for both the construction and operational phases of the Proposed Development. The assessment should cross-refer to other relevant aspect assessments (such as ecology and cultural heritage).
4.7.6	7.7.13	WKN - ZTV	The Scoping Report explains that the ZTV will be based on a maximum flue height and main building height. The ES should describe the model used, provide information on the area covered, the timing of any survey work and the methodology used to inform the ZTV. It should be explained how the ZTV has been refined (for example, to take into account topography and vegetative screening)
4.7.7	7.7.15	WKN - Cumulative effects	The baseline year for the purposes of the cumulative assessment should be stated. The ES should set out what assumptions have been made regarding the likely stages of construction /operation applicable to the other developments. Appropriate viewpoints in the wider landscape and accompanying photomontages should be used to illustrate the potential impacts.
4.7.8	N/A	WKN - Historic Landscapes	The ES should include a description and assessment of the potential impacts to historic landscapes which are likely to result in significant effects. Cross reference should be made to the Cultural Heritage chapter of the ES, as appropriate.
4.7.9	N/A	WKN - Design	The ES should explain how the design of the proposed structures and the materials to be used has been selected with the aim of minimising impacts to landscape and visual receptors.
4.7.10	N/A	WKN - Mitigation	If mitigation plans are proposed, drafts of these documents should be provided with the ES. The Applicant should discuss and make effort to agree the planting specification/species mix with the relevant consultation bodies. It should be clear how the proposed landscaping would mitigate the effects on landscape and visual receptors, and how these effects would change as the proposed planting matures.

			Interactions with other ES aspects, for example impacts on ecology should be explained.
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4.8 Archaeology and Cultural Heritage

(Scoping Report Sections 6.9 (K3) & 7.8 (WKN))

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
4.8.1	6.8.1	<p>K3 - Archaeology and cultural heritage during all phases</p> <p>No matters have been proposed to be scoped out of the WKN assessment.</p>	<p>There appears to be a typographical error in the text, however it is assumed that the Applicant proposes to wholly scope this aspect out. The Inspectorate agrees that this aspect, as it relates to the construction and operational phases of K3, may be scoped out.</p> <p>However, no information is provided regarding the decommissioning of K3. In the absence of such information, or any evidence demonstrating clear agreement with the relevant statutory bodies, the Inspectorate is not in a position to agree to scope this aspect out of the ES.</p>

ID	Ref	Other points	Inspectorate's comments
4.8.2	7.8.18	WKN - Inter-related effects	The Scoping Report explains that there would be overlaps with other aspects, such as landscape and townscape. The Inspectorate advises that the assessment of impacts to setting takes into account all constituents of setting. Accordingly the assessment should include inter-related effects from other matters such as lighting, noise and traffic. Cross-reference should be made between the relevant assessments reported in the technical chapters as appropriate.
4.8.3	7.8.5	WKN - Receptors	The Scoping Report notes that archaeological and cultural heritage features are shown on Figure 1.5 in Appendix 3, although it does not identify them by name and the resolution is poor. The Inspectorate advises that such supporting figures included in the ES should identify the relevant features by name and be of sufficient resolution to be understood.

4.8.4	7.8.23	WKN - Significance of Effects	<p>The Scoping Report describes significance of effects being assessed taking into account the potential magnitude of impacts, and that the assessment matrix provided in Section 4 of the Scoping Report would be adopted.</p> <p>No matrix has been provided or referenced in Section 4 of the Scoping Report. All supporting information referenced and described should be provided within the ES.</p>
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4.9 Ecology

(Scoping Report Sections 6.9 (K3) & 7.9 (WKN))

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
4.9.1	6.9.7 & 6.9.9	K3 – All potential effects during operation except those resulting from changes to air quality	<p>The Inspectorate does not consider that the Scoping Report provides adequate justification to support a decision to agree to scope out these matters from the assessment. The ES should include an assessment of these matters where significant effects are likely to occur.</p> <p>For example, insufficient justification has been provided to support the assertion that the increased traffic generated by the Proposed Development would not pass sufficiently close to result in noise disturbance to any designated site. Evidence will need to be provided in the ES, together with an indication of the proximity of the transport routes to the designated sites.</p>
4.9.2	6.9.9	K3 – All potential effects during construction and decommissioning	<p>Although it is not explicitly requested that these matters can be scoped out no reference has been made to either phase in this chapter, so the Inspectorate assumes that to be the intention. No information has been provided on the construction programme for the consented TCPA scheme so it is unclear when they will be completed and what the extent of the remaining works will be at the time that the DCO application is submitted.</p> <p>Therefore the Inspectorate does not consider that the Scoping Report provides adequate justification to support a decision to agree to scope out these matters from the assessment. The ES should include an assessment of these matters where significant effects are likely to occur.</p>

ID	Ref	Other points	Inspectorate's comments
4.9.3	6.9.8, 6.9.10 & 6.9.13	K3 - Receptors	In addition to the assessment of effects on designated sites and their interest features, the assessment should include any other habitats and species on which there could be significant effects resulting from the Proposed Development.
4.9.4	6.9.19	K3 – Cumulative effects	The assessment of cumulative effects on ecological receptors should clearly define which other plans and projects have been considered.
4.9.5	N/A	K3 & WKN – Inter-relationships with other aspects	The ecology assessments should be informed by and cross-refer to the findings of other relevant aspect assessments, eg air quality, noise and vibration, water environment, and clear cross-reference should be made to information contained in other ES technical chapters as appropriate.

4.10 Water Environment

(Scoping Report Sections 6.10 (K3) & 7.10 WKN))

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
4.10.1	6.10.4	K3 – Water Environment during construction, operation and decommissioning	<p>The Inspectorate agrees that impacts to the water environment during construction can be scoped out. However, impacts to the water environment during operation should be assessed where significant effects are likely to occur.</p> <p>Cumulative impacts to the water environment resulting from activities to decommission WKN along with other developments including K3 should be assessed in the ES where significant effects are likely to occur.</p>
4.10.2	7.10.6	<p>WKN</p> <p>Surface water quality during operation and decommissioning</p> <p>Coastal water quality during decommissioning</p> <p>Groundwater quality during operation and decommissioning</p> <p>Groundwater resources during construction and decommissioning</p>	<p>Although it is not explicitly requested that these matters are scoped out the list of potential effects does not include any reference to consideration of these matters during these phases, therefore the Inspectorate has assumed that to be the intention. The Inspectorate does not consider that the Scoping Report provides adequate justification to support a decision to agree to scope out these matters from the assessment. The ES should include an assessment of these matters where significant effects are likely to occur.</p>

ID	Ref	Other points	Inspectorate's comments
4.10.3	7.10.2 – 7.10.5	WKN - Baseline	<p>Very limited information has been provided in respect of the existing baseline. The study area is not described and only one receptor has been identified, ie the Swale. The Inspectorate expects more detailed</p>

			information to be provided in the ES and recommends that the features that are considered in the assessment are identified on a plan.
4.10.4	7.10.6	WKN - Assessment	It is not stated for which phases of the Proposed Development the potential effects on surface water run-off and flood risk will be assessed. For the avoidance of doubt, the Inspectorate considers that this matter should be assessed for all phases, ie construction, operation and maintenance, and decommissioning.
4.10.5	7.10.6	WKN - Assessment	It is recommended that the Applicant has regard to the advice contained in the Inspectorate's Advice Note Eighteen: The Water Framework Directive.
4.10.6	7.10.16 - 7.10.17 & 7.10.19	WKN - Methodology	The Applicant should explain in the ES why it is considered that the 'Design Manual for Roads and Bridges' (DMRB) is the most appropriate source of guidance on the assessment criteria to be used.
4.10.7	7.10.18	WKN - Methodology	<p>The suggested definitions of impact durations are not consistent with those used in Table 7.10.2. The definitions used for the purposes of undertaking the assessment should be consistently applied throughout the ES chapter.</p> <p>It is assumed that the table column heading entitled 'Sensitivity' should read 'Magnitude'. Some of the wording therein has been truncated (also in Table 7.10.1). This should be corrected in the ES.</p>

4.11 Risk of Accidents and Disasters

(Scoping Report Sections 6.11 (K3) and 7.11 (WKN))

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
4.11.1	-	N/A (K3 & WKN)	No matters are proposed to be scoped out.

ID	Ref	Other points	Inspectorate's comments
4.11.2	6.11.4 & 7.11.4	K3 & WKN - Scope of assessment	<p>It is noted that the Applicant considers that the risk of accidents from the Proposed Development would be comprehensively controlled and mitigated in accordance with the UK legislation that would apply during the operational phase, and proposes to provide a list in the ES of relevant legislation and set out the type of risk/accident each document addresses and how the Proposed Development would comply with that legislation, rather than provide a standalone risk assessment.</p> <p>The Inspectorate agrees that a standalone assessment is not required, however where this matter is considered within any aspect chapters it should be clearly identified and a description provided in the ES of any risk assessments and/or evidence that demonstrates compliance with Schedule 4 of the EIA Regulations.</p> <p>The Applicant is also referred to the advice on major accidents or disasters risk contained in Section 3.3 of this Opinion.</p>
4.11.3	7.11.5 – 7.11.7	K3 - River/estuarine flooding.	The Scoping Report identifies the Proposed Development site as having the potential to be vulnerable to river/estuarine flooding. Any significant effects associated with an accident of disaster of this nature should be assessed and reported in the relevant ES aspect chapters.

4.12 Cumulative effects

(Scoping Report Section 8 – K3 & WKN)

ID	Ref	Applicant's proposed matters to scope out	Inspectorate's comments
4.12.1	N/A	N/A	No matters are proposed to be scoped out of the assessment.

ID	Ref	Other points	Inspectorate's comments
4.12.2	8.1.2	K3 & WKN - Baseline	The Scoping Report identifies the scenarios that are proposed to be assessed but does not provide a baseline year for the assessments. The relationship between the baseline year for the purposes of the cumulative assessment and for the other developments that will be assessed should be clearly stated.
4.12.3	8.1.3 - 8.1.6	K3 & WKN - Other development	<p>It is unclear which plans and projects are proposed to be included in the CEA: paragraph 8.1.4 proposes 45 developments; paragraph 8.1.5 appears to list a total of 46 developments to be considered; Figure 1.6 identifies 28 developments; and Figure 1.7 identifies a further 8 developments.</p> <p>The tiered approach should be applied, as set out in the Inspectorate's Advice Note Seventeen: Cumulative Effects Assessment. The list of developments should be agreed with the relevant consultation bodies and their locations identified on a plan in the ES. Each ES aspect chapter should clearly identify the developments that will be considered in the CEA, which could be by reference to a list contained in another chapter of the ES, as appropriate.</p>
4.12.4	-	Phasing	No information has been provided regarding the phased delivery of the Proposed Development. If the intention is for the Proposed Development to be delivered on a phased basis it should be clear how this has been taken into account in the assessment of cumulative

			effects.
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5. INFORMATION SOURCES

5.0.1 The Inspectorate's National Infrastructure Planning website includes links to a range of advice regarding the making of applications and environmental procedures, these include:

- Pre-application prospectus²
- Planning Inspectorate advice notes³:
 - Advice Note Three: EIA Notification and Consultation;
 - Advice Note Four: Section 52: Obtaining information about interests in land (Planning Act 2008);
 - Advice Note Five: Section 53: Rights of Entry (Planning Act 2008);
 - Advice Note Seven: Environmental Impact Assessment: Process, Preliminary Environmental Information and Environmental Statements;
 - Advice Note Nine: Using the 'Rochdale Envelope';
 - Advice Note Ten: Habitat Regulations Assessment relevant to nationally significant infrastructure projects (includes discussion of Evidence Plan process);
 - Advice Note Twelve: Transboundary Impacts;
 - Advice Note Seventeen: Cumulative Effects Assessment; and
 - Advice Note Eighteen: The Water Framework Directive.

5.1.2 Applicants are also advised to review the list of information required to be submitted within an application for Development as set out in The Infrastructure Planning (Applications: Prescribed Forms and Procedures) Regulations 2009.

² The Planning Inspectorate's pre-application services for applicants. Available from: <https://infrastructure.planninginspectorate.gov.uk/application-process/pre-application-service-for-applicants/>

³ The Planning Inspectorate's series of advice notes in relation to the Planning Act 2008 process. Available from: <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/>

APPENDIX 1: CONSULTATION BODIES FORMALLY CONSULTED

TABLE A1: PRESCRIBED CONSULTATION BODIES⁴

SCHEDULE 1 DESCRIPTION	ORGANISATION
The Health and Safety Executive	Health and Safety Executive
The National Health Service Commissioning Board	NHS England
The relevant Clinical Commissioning Group	Swale Clinical Commissioning Group
Natural England	Natural England
The Historic Buildings and Monuments Commission for England	Historic England
The relevant fire and rescue authority	Kent Fire and Rescue Service
The relevant police and crime commissioner	Kent Police and Crime Commissioner
The Environment Agency	The Environment Agency
The Maritime and Coastguard Agency	Maritime and Coastguard Agency
The Marine Management Organisation	Marine Management Organisation
The Civil Aviation Authority	Civil Aviation Authority
The Relevant Highways Authority	Kent County Council Highways Authority
The relevant strategic highways company	Highways England
Trinity House	Trinity House
Public Health England, an executive agency of the Department of Health	Public Health England

⁴ Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the 'APFP Regulations')

SCHEDULE 1 DESCRIPTION	ORGANISATION
The Crown Estate Commissioners	The Crown Estate
The Forestry Commission	Forestry Commission
The Secretary of State for Defence	Ministry of Defence

TABLE A2: RELEVANT STATUTORY UNDERTAKERS⁵

STATUTORY UNDERTAKER	ORGANISATION
The relevant NHS Foundation Trust	South East Coast Ambulance Service NHS Foundation Trust
Railways	Network Rail Infrastructure Ltd
	Highways England Historical Railways Estate
Civil Aviation Authority	Civil Aviation Authority
Licence Holder (Chapter 1 Of Part 1 Of Transport Act 2000)	NATS En-Route Safeguarding
Universal Service Provider	Royal Mail Group
Homes and Communities Agency	Homes England
The relevant water and sewage undertaker	Southern Water
The relevant public gas transporter	Cadent Gas Limited
	Energetics Gas Limited
	Energy Assets Pipelines Limited
	ES Pipelines Ltd
	ESP Connections Ltd

⁵ 'Statutory Undertaker' is defined in the APFP Regulations as having the same meaning as in Section 127 of the Planning Act 2008 (PA2008)

STATUTORY UNDERTAKER	ORGANISATION
	ESP Networks Ltd
	ESP Pipelines Ltd
	Fulcrum Pipelines Limited
	GTC Pipelines Limited
	Independent Pipelines Limited
	Indigo Pipelines Limited
	Quadrant Pipelines Limited
	National Grid Gas Plc
	Scotland Gas Networks Plc
	Southern Gas Networks Plc
	Wales and West Utilities Ltd
The relevant electricity distributor with CPO Powers	Energetics Electricity Limited
	Energy Assets Networks Limited
	Energy Assets Power Networks Limited
	ESP Electricity Limited
	Fulcrum Electricity Assets Limited
	G2 Energy IDNO Limited
	Harlaxton Energy Networks Limited
	Independent Power Networks Limited
	Leep Electricity Networks Limited
	Murphy Power Distribution Limited
	The Electricity Network Company Limited
	UK Power Distribution Limited
Utility Assets Limited	

STATUTORY UNDERTAKER	ORGANISATION
	Vattenfall Networks Limited
	Utility Distribution Networks Limited
	UK Power Networks Limited
The relevant electricity transmitter with CPO Powers	National Grid Electricity Transmission Plc

TABLE A3: SECTION 43 CONSULTEES (FOR THE PURPOSES OF SECTION 42(1)(B))⁶

LOCAL AUTHORITY⁷
Swale Borough Council
Medway Council
Ashford Borough Council
Canterbury City Council
Maidstone Borough Council
Thurrock Council
Kent County Council
East Sussex County Council
Surrey County Council
London Borough of Bexley
London Borough of Bromley

TABLE A4: NON-PREScribed CONSULTATION BODIES

⁶ Sections 43 and 42(B) of the PA2008

⁷ As defined in Section 43(3) of the PA2008

ORGANISATION
Royal National Lifeboat Institution

APPENDIX 2: RESPONDENTS TO CONSULTATION AND COPIES OF REPLIES

Consultation bodies who replied by the statutory deadline:

Canterbury City Council
Environment Agency
ES Pipelines Limited
ESP Connections Limited
Health and Safety Executive
Highways England
Kent County Council
London Borough of Bexley
Marine Management Organisation
Maritime and Coastguard Agency
Medway Council
National Grid Electricity Transmission PLC
National Grid Gas PLC
NATS Safeguarding
Natural England
Public Health England
Royal Mail
Trinity House

Case Officer: Alastair Curran
Telephone: Contact Centre 01227 862178
Email: planning@canterbury.gov.uk
Website: www.canterbury.gov.uk/planning
Date: 05 October 2018



Ms A Down
Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Dear Ms Down

**TOWN AND COUNTRY PLANNING ACT 1990
PRE-APPLICATION ENQUIRY**

Our Ref: PRE18/00340
Proposal: Proposed power upgrade to Wheelabrator
Location: Wheelabrator Kemsley Generating Station Power Upgrade, land east of Kemsley Paper Mill, Sittingbourne

Thank you for your notification on 10/09/2018 regarding the power upgrade to the Wheelabrator at Kemsley Power Station.

The proposed power upgrade is considered to have no visual impact upon the approved scheme and as such the Council have no objections to the proposed works. It is noted that there will be an inevitable impact upon highways, but the Council consider that the conditions imposed under the original permission are sufficient to deal with this. As such the Council raises no objections to the proposed power upgrade.

I remind you this letter does not prejudice any subsequent decision made or action taken by the Council.

Yours faithfully
Alastair Curran
Development Management

Ms Alison Down
The Planning Inspectorate
3/18 Eagle Wing
Temple Quay House (2 The Square)
Temple Quay
Bristol
Avon
BS1 6PN

Our ref: KT/2018/124720/01-L01
Your ref: EN010083
Date: 05 October 2018

Dear Ms Down

Planning Act 2008 (As Amended) and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (The EIA Regulations) – Regulations 10 And 11

Application by Wheelabrator Technologies Inc. for an order granting development consent for the proposed Wheelabrator Kemsley K3 power upgrade and throughput increase and Wheelabrator Kemsley North waste-to-energy plant (the proposed development)

Land to the east of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD

Thank you for consulting us on the above. We have the following comments to make on the scoping opinion for the above proposal.

Groundwater and Contaminated Land

Baseline ground conditions have been addressed for this site previously under earlier permissions from KCC and under the relevant IED permit for energy plant. Additional assessment of ground conditions will be undertaken before, during after operational activities under a new permit if/when issued.

The site geological setting is on strata that is not of significant sensitivity for groundwater protection and provided surface management and materials handling are undertaken in accordance with permit requirements ground quality and associated controlled waters should not be at significant risk.

We therefore agree that under any EIA the required scope of additional investigations or commentary on ground conditions is limited.

Fisheries, Biodiversity and Geomorphology (FBG)

We agree with the assessment in 6.9.1 Ecology that as “the K3 Proposed Development does not involve any physical alteration to the existing building/landscape” it is unlikely that there will be any “direct effects on biodiversity”.

We also agree that “any potential significant effects are indirect and off-site.” From the FBG perspective.

Flood Risk

We are pleased to note that flood risk has been addressed for the sites within the scoping document.

If you have any queries, please do not hesitate to contact me.

Yours sincerely

Ms Jennifer Wilson
Planning Specialist

Direct dial 0208 474 6711

Direct e-mail kslplanning@environment-agency.gov.uk

18 September 2018

Reference: EN010083

Dear Sir/Madam,

Thank you for your recent plant enquiry at: (EN010083).

I can confirm that ESP Gas Group Ltd has no gas or electricity apparatus in the vicinity of this site address and will not be affected by your proposed works.

ESP are continually laying new gas and electricity networks and this notification is valid for 90 days from the date of this letter. If your proposed works start after this period of time, please re-submit your enquiry.

Important Notice

Please be advised that any enquiries for ESP Connections Ltd, formerly known as British Gas Connections Ltd, should be sent directly to us at the address shown above or alternatively you can email us at: PlantResponses@espipelines.com

Yours faithfully,

Roz Chomacki **Plant Officer**



UTILITIES GROUP
Bluebird House
Mole Business Park
Leatherhead
KT22 7BA

☎ 01372 587500 📠 01372 377996

<http://www.espug.com>

Received: 11.9.18

I can confirm that ESPUGs assets are not affected by your proposal, as such no comment will be submitted.

Regards

Mark Chapman
Head of Network (Gas)

Direct line: 01372 587553
Mobile: 07917 758259
Email: mark.chapman@espug.com



UTILITIES GROUP

Bluebird House
Mole Business Park
Leatherhead
KT22 7BA

☎ 01372 587500 📠 01372 377996

<http://www.espug.com>

CEMHD Policy - Land Use Planning
NSIP Consultations
Building 1.2, Redgrave Court
Merton Road, Bootle
Merseyside, L20 7HS

Your ref: EN010083
Our ref: 4.2.1.6489
HSE email: NSIP.applications@hse.gov.uk

FAO Alison Down
The Planning Inspectorate
Temple Quay House
Temple Quay,
Bristol
BS1 6PN

Dear Ms. Down

27th September 2018

PROPOSED Wheelabrator Kemsley Generating Station and Wheelabrator Kemsley North Waste to Energy Facility (the project)
PROPOSAL BY Wheelabrator Technologies Holdings Inc (the applicant)
INFRASTRUCTURE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2017 (as amended)
– Regulations 10 and 11

Thank you for your letter of 7 September 2018 regarding the information to be provided in an environmental statement relating to the above project.

HSE does not comment on EIA Scoping Reports but the following information is likely to be useful to the applicant.

HSE's land use planning advice

Will the proposed development fall within any of HSE's consultation distances?

According to HSE's records there are no major accident hazard sites or major accident hazard pipelines within the proposed DCO application boundary of the proposed Wheelabrator Kemsley Generating Station and Wheelabrator Kemsley North Waste to Energy Facility for this nationally significant infrastructure project.

Hazardous Substance Consent

The presence of hazardous substances on, over or under land at or above set threshold quantities (Controlled Quantities) will probably require Hazardous Substances Consent (HSC) under the Planning (Hazardous Substances) Act 1990 as amended. The substances, alone or when aggregated with others for which HSC is required, and the associated Controlled Quantities, are set out in The Planning (Hazardous Substances) Regulations 2015 as amended.

Hazardous Substances Consent would be required to store or use any of the Named Hazardous Substances or Categories of Substances at or above the controlled quantities set out in schedule 1 of these Regulations.

Further information on HSC should be sought from the relevant Hazardous Substances Authority.

Consideration of risk assessments

Regulation 5(4) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 requires the assessment of significant effects to include, where relevant, the expected significant effects arising from the proposed development's vulnerability to major accidents.

HSE's role on NSIPs is summarised in the following Advice Note 11 an annex on the Planning Inspectorate's website - [Annex G – The Health and Safety Executive](#). This document includes consideration of risk assessments on page 3.

Explosives sites

This development is in the vicinity of the "Slaughterhouse Point" berth of Port 179. However, it lies outside the existing "vulnerable building distance" and the construction does not appear to be of a type that would not attract reduced "vulnerable building distance".

Please send any further electronic communication on this project directly to the HSE's designated e-mail account for NSIP applications. Alternatively, any hard copy correspondence should be sent to:

Mr Dave Adams (MHPD)
NSIP Consultations
1.2 Redgrave Court
Merton Road
Bootle, Merseyside
L20 7HS

Yours sincerely,



Dave Adams
CEMHD4 Policy

From: Highways England
Received: 28/9/18

Planning Application No: EN010083

Site: Kemsley Wheelabrator Kemsley Sittingbourne Kent ME10 2FE

Proposal: DCO for the Wheelabrator Kemsley Generating Station Power Upgrade and throughput increase and Wheelabrator Kemsley North Waste-to-Energy Plant (proposed development)

Tracker Number: 5700/#5829

Dear Alison,

Thank you for your letter dated 07 September 2018, inviting Highways England to comment on the above planning application and indicating that a response was required by 05 October 2018.

Highways England has been appointed by the Secretary of State for Transport as strategic highway company under the provisions of the Infrastructure Act 2015 and is the highway authority, traffic authority and street authority for the strategic road network (SRN). The SRN is a critical national asset and as such Highways England works to ensure that it operates and is managed in the public interest, both in respect of current activities and needs as well as in providing effective stewardship of its long-term operation and integrity.

Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the SRN, in this case the A249 in the vicinity of Kemsley and the M2 Junction 5.

Highways England have no comment on whether an EIA is required; but if it is (or is produced voluntarily), it should be compatible and consistent with the Transport Assessment (TA) and also contain information on all transport related effects including noise, vibration and air quality.

We note that within the EIA Scoping Report paragraph 6.1.30 that a Transport Assessment (TA) will be carried out to examine the implications of the development on the surrounding transport network and that the results of this will be summarised alongside the ES. Additionally, it is noted that the TA will assess the impact of the traffic generated by the proposed development on the capacity of junctions on the highway network and the intention to scope the TA with a formal meeting with the local Highway Authority and Highways England. This approach is welcomed. In the meantime we refer the applicant to the following documents which contain useful information on what we would like to see included in a planning proposal, and outlines the support we can offer:

- DfT Circular 02/2013 The Strategic Road Network and the Delivery of Sustainable Development (Sept 2013)
- Planning for the future – A guide to working with Highways England on planning matters (Sept 2015).

Finally, in the event that the proposed DCO seeks powers to alter the SRN, Highways England would request early consultation on the wording of the draft DCO.

I hope the above comments are useful. Should you have any questions or comments then please do not hesitate to contact us.

Kind regards

David

David Bowie

Area 4 Spatial Planning Team

Highways England | Bridge House | 1 Walnut Tree Close | Guildford | Surrey | GU1 4LZ

Mobile: + 44 (0) 7900 056130

Web: <http://www.highways.gov.uk>



Ms Alison Down
EIA & Land Rights Advisor – Environmental
Services Team
Major Casework Directorate
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

BY EMAIL ONLY

**Environment, Planning &
Enforcement**

Invicta House
County Hall
Maidstone
Kent
ME14 1XX

Phone: 03000 415718
Ask for: Chloe Palmer
Email: chloe.palmer2@kent.gov.uk

5 October 2018

Dear Ms Down,

**Re: Proposed Wheelabrator Kemsley Generating Station and Wheelabrator
Kemsley North Waste to Energy Facility - EIA Scoping Notification and
Consultation**

Thank you for your letter dated 7 September 2018 providing Kent County Council (KCC) with the opportunity to provide comments to the Secretary of State on the information to be provided in the Environmental Statement (ES) relating to the proposed Wheelabrator Kemsley Generating Station and Wheelabrator Kemsley North (WKN) Waste to Energy Facility.

The Scoping Report (at paragraph 1.1.3) sets out the rationale for the use of the Nationally Significant Infrastructure Projects (NSIP) regime under the Planning Act 2008. It also states that the Department for Business, Energy and Industrial Strategy issued a Direction confirming that WKN is to be treated as development for which development consent is required.

Notwithstanding the above, KCC is not currently convinced that the NSIP regime is the appropriate route for determining the WKN proposal – as opposed to a planning application submitted to the County Council for its determination. The County Council would therefore request a meeting with the applicant as soon as practically possible to discuss this further. This may have implications for the Statement of Common Ground and other material being produced to support the application.

KCC has reviewed the Scoping Report (September 2018) and for ease of reference, provides a commentary structured under the chapter headings used in the report.

Chapter 3. Environmental Impact Assessment

3.8 Other related legislation

The “Kent Joint Municipal Waste Management Strategy” (KJMWMS) identifies a requirement to reduce the amount of untreated waste in order to meet ever stricter EU Directives, Government targets and Best Value Performance Indicators. The KJMWMS also promotes the use of waste as a resource. The applicant should provide evidence setting out how these considerations have been examined.

Chapter 6. K3 Proposed Development

6.1 K3 – Traffic and Transport

Background – Paragraph 6.1.5

It is noted that the permitted incinerator bottom ash (IBA) facility is no longer proposed to be constructed and the associated 84 daily vehicle movements have been removed from the baseline traffic figure. However, it is understood that the facility reduced the overall volume of waste material that would have been removed from Kemsley using the local and strategic highway network. The assessment should ensure that any consequential impact on traffic movements from the absence of this facility are fully quantified and accounted for within in the assessment.

These comments also relate to Section 7.1 WKN – Traffic and Transport - Background – Paragraph 7.1.7.

Proposed Assessment Methodology – Paragraphs 6.1.20 to 6.1.22

KCC, as the Local Highway Authority, is not expecting the thresholds described in this section (in respect of whether junction modelling and link capacity assessments are required) to apply to the Transport Assessment because the thresholds relate to the Environmental Assessment only.

These comments also relate to Section 7.1 WKN – Traffic and Transport - Proposed Assessment Methodology – Paragraphs 7.1.22 to 7.1.24.

Proposed Assessment Methodology – Paragraph 6.1.30

It is acknowledged that scoping for the Transport Assessment will be informed by a formal meeting with the County Council, as Local Highway Authority, in due course and the requirements and matters referred to above can be clarified in greater detail.

Given the recent planning application (planning ref KCC/SW/0103/2018) to increase the maximum permitted number of HGV movements to allow for smaller refuse collection vehicles to transport waste to site in reduced payloads, this scenario will need to be considered appropriately within the Transport Assessment.

There should be a clear differentiation between the environmental effects of traffic and the highway impact relating to the capacity of the highway network to physically accommodate the volume of traffic associated with the development.

These comments also relate to Section 7.1 WKN – Traffic and Transport - *Proposed Assessment Methodology – Paragraph 7.1.32*

6.2 K3 – Air Quality

Currently Known Baseline - Paragraph 6.2.3

The County Council does not consider that it is sufficient to state that the air quality at the site is likely to be good because it has not been declared an Air Quality Management Area (AQMA). The County Council would request evidence of sampling at the site, particularly as it is in close proximity to existing AQMAs.

These comments also relate to Section 7.2 WKN – Air Quality - Currently Known Baseline – Paragraph 7.2.4.

Proposed Assessment Methodology – Paragraphs 6.2.8 to 6.2.10

Where pollutants are likely to increase at the site, the County Council does not consider that it is sufficient to simply state that professional judgement will be used to decide on the significance of the effects. The County Council suggests that the Scoping Report should state which professions will be making these judgements and the criteria to be used when assessing the significance of the effects of increased pollutants.

These comments also relate to Section 7.2 WKN – Air Quality Proposed Assessment Methodology – Paragraphs 7.2.11 to 7.2.13.

6.5 K3 – Human Health

Currently Known Baseline – Paragraphs 6.5.3 to 6.5.6

The County Council notes that there is no consideration of the socioeconomic effects of employing local people and queries the expectation of using the local workforce.

These comments also relate to Section 7.5 WKN – Human Health - Currently Known Baseline – Paragraph 7.5.5.

6.8 K3 – Archaeology and Cultural Heritage

Paragraph 6.8.1

The County Council notes that paragraph 6.8.1 of the Scoping Report states that effects on archaeology and cultural heritage from the K3 element of the proposal will be scoped out of the Environmental Statement, due to the proposed development not requiring any changes to the built form or site layout as permitted. However, the County Council requests that the applicant should liaise with KCC and Historic

England to ensure that increased operation does not have a negative effect on the setting of designated heritage assets.

6.9 K3 – Ecology

The County Council highlights that the results of the ecology report need to be informed by the conclusions of the Noise, Air Quality and Transport Assessments.

K3 - Risk of accidents and disasters

Directive 2014/52/EU requires appropriate consideration of major accident and disaster risks to be undertaken. It is suggested that consideration is given to determine whether risks should be reviewed in light of the proposed expansion of waste processing and energy generation.

The applicant should also consider resilience of utility supplies into and out of this relatively remote site, and the implications of an outage upon industrial processes and associated emergency contingencies and environmental safeguards (especially when considered in the context of the power generation uplift proposed).

These comments also relate to Section 7.11 WKN - Risk of accidents and disasters - Proposed assessment methodology – paragraph 7.11.11.

Paragraph 6.11.10

The County Council notes that no reference is made to the Control of Major Accident Hazard (COMAH) Regulations 2015. The County Council considers that it may therefore be worthwhile assessing proposals against the Health and Safety Executive (HSE) inventory threshold criteria. Waste to energy plants in other parts of the UK have qualified as Lower Tier COMAH sites under the environmental provisions of the Regulations. Even if the site does not qualify as a COMAH site, the County Council considers it would be good practice to develop and maintain an onsite emergency/business continuity plan (potentially developed alongside local resilience partners) addressing potential risks including flooding, flue gas escape and waste fires.

KCC recommends that the applicant considers the Defra 25 Year Environment Plan 2017 and the Royal Academy of Engineering / Royal Society study commissioned by Defra 2018; and whether these could feed into a holistic Environmental Resilience and Mitigation Strategy for the proposal.

These comments also relate to Section 7.11 WKN - Risk of accidents and disasters - Proposed assessment methodology – paragraph 7.11.11.

Chapter 7. Wheelabrator Kemsley North Proposed Development

7.7 WKN – Landscape and Visual Effects

Visual Amenity – Paragraph 7.7.10

With reference to the extract from the Network Map (included at Appendix 1), the applicant should be aware that Public Footpath ZU1 passes to the east of the proposed WKN site, alongside Milton Creek. The Saxon Shore Way, a promoted long-distance walk around Kent, also passes along this footpath.

The Public Rights of Way (PRoW) network and its users should be considered as receptors when assessing the potential impacts of this development. The County Council notes that the applicant has acknowledged the existence of the PRoW network and the Saxon Shore Way by considering the potential landscape and visual impacts for users of these routes. In addition to these impacts on path users, KCC suggests that the effects on air quality and noise resulting from the development should be considered.

The applicant should be aware that the County Council is working in partnership with Natural England to develop the England Coast Path in this region. This is a new National Trail walking route that will eventually cover the entire English coastline. The Coast Path is scheduled for completion by 2020 and would be affected by the proposed development. However, the applicant has not highlighted the England Coast Path within the Scoping Report. The applicant should be aware that the proposed route for the Coast Path follows the existing alignment of Public Footpath ZU1. If this proposed route is approved by the Secretary of State, the number of people walking this section of the coast is likely to increase due to the enhanced promotion and status of the National Trail.

On balance, it is expected that any visual or noise impacts on the PRoW network are likely to be minimal, due to the existing industrial development in the area. However, improvements to the existing PRoW network surrounding the site should be considered by the applicant. These network improvements would provide positive community outcomes for the scheme and help to mitigate any negative effects arising from the development.

7.8 WKN – Archaeology and Cultural Heritage

Currently Known Baseline – Paragraph 7.8.5

KCC notes the inclusion of the Scheduled Monument Castle Rough (paragraph 7.8.5) and suggests that the applicant consults KCC and Historic England on the effects of the scheme in relation to built heritage matters.

Proposed Assessment Methodology – Paragraphs 7.8.9 to 7.8.13

The County Council mostly agrees with the proposal for the assessment of the effect of the proposed WKN site on archaeology and cultural heritage. However, the County Council is of the view that the desk-based archaeological assessment should

include detailed modelling of the below ground deposits in the site, based on the results of the geotechnical work both within and on adjacent sites. The model should also be used to compare the known below ground impacts and the proposed construction ground impacts to determine the potential impact of the development on archaeology.

7.9 WKN – Ecology

KCC reiterates the points made above in relation to Section '6.9 K3 – Ecology', as these comments are applicable to both the proposed K3 and WKN.

7.10 WKN – Water Environment

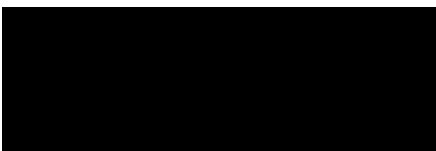
Potential Significant Effects – Paragraph 7.10.7

The County Council welcomes the commitment to the preparation of a Flood Risk Assessment that considers national and local policies.

Environment Agency mapping indicates both tidal (Flood Zones 2 and 3) and surface water as potential risks to the application site, its surroundings and access and egress routes. Aside from flood risk to personnel on the site, KCC recommends that consideration should be given to any increased risk of environmental contamination of Kemsley Marshes and the Swale Estuary associated with the proposed energy generation uplift; including associated changes to site operation and the new emergency planning Directive informing the EIA Regulations.

If you require further information or clarification on any matter in this letter, then please do not hesitate to contact me.

Yours sincerely,



Katie Stewart

Director for Environment, Planning and Enforcement

Encs:

- Appendix 1: Extract of Network Map



- Footpath
- Bridleway
- Restricted Byway
- Byway Open to All Traffic
- Point path number or status changes
- Boundary of area covered by 1:2500 scale Network Map
- Area covered by 1:2500 scale Network Map

**EXTRACT OF THE WORKING COPY OF THE
DEFINITIVE MAP OF PUBLIC RIGHTS OF WAY
FOR THE COUNTY OF KENT**

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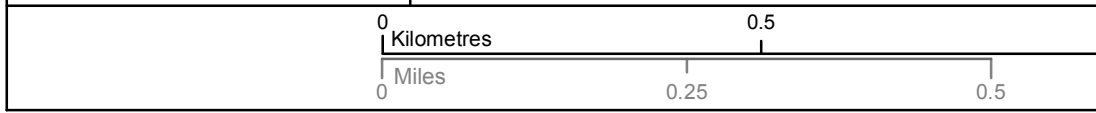
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LONDON BOROUGH OF
BEXLEY

Development Management
Planning Department
Regeneration & Growth
Civic Offices, 2 Watling Street,
Bexleyheath, Kent, DA6 7AT
Telephone 020 8303 7777

The person dealing with this matter is: Claire Brew
Direct Dial: 020 3045 5090
Email: Claire.Brew@Bexley.gov.uk

Our Application Reference Number: 18/02375/ALA

Date: 27th September 2018

Wheelabrator Technologies Inc.
C/o The Planning Inspectorate
Contact: Ms A Down
Major Casework Directorate
Temple Quay House
2 The Square
Bristol BS1 6PN

BY EMAIL WheelabratorKemsley@pins.gsi.gov.uk

Dear Sir/Madam

Re: Scoping Consultation as to the information to be provided in an Environmental Statement regarding the Application for an Order granting Development Consent for the proposed Wheelabrator Kemsley K3 Power Upgrade and throughput increase and Wheelabrator Kemsley North Waste-To-Energy Plant:

Wheelabrator Kemsley Generating Station And Wheelabrator Kemsley North Waste To Energy Facility, Kent County Council

Your Application Reference Number: EN010083

I can confirm that the London Borough of Bexley has no comments to make.

Yours sincerely,



Robert Lancaster

Head of Development Management
Growth and Regeneration



Marine
Management
Organisation

Marine Licensing
Lancaster House
Hampshire Court
Newcastle upon Tyne
NE4 7YH

T +44 (0)300 123 1032
F +44 (0)191 376 2681
www.gov.uk/mmo

Alison L Down
The Planning Inspectorate
Temple Quay House
2 The Square
Bristol
BS1 6PN

Your reference: **EN010083**
Our reference: **DCO/2018/00017**

By email only

20 September 2018

Dear Ms Down,

PLANNING ACT 2008 (AS AMENDED) AND THE INFRASTRUCTURE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2017 (THE EIA REGULATIONS) – REGULATIONS 10 AND 11

Thank you for your letter dated 07 September 2018, notifying the Marine Management Organisation (the “MMO”) of the proposed application by Wheelabrator Technologies Inc. for an Order granting Development Consent for the proposed Wheelabrator Kemsley K3 Power Upgrade and Throughput Increase and Wheelabrator Kemsley North Waste-to-Energy Plant.

The MMO’s role in Nationally Significant Infrastructure Projects

The MMO was established by the Marine and Coastal Access Act 2009 (the “2009 Act”) to make a contribution to sustainable development in the marine area and to promote clean, healthy, safe, productive and biologically diverse oceans and seas.

The responsibilities of the MMO include the licensing of construction works, deposits and removals in English inshore and offshore waters and Northern Irish offshore waters by way of a marine licence¹.

In the case of Nationally Significant Infrastructure Projects (“NSIPs”), the 2008 Act enables Development Consent Order’s (“DCO”) for projects which affect the marine environment to include provisions which deem marine licences².

As a prescribed consultee under the 2008 Act, the MMO advises developers during pre-application on those aspects of a project that may have an impact on the marine area or those who use it. In addition to considering the impacts of any construction, deposit or

¹ Under Part 4 of the 2009 Act

² Section 149A of the 2008 Act



removal within the marine area, this also includes assessing any risks to human health, other legitimate uses of the sea and any potential impacts on the marine environment from terrestrial works.

Where a marine licence is deemed within a DCO, the MMO is the delivery body responsible for post-consent monitoring, variation, enforcement and revocation of provisions relating to the marine environment. As such, the MMO has a keen interest in ensuring that provisions drafted in a deemed marine licence (“dML”) enable the MMO to fulfil these obligations.

Further information on licensable activities can be found on the MMO’s website³. Further information on the interaction between the Planning Inspectorate and the MMO can be found in our joint advice note⁴.

Kemsley K3 Combined Heat and Power (K3 CHP)

The MMO is aware that planning permission for the Kemsley K3 Combined Heat and Power plant was first granted on 06 March 2012 by Kent County Council under reference KCC/SW/10/444 and has been subject to several amendments since that date. The current DCO proposal seeks to permit the K3 facility to operate to an upgraded power generation level of 75MW and to process an additional 107,000 tonnes of waste per annum.

On 21 December 2017 the MMO issued a marine licence (ref: L/2017/00482/1) for the construction and operation of an outfall to discharge clean surface water, via an attenuation pond, from the K3 CHP plant into the intertidal area of the Swale Estuary.

Based on the information provided in the consultation dated 07 September, the MMO has concluded that the proposals do not fall within the legislative remit of the MMO (for proposals are outside of the UK Marine Area as defined by Section 42 of The 2009 Act). Specifically, Appendix I of the ‘Request for a Scoping Opinion for Wheelabrator Technologies Inc.’ (‘Scoping Opinion’) illustrates that the application boundary is located entirely above Mean High Water Spring (MHWS) and the proposed power upgrade and throughput increase does not appear to impact upon L/2017/00482/1.

Wheelabrator Kemsley North (WKN)

The proposed application also seeks Development Consent to construct and operate a new waste-to-energy plant, Wheelabrator Kemsley North (WKN). The facility would comprise a single 125MWth line facility capable of processing 390,000 tonnes of waste per annum, with a generating capacity of up to 42MW.

The Scoping Report states at paragraph 2.2.14 that the facility will be a net consumer of water and there is therefore no regular requirement to discharge water from the waste-to-energy process.

The onsite surface water drainage network for the site will be split into two separate drainage systems. The first drainage system will collect clean surface water runoff and store it in the lagoon. The second drainage system will collect ‘dirty’ runoff and store it in the ‘dirty’ water tank. This ‘dirty’ water will then be used in the process as required (for example for ash quenching). The clean water will be stored in the lagoon and used to top up the ‘dirty’

³ <https://www.gov.uk/planning-development/marine-licences>

⁴ <http://infrastructure.planningportal.gov.uk/wp-content/uploads/2013/04/Advice-note-11-v2.pdf>

water tank. If the lagoon has reached the maximum acceptable capacity it will be discharged at a controlled rate into the Swale Estuary.

The Scoping Report illustrates in Appendix I that the application boundary for WKN is located entirely above Mean High Water Spring (MHWS) and the report contains no reference to any additional infrastructure, such as an outfall pipe, which may extend below MHWS. It is therefore understood that the drainage network described for WKN is the same drainage network previously consented for the Kemsley K3 Combined Heat and Power plant in 2012.

However, if it should become apparent that the project proponent needs to undertake any additional licensable activities within the UK Marine Area (such as a new drainage network or separate outfall for WKN) the MMO reserves the right to make further comment on the proposals.

Conclusion

Based on the information provided the MMO has no comments to make in respect of the scope of the assessment for the proposed Wheelabrator Kemsley K3 Power Upgrade and Throughput Increase and Wheelabrator Kemsley North Waste-to-Energy Plant. This is because works appear to be located entirely above MHWS and therefore are outside the legislative remit of the MMO.

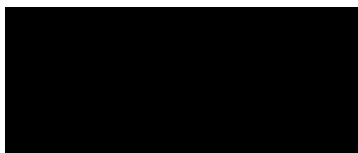
However, should it become apparent that any element of the proposals will extend below MHWS the MMO reserves the right to provide further comment during the application process.

Your feedback

We are committed to providing excellent customer service and continually improving our standards and we would be delighted to know what you thought of the service you have received from us. Please help us by taking a few minutes to complete the following short survey (<https://www.surveymonkey.com/r/MMOMLcustomer>).

If you require any further information please do not hesitate to contact me using the details provided below.

Yours Sincerely,



Kathleen Mongan
Marine Licensing Case Officer
T: 020802 65326
E: kathleen.mongan@marinemanagement.org.uk

From: Maritime & Coastguard Agency
Received: 8/10/18

Thank you for your letter dated 7 September 2018 inviting the Maritime and Coastguard Agency (MCA) to comment on the Scoping consultation for the proposed Wheelabrator Kemsley K3 Power Upgrade.

From the information provided, it appears that the only aspects for MCA to consider would be with regards to the safety of navigation should any infrastructure or works be required in or over the marine environment, and the impact of the works on any MCA infrastructure in the area, which on initial inspection is unlikely.

Should any works be required in or over the marine environment, a Marine Licence may be required under the Marine and Coastal Access Act 2009, at which time the MCA will be invited to comment on the licence application from a navigation safety perspective. In addition, the MCA would point the developers in the direction of the Port Marine Safety Code (PMSC) and its Guide to Good Practice; they would need to liaise and consult with any relevant Port/Harbour Authority to develop a robust Safety Management System (SMS) for the project under this code.

Yours sincerely,

Helen



Helen Croxson, Offshore Renewables Advisor

Navigation Safety Branch, Bay 2/25

Maritime & Coastguard Agency

Spring Place, 105 Commercial Road, Southampton, SO15 1EG

Tel: 0203 8172426

Mobile: 07468353062

Email: Helen.Croxson@mcga.gov.uk

Decision Notice

MC/18/2652



Alison Down
The Planning Inspectorate
Major Casework Directorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Planning Service
Physical & Cultural Regeneration
Regeneration, Culture, Environment &
Transformation
Gun Wharf
Dock Road
Chatham
Kent
ME4 4TR
01634 331700
01634 331195

Applicant Name:

Planning.representations@medway.gov.uk

Town and Country Planning Act 1990

Location: Wheelabrator Kemsley Generating Station.

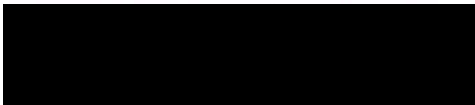
Proposal: Scoping consultation under The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) - regulations 10 and 11 - for a scoping opinion for an order granting development consent for the proposed Wheelabrator Kemsley K3 Power Upgrade and Throughput Increase and Wheelabrator Kemsley North Waste-to Energy Plant

I refer to your letter of consultation regarding the above and would inform you that the Council **RAISES NO OBJECTION** to it.

- 1 Medway Council raise no objections to the scoping report on the basis that the development would be unlikely to have direct or significant impact on the Medway Council administrative area.

Your attention is drawn to the following informative(s) :-

- 1 This comment relates to the letter dated 7 September 2018 from Alison Down, EIA & Land Rights Advisor, The Planning Inspectorate on behalf of the Secretary of State.



David Harris
Head of Planning
Date of Notice 28 September 2018

**TOWN & COUNTRY PLANNING (APPEALS) (WRITTEN REPRESENTATIONS)
(ENGLAND) (AMENDMENT) (REGULATIONS 2013)**

TOWN AND COUNTRY PLANNING ACT 1990

Appeals to the Secretary of State

- If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.
- If you want to appeal against your Local Planning Authority's decision then you must do so within **12 weeks** from the date of this notice for appeals being decided under the **Commercial Appeals Service** and **6 months** from the date of this notice for all other **minor and major applications**.
 - However, if an enforcement notice has been served for the same or very similar development within the previous 2 years, the time limit is:
 - **28 days** from the date of the LPA decision if the enforcement notice was served before the decision was made yet not longer than 2 years before the application was made.
 - **28 days** from the date the enforcement notice was served if served on or after the date the decision was made (unless this extends the appeal period beyond 6 months).
 - Appeals must be made using a form which you can obtain from the Planning Inspectorate by contacting Customer Support Team on 0303 444 50 00 or to submit electronically via the Planning Portal at

https://www.planningportal.co.uk/info/200207/appeals/110/making_an_appeal

Commercial Appeals Service

- This type of appeal proceeds by way of written representations, known as the "Commercial Appeals Service". Third parties will not have the opportunity to make further representations to the Planning Inspectorate on these.

All other Minor and Major Applications

- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted planning permission for the

proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

- In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based on their decision on a direction given by him.

Purchase Notes

- If either the Local Planning Authority or the Secretary of State refuses permission to development land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

From: NATS Safeguarding
Received: 20/9/18

Dear Sir/ Madam

NATS anticipates no impact from the proposal and has no comments to make on the application.

Regards

NATS

NATS Safeguarding

D: 01489 444687

E: NATSSafeguarding@nats.co.uk

4000 Parkway, Whiteley,
Fareham, Hants PO15 7FL
www.nats.co.uk



Sent electronically to:

WheelabratorKemsley@pins.gsi.gov.uk

Anne Holdsworth
DCO Liaison Officer
Land & Business Support

Anne.Holdsworth@nationalgrid.com

Tel: +44 (0)7960 175682

www.nationalgrid.com

25th September 2018

Dear Sir / Madam

**Ref: Wheelabrator Kemsley K3 Power Upgrade and Throughput Increase and
Wheelabrator Kemsley North Waste-to-Energy Plant
Scoping Notification and Consultation**

This is a response on behalf of National Grid Electricity Transmission PLC (NGET) and National Grid Gas PLC (NGG).

I refer to your letter dated 7th September 2018 regarding the Proposed Development.

National Grid infrastructure within / in close proximity to the order boundary:

Electricity Transmission

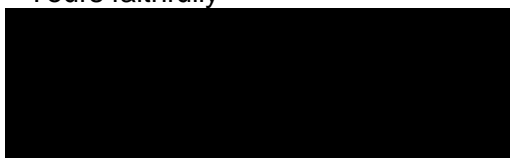
National Grid Electricity Transmission has no apparatus within or in close proximity to the proposed order limits.

Gas Transmission

National Grid Gas has no apparatus within or in close proximity to the proposed order limits.

If you require any further information please do not hesitate to contact me.

Yours faithfully



Anne Holdsworth

Date: 05 October 2018
Our ref: 258282
Your ref: EN010083



Alison Down
The Planning Inspectorate
3D Eagle Wing
Temple Quay House
2 The Square
Bristol BS1 6PN

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

BY EMAIL ONLY

wheelabratorkemsley@pins.gsi.gov.uk

Dear Ms Down

Planning Act 2008 (as amended) and The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations) – Regulations 10 and 11: Application by Wheelabrator Technologies Inc. (the Applicant) for an Order granting Development Consent for the proposed Wheelabrator Kemsley K3 Power Upgrade and Throughput Increase and Wheelabrator Kemsley North Waste-to-Energy Plant (the Proposed Development)
Location: Kemsley, North Kent

Thank you for seeking our advice on the scope of the Environmental Statement (ES) in your consultation dated 07 September 2018 which we received on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Case law¹ and guidance² has stressed the need for a full set of environmental information to be available for consideration prior to a decision being taken on whether or not to grant planning permission. Annex A to this letter provides Natural England's advice on the scope of the Environmental Impact Assessment (EIA) for this development. Annex B sets out our detailed comments on the Scoping Report (DHA, September 2018).

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us. For any queries relating to the specific advice in this letter only please contact Alison Giacomelli on 0208 225 7693. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

Alison Giacomelli
Sussex and Kent Area Team

¹ Harrison, J in *R. v. Cornwall County Council ex parte Hardy* (2001)

² *Note on Environmental Impact Assessment Directive for Local Planning Authorities* Office of the Deputy Prime Minister (April 2004) available from <http://webarchive.nationalarchives.gov.uk/+http://www.communities.gov.uk/planningandbuilding/planning/sustainability/environmental/environmentalimpactassessment/noteenvironmental/>

Annex A – Advice related to EIA Scoping Requirements

1. General Principles

Schedule 4 of the Town & Country Planning (Environmental Impact Assessment) Regulations 2017, sets out the necessary information to assess impacts on the natural environment to be included in an ES, specifically:

- A description of the development – including physical characteristics and the full land use requirements of the site during construction and operational phases.
- Expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed development.
- An assessment of alternatives and clear reasoning as to why the preferred option has been chosen.
- A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.
- A description of the likely significant effects of the development on the environment – this should cover direct effects but also any indirect, secondary, cumulative, short, medium and long term, permanent and temporary, positive and negative effects. Effects should relate to the existence of the development, the use of natural resources and the emissions from pollutants. This should also include a description of the forecasting methods to predict the likely effects on the environment.
- A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
- A non-technical summary of the information.
- An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information.

It will be important for any assessment to consider the potential cumulative effects of this proposal, including all supporting infrastructure, with other similar proposals and a thorough assessment of the 'in combination' effects of the proposed development with any existing developments and current applications. A full consideration of the implications of the whole scheme should be included in the ES. All supporting infrastructure should be included within the assessment.

2. Biodiversity and Geology

2.1 Ecological Aspects of an Environmental Statement

Natural England advises that the potential impact of the proposal upon features of nature conservation interest and opportunities for habitat creation/enhancement should be included within this assessment in accordance with appropriate guidance on such matters. Guidelines for Ecological Impact Assessment (EclA) have been developed by the Chartered Institute of Ecology and Environmental Management (CIEEM) and are available on their website.

EclA is the process of identifying, quantifying and evaluating the potential impacts of defined actions on ecosystems or their components. EclA may be carried out as part of the EIA process or to support other forms of environmental assessment or appraisal.

The National Planning Policy Framework sets out guidance in S.118 on how to take account of biodiversity interests in planning decisions and the framework that local authorities should provide to assist developers.

2.2 Internationally and Nationally Designated Sites

The ES should thoroughly assess the potential for the proposal to affect designated sites. European sites (e.g. designated Special Areas of Conservation (SACs) and Special Protection Areas (SPAs)) fall within the scope of the Conservation of Habitats and Species Regulations 2017. In addition paragraph 176 of the National Planning Policy Framework requires that potential Special Protection Areas, possible Special Areas of Conservation, listed or proposed Ramsar sites, and any

site identified as being necessary to compensate for adverse impacts on classified, potential or possible SPAs, SACs and Ramsar sites be treated in the same way as classified sites.

Under Regulation 63 of the Conservation of Habitats and Species Regulations 2017 an appropriate assessment needs to be undertaken in respect of any plan or project which is (a) likely to have a significant effect on a European site (either alone or in combination with other plans or projects) and (b) not directly connected with or necessary to the management of the site.

Should a Likely Significant Effect on a European/Internationally designated site be identified or be uncertain, the competent authority (in this case the Local Planning Authority) may need to prepare an Appropriate Assessment, in addition to consideration of impacts through the EIA process.

Sites of Special Scientific Interest (SSSIs) and sites of European or international importance (Special Areas of Conservation, Special Protection Areas and Ramsar sites)

The development site has the potential to affect the following designated nature conservation sites:

- The Swale SPA, Ramsar site and SSSI
- The Swale Estuary Marine Conservation Zone (MCZ)
- Medway Estuary and Marshes SPA and Ramsar site
- Thames Estuary and Marshes SPA and Ramsar site
- Queendown Warren SAC

Further information on SSSIs and their special interest features can be found at www.magic.gov. The Environmental Statement should include a full assessment of the direct and indirect effects of the development on the features of special interest within the site and should identify such mitigation measures as may be required in order to avoid, minimise or reduce any adverse significant effects.

Natura 2000 network site conservation objectives are available on our internet site:

<http://publications.naturalengland.org.uk/category/6490068894089216> Supplementary advice on Conservation Objectives has been produced for The Swale, Medway Estuary and Marshes and Thames Estuary and Marshes³. This advice aims to describe the range of ecological attributes that are most likely to contribute to a site's overall integrity. The impacts of the proposal should be assessed against the Conservation Objectives.

The sites listed above are sensitive to the following impacts, which should be considered in the EIA:

- Disturbance during construction, operation and demolition, including from noise, visual intrusion and lighting;
- Water quality and hydrological impacts;
- Air pollution

Detailed comments on the Scoping Report submitted by the applicant are set out at Annex B to this letter.

2.3 Regionally and Locally Important Sites

The EIA will need to consider any impacts upon local wildlife and geological sites. Local Sites are identified by the local wildlife trust, geoconservation group or a local forum established for the purposes of identifying and selecting local sites. They are of county importance for wildlife or geodiversity. The Environmental Statement should therefore include an assessment of the likely impacts on the wildlife and geodiversity interests of such sites. The assessment should include proposals for mitigation of any impacts and if appropriate, compensation measures. Contact the Kent Biological Records Centre further information.

2.4 Protected Species - Species protected by the Wildlife and Countryside Act 1981 (as amended) and by the Conservation of Habitats and Species Regulations 2017

³ Search for the site on Designated Sites View <https://designatedsites.naturalengland.org.uk/SiteSearch.aspx> and select 'Conservation Advice'.

The ES should assess the impact of all phases of the proposal on protected species (including, for example, great crested newts, reptiles, birds, water voles, badgers and bats). Natural England does not hold comprehensive information regarding the locations of species protected by law, but advises on the procedures and legislation relevant to such species. Records of protected species should be sought from appropriate local biological record centres, nature conservation organisations, groups and individuals; and consideration should be given to the wider context of the site for example in terms of habitat linkages and protected species populations in the wider area, to assist in the impact assessment.

The conservation of species protected by law is explained in Part IV and Annex A of Government Circular 06/2005 *Biodiversity and Geological Conservation: Statutory Obligations and their Impact within the Planning System*. The area likely to be affected by the proposal should be thoroughly surveyed by competent ecologists at appropriate times of year for relevant species and the survey results, impact assessments and appropriate accompanying mitigation strategies included as part of the ES.

In order to provide this information there may be a requirement for a survey at a particular time of year. Surveys should always be carried out in optimal survey time periods and to current guidance by suitably qualified and where necessary, licensed, consultants. Natural England has adopted [standing advice](#) for protected species which includes links to guidance on survey and mitigation.

2.5 Habitats and Species of Principal Importance

The ES should thoroughly assess the impact of the proposals on habitats and/or species listed as 'Habitats and Species of Principal Importance' within the England Biodiversity List, published under the requirements of S41 of the Natural Environment and Rural Communities (NERC) Act 2006. Section 40 of the NERC Act 2006 places a general duty on all public authorities, including local planning authorities, to conserve and enhance biodiversity. Further information on this duty is available here <https://www.gov.uk/guidance/biodiversity-duty-public-authority-duty-to-have-regard-to-conserving-biodiversity>.

Government Circular 06/2005 states that Biodiversity Action Plan (BAP) species and habitats, 'are capable of being a material consideration...in the making of planning decisions'. Natural England therefore advises that impact assessment and mitigation proposals for Habitats and Species of Principal Importance should be included in the ES. Consideration should also be given to those species and habitats included in the relevant Local BAP.

Natural England understands that the development site is, for the most part, made up of concrete hardstanding, and therefore there is no need for a detailed habitat survey of the site. However, the ES should consider impacts on adjacent and nearby habitats and associated species. It should include details of:

- Any historical data for the site affected by the proposal (e.g. from previous surveys);
- Additional surveys carried out as part of this proposal;
- The habitats and species present;
- The status of these habitats and species (e.g. whether priority species or habitat);
- The direct and indirect effects of the development upon those habitats and species;
- Full details of any mitigation or compensation that might be required.

The development should seek if possible to avoid adverse impact on sensitive areas for wildlife, and if possible provide opportunities for overall wildlife gain.

2.6 Contacts for Local Records

Natural England does not hold local information on local sites, local landscape character and local or national biodiversity priority habitats and species. We recommend that you seek further information from the appropriate bodies (which may include the local records centre, the local wildlife trust, local geoconservation group or other recording society and a local landscape characterisation document).

3. Access and Recreation

Natural England encourages any proposal to incorporate measures to help encourage people to access the countryside for quiet enjoyment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways are to be encouraged. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be incorporated where appropriate.

Rights of Way, Access land, Coastal access and National Trails

The EIA should consider potential impacts on access land, public open land, rights of way and coastal access routes in the vicinity of the development. We also recommend reference to the relevant Right of Way Improvement Plans (ROWIP) to identify public rights of way within or adjacent to the proposed site that should be maintained or enhanced.

England Coastal Path

Natural England has a duty to provide coastal access on foot around the whole of the English coast and is aiming to complete this by 2020. This is a new National Trail with an associated margin of land predominantly seawards of this, for the public to access and enjoy. Natural England takes great care in considering the interests of both land owners/occupiers and users of the England Coast Path, aiming to strike a fair balance when working to open a new stretch. We follow an approach set out in the approved [Coastal Access Scheme](#) and all proposals have to be approved by the Secretary of State.

We would encourage any proposed development to include appropriate provision for the England Coast Path to maximise the benefits this can bring to the area. We suggest that the development includes provision for a walking or multi-user route, where practicable and safe. This should not be to the detriment of nature conservation, historic environment, landscape character or affect natural coastal change.

We would welcome discussions as to how this could best be achieved within the development proposals. We would also be happy to provide suggestions as to the most appropriate areas for coastal access on site. To find out progress of the England Coast Path in your area, visit the Natural England website [here](#).

4. Air Quality

Air quality in the UK has improved over recent decades but air pollution remains a significant issue; for example over 97% of sensitive habitat area in England is predicted to exceed the critical loads for ecosystem protection from atmospheric nitrogen deposition ([England Biodiversity Strategy](#), Defra 2011). A priority action in the England Biodiversity Strategy is to reduce air pollution impacts on biodiversity. The planning system plays a key role in determining the location of developments which may give rise to pollution, either directly or from traffic generation, and hence planning decisions can have a significant impact on the quality of air, water and land. The assessment should take account of the risks of air pollution and how these can be managed or reduced. Further information on air pollution impacts and the sensitivity of different habitats/designated sites can be found on the Air Pollution Information System (www.apis.ac.uk). Further information on air pollution modelling and assessment can be found on the Environment Agency website.

5. Climate Change Adaptation

The [England Biodiversity Strategy](#) published by Defra establishes principles for the consideration of biodiversity and the effects of climate change. The ES should reflect these principles and identify how the development's effects on the natural environment will be influenced by climate change, and how ecological networks will be maintained. The NPPF requires that the planning system should contribute to the enhancement of the natural environment 'by establishing coherent ecological networks that are more resilient to current and future pressures' ([NPPF](#) Para 170), which should be demonstrated through the ES.



Public Health
England

CRCE/NSIP Consultations www.gov.uk/phe
Chilton
Didcot
Oxfordshire OX11 0RQ

Ms Alison Down
EIA and Land Rights Advisor
The Planning Inspectorate
Temple Quay House
2 The Square
Bristol BS1 6PN

Your Ref : EN010083

Our Ref : 48615

2nd October 2018

Dear Ms Down

**Re: Scoping Consultation
Application for an Order Granting Development Consent for the proposed
Wheelabrator Kemsley K3 Power Upgrade and Throughput Increase and
Wheelabrator Kemsley North Waste-to-Energy Plant (the Proposed
Development)**

Thank you for including Public Health England (PHE) in the scoping consultation phase of the above application. Our response focuses on health protection issues relating to chemicals and radiation. Advice offered by PHE is impartial and independent.

We understand that the promoter will wish to avoid unnecessary duplication and that many issues including air quality, emissions to water, waste, contaminated land etc. will be covered elsewhere in the Environmental Statement (ES). We believe the summation of relevant issues into a specific section of the report provides a focus which ensures that public health is given adequate consideration. The section should summarise key information, risk assessments, proposed mitigation measures, conclusions and residual impacts, relating to human health. Compliance with the requirements of National Policy Statements and relevant guidance and standards should also be highlighted.

In terms of the level of detail to be included in an ES, we recognise that the differing nature of projects is such that their impacts will vary. Any assessments undertaken to inform the ES should be proportionate to the potential impacts of the proposal, therefore we accept that, in some circumstances particular assessments may not be relevant to an application, or that an assessment may be adequately completed using a qualitative rather than quantitative methodology. In cases where this decision is made the promoters should fully explain and justify their rationale in the submitted documentation.

It is noted that the current proposals do not appear to consider possible health impacts of Electric and Magnetic Fields (EMF). The proposer should confirm either that the proposed development does not include any sources of EMF that may potentially impact on public health; or ensure that an adequate assessment of the possible impacts is undertaken and included in the ES.

The attached appendix outlines generic areas that should be addressed by all promoters when preparing ES for inclusion with an NSIP submission. We are happy to assist and discuss proposals further in the light of this advice.

Yours sincerely,

Environmental Hazards & Emergencies Dept
On behalf of Public Health England
Nsipconsultations@phe.gov.uk

Please mark any correspondence for the attention of National Infrastructure Planning Administration.

Appendix: PHE recommendations regarding the scoping document

General approach

The EIA should give consideration to best practice guidance such as the Government's Good Practice Guide for EIA¹. It is important that the EIA identifies and assesses the potential public health impacts of the activities at, and emissions from, the installation. Assessment should consider the development, operational, and decommissioning phases.

It is not PHE's role to undertake these assessments on behalf of promoters as this would conflict with PHE's role as an impartial and independent body.

Consideration of alternatives (including alternative sites, choice of process, and the phasing of construction) is widely regarded as good practice. Ideally, EIA should start at the stage of site and process selection, so that the environmental merits of practicable alternatives can be properly considered. Where this is undertaken, the main alternatives considered should be outlined in the ES².

The following text covers a range of issues that PHE would expect to be addressed by the promoter. However this list is not exhaustive and the onus is on the promoter to ensure that the relevant public health issues are identified and addressed. PHE's advice and recommendations carry no statutory weight and constitute non-binding guidance.

Receptors

The ES should clearly identify the development's location and the location and distance from the development of off-site human receptors that may be affected by emissions from, or activities at, the development. Off-site human receptors may include people living in residential premises; people working in commercial, and industrial premises and people using transport infrastructure (such as roads and railways), recreational areas, and publicly-accessible land. Consideration should also be given to environmental receptors such as the surrounding land, watercourses, surface and groundwater, and drinking water supplies such as wells, boreholes and water abstraction points.

Impacts arising from construction and decommissioning

Any assessment of impacts arising from emissions due to construction and decommissioning should consider potential impacts on all receptors and describe monitoring and mitigation during these phases. Construction and decommissioning will be associated with vehicle movements and cumulative impacts should be accounted for.

We would expect the promoter to follow best practice guidance during all phases from construction to decommissioning to ensure appropriate measures are in place

¹ Environmental Impact Assessment: A guide to good practice and procedures - A consultation paper; 2006; Department for Communities and Local Government. Available from: <http://webarchive.nationalarchives.gov.uk/20100410180038/http://communities.gov.uk/planningandbuilding/planning/sustainability/environmental/environmentalimpactassessment/>

² DCLG guidance, 1999 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/155958.pdf>

to mitigate any potential impact on health from emissions (point source, fugitive and traffic-related). An effective Construction Environmental Management Plan (CEMP) (and Decommissioning Environmental Management Plan (DEMP)) will help provide reassurance that activities are well managed. The promoter should ensure that there are robust mechanisms in place to respond to any complaints of traffic-related pollution, during construction, operation, and decommissioning of the facility.

Emissions to air and water

Significant impacts are unlikely to arise from installations which employ Best Available Techniques (BAT) and which meet regulatory requirements concerning emission limits and design parameters. However, PHE has a number of comments regarding emissions in order that the EIA provides a comprehensive assessment of potential impacts.

When considering a baseline (of existing environmental quality) and in the assessment and future monitoring of impacts these:

- should include appropriate screening assessments and detailed dispersion modelling where this is screened as necessary
- should encompass all pollutants which may be emitted by the installation in combination with all pollutants arising from associated development and transport, ideally these should be considered in a single holistic assessment
- should consider the construction, operational, and decommissioning phases
- should consider the typical operational emissions and emissions from start-up, shut-down, abnormal operation and accidents when assessing potential impacts and include an assessment of worst-case impacts
- should fully account for fugitive emissions
- should include appropriate estimates of background levels
- should identify cumulative and incremental impacts (i.e. assess cumulative impacts from multiple sources), including those arising from associated development, other existing and proposed development in the local area, and new vehicle movements associated with the proposed development; associated transport emissions should include consideration of non-road impacts (i.e. rail, sea, and air)
- should include consideration of local authority, Environment Agency, Defra national network, and any other local site-specific sources of monitoring data
- should compare predicted environmental concentrations to the applicable standard or guideline value for the affected medium (such as UK Air Quality Standards and Objectives and Environmental Assessment Levels)
 - If no standard or guideline value exists, the predicted exposure to humans should be estimated and compared to an appropriate health-based value (a Tolerable Daily Intake or equivalent). Further guidance is provided in Annex 1
 - This should consider all applicable routes of exposure e.g. include consideration of aspects such as the deposition of chemicals emitted to air and their uptake via ingestion
- should identify and consider impacts on residential areas and sensitive receptors (such as schools, nursing homes and healthcare facilities) in the area(s) which may be affected by emissions, this should include consideration of any new receptors arising from future development

Whilst screening of impacts using qualitative methodologies is common practice (e.g. for impacts arising from fugitive emissions such as dust), where it is possible to undertake a quantitative assessment of impacts then this should be undertaken.

PHE's view is that the EIA should appraise and describe the measures that will be used to control both point source and fugitive emissions and demonstrate that standards, guideline values or health-based values will not be exceeded due to emissions from the installation, as described above. This should include consideration of any emitted pollutants for which there are no set emission limits. When assessing the potential impact of a proposed installation on environmental quality, predicted environmental concentrations should be compared to the permitted concentrations in the affected media; this should include both standards for short and long-term exposure.

Additional points specific to emissions to air

When considering a baseline (of existing air quality) and in the assessment and future monitoring of impacts these:

- should include consideration of impacts on existing areas of poor air quality e.g. existing or proposed local authority Air Quality Management Areas (AQMAs)
- should include modelling using appropriate meteorological data (i.e. come from the nearest suitable meteorological station and include a range of years and worst case conditions)
- should include modelling taking into account local topography

Additional points specific to emissions to water

When considering a baseline (of existing water quality) and in the assessment and future monitoring of impacts these:

- should include assessment of potential impacts on human health and not focus solely on ecological impacts
- should identify and consider all routes by which emissions may lead to population exposure (e.g. surface watercourses; recreational waters; sewers; geological routes etc.)
- should assess the potential off-site effects of emissions to groundwater (e.g. on aquifers used for drinking water) and surface water (used for drinking water abstraction) in terms of the potential for population exposure
- should include consideration of potential impacts on recreational users (e.g. from fishing, canoeing etc) alongside assessment of potential exposure via drinking water

Land quality

We would expect the promoter to provide details of any hazardous contamination present on site (including ground gas) as part of the site condition report.

Emissions to and from the ground should be considered in terms of the previous history of the site and the potential of the site, once operational, to give rise to issues. Public health impacts associated with ground contamination and/or the

migration of material off-site should be assessed³ and the potential impact on nearby receptors and control and mitigation measures should be outlined.

Relevant areas outlined in the Government's Good Practice Guide for EIA include:

- effects associated with ground contamination that may already exist
- effects associated with the potential for polluting substances that are used (during construction / operation) to cause new ground contamination issues on a site, for example introducing / changing the source of contamination
- impacts associated with re-use of soils and waste soils, for example, re-use of site-sourced materials on-site or offsite, disposal of site-sourced materials offsite, importation of materials to the site, etc.

Waste

The EIA should demonstrate compliance with the waste hierarchy (e.g. with respect to re-use, recycling or recovery and disposal).

For wastes arising from the installation the EIA should consider:

- the implications and wider environmental and public health impacts of different waste disposal options
- disposal route(s) and transport method(s) and how potential impacts on public health will be mitigated

For wastes delivered to the installation:

- the EIA should consider issues associated with waste delivery and acceptance procedures (including delivery of prohibited wastes) and should assess potential off-site impacts and describe their mitigation

Other aspects

Within the EIA PHE would expect to see information about how the promoter would respond to accidents with potential off-site emissions e.g. flooding or fires, spills, leaks or releases off-site. Assessment of accidents should: identify all potential hazards in relation to construction, operation and decommissioning; include an assessment of the risks posed; and identify risk management measures and contingency actions that will be employed in the event of an accident in order to mitigate off-site effects.

The EIA should include consideration of the COMAH Regulations (Control of Major Accident Hazards) and the Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009: both in terms of their applicability to the installation itself, and the installation's potential to impact on, or be impacted by, any nearby installations themselves subject to the these Regulations.

There is evidence that, in some cases, perception of risk may have a greater impact on health than the hazard itself. A 2009 report⁴, jointly published by Liverpool John Moores University and the HPA, examined health risk perception and environmental

³ Following the approach outlined in the section above dealing with emissions to air and water i.e. comparing predicted environmental concentrations to the applicable standard or guideline value for the affected medium (such as Soil Guideline Values)

⁴ Available from: <http://www.cph.org.uk/wp-content/uploads/2012/08/health-risk-perception-and-environmental-problems--summary-report.pdf>

problems using a number of case studies. As a point to consider, the report suggested: “Estimation of community anxiety and stress should be included as part of every risk or impact assessment of proposed plans that involve a potential environmental hazard. This is true even when the physical health risks may be negligible.” PHE supports the inclusion of this information within EIAs as good practice.

Electromagnetic fields (EMF)

This statement is intended to support planning proposals involving electrical installations such as substations and connecting underground cables or overhead lines. PHE advice on the health effects of power frequency electric and magnetic fields is available in the following link:

<https://www.gov.uk/government/collections/electromagnetic-fields#low-frequency-electric-and-magnetic-fields>

There is a potential health impact associated with the electric and magnetic fields around substations, and power lines and cables. The field strength tends to reduce with distance from such equipment.

The following information provides a framework for considering the health impact associated with the electric and magnetic fields produced by the proposed development, including the direct and indirect effects of the electric and magnetic fields as indicated above.

Policy Measures for the Electricity Industry

The Department of Energy and Climate Change has published a voluntary code of practice which sets out key principles for complying with the ICNIRP guidelines:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/37447/1256-code-practice-emf-public-exp-guidelines.pdf

Companion codes of practice dealing with optimum phasing of high voltage power lines and aspects of the guidelines that relate to indirect effects are also available:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/48309/1255-code-practice-optimum-phasing-power-lines.pdf

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/224766/powerlines_vcop_microshocks.pdf

Exposure Guidelines

PHE recommends the adoption in the UK of the EMF exposure guidelines published by the International Commission on Non-ionizing Radiation Protection (ICNIRP). Formal advice to this effect was published by one of PHE’s predecessor

organisations (NRPB) in 2004 based on an accompanying comprehensive review of the scientific evidence:-

<http://webarchive.nationalarchives.gov.uk/20140629102627/http://www.hpa.org.uk/Publications/Radiation/NPRBArchive/DocumentsOfTheNRPB/Absd1502/>

Updates to the ICNIRP guidelines for static fields have been issued in 2009 and for low frequency fields in 2010. However, Government policy is that the ICNIRP guidelines are implemented in line with the terms of the 1999 EU Council Recommendation on limiting exposure of the general public (1999/519/EC):

http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/PublicHealth/HealthProtection/DH_4089500

Static magnetic fields

For static magnetic fields, the ICNIRP guidelines published in 2009 recommend that acute exposure of the general public should not exceed 400 mT (millitesla), for any part of the body, although the previously recommended value of 40 mT is the value used in the Council Recommendation. However, because of potential indirect adverse effects, ICNIRP recognises that practical policies need to be implemented to prevent inadvertent harmful exposure of people with implanted electronic medical devices and implants containing ferromagnetic materials, and injuries due to flying ferromagnetic objects, and these considerations can lead to much lower restrictions, such as 0.5 mT.

Power frequency electric and magnetic fields

At 50 Hz, the known direct effects include those of induced currents in the body on the central nervous system (CNS) and indirect effects include the risk of painful spark discharge on contact with metal objects exposed to the field. The ICNIRP guidelines published in 1998 give reference levels for public exposure to 50 Hz electric and magnetic fields, and these are respectively 5 kV m⁻¹ (kilovolts per metre) and 100 µT (microtesla). The reference level for magnetic fields changes to 200 µT in the revised (ICNIRP 2010) guidelines because of new basic restrictions based on induced electric fields inside the body, rather than induced current density. If people are not exposed to field strengths above these levels, direct effects on the CNS should be avoided and indirect effects such as the risk of painful spark discharge will be small. The reference levels are not in themselves limits but provide guidance for assessing compliance with the basic restrictions and reducing the risk of indirect effects.

Long term effects

There is concern about the possible effects of long-term exposure to electromagnetic fields, including possible carcinogenic effects at levels much lower than those given in the ICNIRP guidelines. In the NRPB advice issued in 2004, it was concluded that the studies that suggest health effects, including those concerning childhood leukaemia, could not be used to derive quantitative guidance on restricting exposure.

However, the results of these studies represented uncertainty in the underlying evidence base, and taken together with people's concerns, provided a basis for providing an additional recommendation for Government to consider the need for further precautionary measures, particularly with respect to the exposure of children to power frequency magnetic fields.

The Stakeholder Advisory Group on ELF EMFs (SAGE)

SAGE was set up to explore the implications for a precautionary approach to extremely low frequency electric and magnetic fields (ELF EMFs), and to make practical recommendations to Government:

<http://www.emfs.info/policy/sage/>

SAGE issued its First Interim Assessment in 2007, making several recommendations concerning high voltage power lines. Government supported the implantation of low cost options such as optimal phasing to reduce exposure; however it did not support the option of creating corridors around power lines on health grounds, which was considered to be a disproportionate measure given the evidence base on the potential long term health risks arising from exposure. The Government response to SAGE's First Interim Assessment is available here:

http://webarchive.nationalarchives.gov.uk/20130107105354/http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_107124

The Government also supported calls for providing more information on power frequency electric and magnetic fields, which is available on the PHE web pages (see first link above).

Ionising radiation

Particular considerations apply when an application involves the possibility of exposure to ionising radiation. In such cases it is important that the basic principles of radiation protection recommended by the International Commission on Radiological Protection⁵ (ICRP) are followed. PHE provides advice on the application of these recommendations in the UK. The ICRP recommendations are implemented in the Euratom Basic Safety Standards⁶ (BSS) and these form the basis for UK legislation, including the Ionising Radiation Regulations 1999, the Radioactive Substances Act 1993, and the Environmental Permitting Regulations 2016.

PHE expects promoters to carry out the necessary radiological impact assessments to demonstrate compliance with UK legislation and the principles of radiation protection. This should be set out clearly in a separate section or report and should not require any further analysis by PHE. In particular, the important principles of

⁵ These recommendations are given in publications of the ICRP notably publications 90 and 103 see the website at <http://www.icrp.org/>

⁶ Council Directive 96/29/EURATOM laying down basic safety standards for the protection of the health of workers and the general public against the dangers arising from ionising radiation.

justification, optimisation and radiation dose limitation should be addressed. In addition compliance with the Euratom BSS and UK legislation should be clear.

When considering the radiological impact of routine discharges of radionuclides to the environment PHE would expect to see a full radiation dose assessment considering both individual and collective (population) doses for the public and, where necessary, workers. For individual doses, consideration should be given to those members of the public who are likely to receive the highest exposures (referred to as the representative person, which is equivalent to the previous term, critical group). Different age groups should be considered as appropriate and should normally include adults, 1 year old and 10 year old children. In particular situations doses to the fetus should also be calculated⁷. The estimated doses to the representative person should be compared to the appropriate radiation dose criteria (dose constraints and dose limits), taking account of other releases of radionuclides from nearby locations as appropriate. Collective doses should also be considered for the UK, European and world populations where appropriate. The methods for assessing individual and collective radiation doses should follow the guidance given in 'Principles for the Assessment of Prospective Public Doses arising from Authorised Discharges of Radioactive Waste to the Environment August 2012'⁸. It is important that the methods used in any radiological dose assessment are clear and that key parameter values and assumptions are given (for example, the location of the representative persons, habit data and models used in the assessment).

Any radiological impact assessment should also consider the possibility of short-term planned releases and the potential for accidental releases of radionuclides to the environment. This can be done by referring to compliance with the Ionising Radiation Regulations and other relevant legislation and guidance.

The radiological impact of any solid waste storage and disposal should also be addressed in the assessment to ensure that this complies with UK practice and legislation; information should be provided on the category of waste involved (e.g. very low level waste, VLLW). It is also important that the radiological impact associated with the decommissioning of the site is addressed. Of relevance here is PHE advice on radiological criteria and assessments for land-based solid waste disposal facilities⁹. PHE advises that assessments of radiological impact during the operational phase should be performed in the same way as for any site authorised to discharge radioactive waste. PHE also advises that assessments of radiological impact during the post operational phase of the facility should consider long timescales (possibly in excess of 10,000 years) that are appropriate to the long-lived nature of the radionuclides in the waste, some of which may have half-lives of millions of years. The radiological assessment should consider exposure of

⁷ HPA (2008) Guidance on the application of dose coefficients for the embryo, fetus and breastfed infant in dose assessments for members of the public. Doc HPA, RCE-5, 1-78, available at <https://www.gov.uk/government/publications/embryo-fetus-and-breastfed-infant-application-of-dose-coefficients>

⁸ The Environment Agency (EA), Scottish Environment Protection Agency (SEPA), Northern Ireland Environment Agency, Health Protection Agency and the Food Standards Agency (FSA). Principles for the Assessment of Prospective Public Doses arising from Authorised Discharges of Radioactive Waste to the Environment August 2012. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/296390/geho1202bklh-e-e.pdf

⁹ HPA RCE-8, Radiological Protection Objectives for the Land-based Disposal of Solid Radioactive Wastes, February 2009

members of hypothetical representative groups for a number of scenarios including the expected migration of radionuclides from the facility, and inadvertent intrusion into the facility once institutional control has ceased. For scenarios where the probability of occurrence can be estimated, both doses and health risks should be presented, where the health risk is the product of the probability that the scenario occurs, the dose if the scenario occurs and the health risk corresponding to unit dose. For inadvertent intrusion, the dose if the intrusion occurs should be presented. It is recommended that the post-closure phase be considered as a series of timescales, with the approach changing from more quantitative to more qualitative as times further in the future are considered. The level of detail and sophistication in the modelling should also reflect the level of hazard presented by the waste. The uncertainty due to the long timescales means that the concept of collective dose has very limited use, although estimates of collective dose from the 'expected' migration scenario can be used to compare the relatively early impacts from some disposal options if required.

Annex 1

Human health risk assessment (chemical pollutants)

The points below are cross-cutting and should be considered when undertaking a human health risk assessment:

- The promoter should consider including Chemical Abstract Service (CAS) numbers alongside chemical names, where referenced in the ES
- Where available, the most recent United Kingdom standards for the appropriate media (e.g. air, water, and/or soil) and health-based guideline values should be used when quantifying the risk to human health from chemical pollutants. Where UK standards or guideline values are not available, those recommended by the European Union or World Health Organisation can be used
- When assessing the human health risk of a chemical emitted from a facility or operation, the background exposure to the chemical from other sources should be taken into account
- When quantitatively assessing the health risk of genotoxic and carcinogenic chemical pollutants PHE does not favour the use of mathematical models to extrapolate from high dose levels used in animal carcinogenicity studies to well below the observed region of a dose-response relationship. When only animal data are available, we recommend that the 'Margin of Exposure' (MOE) approach¹⁰ is used

¹⁰ Benford D et al. 2010. Application of the margin of exposure approach to substances in food that are genotoxic and carcinogenic. Food Chem Toxicol 48 Suppl 1: S2-24

6. Cumulative and in-combination effects

A full consideration of the implications of the whole scheme should be included in the ES. All supporting infrastructure should be included within the assessment.

The ES should include an impact assessment to identify, describe and evaluate the effects that are likely to result from the project in combination with other projects and activities that are being, have been or will be carried out. The following types of projects should be included in such an assessment, (subject to available information):

- a. existing completed projects;
- b. approved but uncompleted projects;
- c. ongoing activities;
- d. plans or projects for which an application has been made and which are under consideration by the consenting authorities; and
- e. plans and projects which are reasonably foreseeable, i.e. projects for which an application has not yet been submitted, but which are likely to progress before completion of the development and for which sufficient information is available to assess the likelihood of cumulative and in-combination effects.

Annex B

Detailed comments on the Scoping Report

In general, Natural England supports the approach to environmental assessment set out in the Scoping Report. Points of detail are set out below.

K3 Proposal – Potential effects

Air Quality – Paragraph 6.2.9 of the Scoping Report states that the Process Contributions (PC) will be predicted for ecological receptors and compared to the ES for the existing K3 plant. The paragraph goes on to say that if the PC goes down this will be judged to have no likely significant effect on ecological receptors. Natural England advises that the PC should be assessed in combination with other projects, before a determination on likely significant effect is reached.

Road traffic – The impacts of air pollution from road traffic only needs to be considered where there are sensitive Natura 2000 site habitats within 200m of a road. If such sensitive habitats are present, then risk to those habitats should be assessed using the 1% of critical load/level threshold, or an increase of over 200 HGV Annual Average Daily Traffic movements (as a proxy for emissions). The assessment should be made against these screening thresholds for the K3 proposal alone and in combination⁴ with other proposals, eg the WKN proposal.

Noise and vibration - Para 6.4.8 says no significant construction associated with K3 and WKN, so no construction noise considered. However, as WKN is yet to be built, then construction noise from this should be considered.

Ecology - Para 6.9.8 says the only pathway for effects is through changes in air quality from the power upgrade and additional HGV movements, so this is the only issue to be assessed. However, the additional HGV movements have the potential to increase disturbance to birds breeding in the adjacent reedbed, which is functionally linked to The Swale SPA. The potential for disturbance to marsh harriers using the reedbed was considered for the permitted K3 development, and additional reedbed provided on Sheppey at Harty Marshes. Therefore, whilst there is a risk of increased disturbance, mitigation has already been provided and this is sufficient to address the increase in traffic from the K3 power upgrade.

WKN Proposal – Potential effects

Air quality – As noted above, the air quality impacts of the WKN proposal should be assessed in combination with other proposals when screening for likely significant effects.

Ecology and water environment – Natural England agrees the correct issues have been scoped in for assessment.

⁴ This is in response to the Wealden Judgement: <http://www.bailii.org/ew/cases/EWHC/Admin/2017/351.html>



Wheelabrator Kemsley Generating K3 Power Upgrade – proposed development by Wheelabrator Technologies Inc

Royal Mail Group Limited comments on information to be provided in applicant's Environmental Statement

Introduction

Reference the letter from PINS to Royal Mail dated 7 September 2018 requesting Royal Mail's comments on information that should be provided in Wheelabrator Technologies Inc's Environmental Statement.

Royal Mail's consultants BNP Paribas Real Estate have reviewed the applicant's Scoping Report dated September 2018.

Royal Mail- relevant information

Under section 35 of the Postal Services Act 2011 (the "Act"), Royal Mail has been designated by Ofcom (the independent communications regulator) as a provider of the Universal Postal Service.

Royal Mail is the only such provider in the United Kingdom. Its services are regulated by the Communications Industry Regulator, Ofcom.

In respect of its postal services functions, section 29 of the Act provides that Ofcom's primary regulatory duty is to secure the provision of the Universal Postal Service. Ofcom discharges this duty by imposing regulatory conditions on Royal Mail, requiring it to provide the Universal Postal Service.

By sections 30 and 31 of the Act (read with sections 32 and 33) there is a set of minimum standards for Universal Service Providers, which Ofcom must secure. The conditions imposed by Ofcom reflect those standards. There is, in effect, a statutory obligation on Royal Mail to provide at least one collection from letterboxes and post offices six days a week and one delivery of letters to all 29 million homes and businesses in the UK six days a week (five days a week for parcels). Royal Mail must also provide a range of "end to end" services meeting users' needs, e.g. First Class, Second Class, Special Delivery by 1 pm, International and Redirections services.

Royal Mail is under some of the highest specification performance obligations for quality of service in Europe. Its performance of the Universal Service Provider obligations is in the public interest and should not be affected detrimentally by any statutorily authorised project.

Royal Mail's postal sorting and delivery operations rely heavily on road communications. Royal Mail's ability to provide efficient mail collection, sorting and delivery to the public is sensitive to changes in the capacity of the highway network.

Royal Mail is a major road user nationally. Disruption to the highway network and traffic delays can have direct consequences on Royal Mail's operations, its ability to meet the Universal Service Obligation and comply with the regulatory regime for postal services thereby presenting a significant risk to Royal Mail's business.



Royal Mail has seven operational properties within 10 miles of the proposal site, as identified below:

Sittingbourne Delivery Office	Central Avenue Sittingbourne ME10 4AA	3.1
Sheerness Parking	Trinity Place Sheerness ME12 1TW	7.7
Sheerness Delivery Office	33 Broadway Sheerness ME12 1AA	7.8
Faversham Delivery Office	East Street Faversham ME13 8AA	9.2
Rainham Delivery Office	7-8 Saracen Close Gillingham ME8 0QN	10
Gillingham Delivery Office	The Ice Bowl, Ambley Road Gillingham ME8 0PU	10
Gillingham Ice Rink PAR	The Ice Bowl, Ambley Road Gillingham ME8 0RU	10





Royal Mail's comments on information that should be provided in Wheelabrator Technologies Inc's Environmental Statement

The content of the Traffic and Transportation section of the ES Scoping Report looks generally adequate to Royal Mail. However, Royal Mail has the following comments / requests:

1. Due to the magnitude of the likely HGV / refuse vehicle movements in hauling up to an additional 107,000 tonnes of waste fuel to the plant each year, additional vehicle movements during the operational phase have significant potential to be disruptive to Royal Mail's local road operations from the above identified properties.
2. Royal Mail requests that the Traffic and Transportation section of the ES includes information on the needs of major road users (such as Royal Mail) and acknowledges the requirement to ensure that major road users are not disrupted through full consultation at the appropriate time in the DCO and development process.
3. Royal Mail requests that it is fully pre-consulted by the applicant and its contractors on any proposed road closures / diversions/ alternative access arrangements, hours of working and the content of any Construction Traffic Management Plan. The ES should acknowledge the need for this consultation with Royal Mail and other relevant local businesses / occupiers.

Royal Mail is able to supply the applicant with information on its road usage / trips if required.

Should PINS or Wheelabrator Technologies Inc have any queries in relation to the above then in the first instance please contact Holly Trotman (holly.trotman@royalmail.com) of Royal Mail's Legal Services Team or Daniel Parry-Jones (daniel.parry-jones@bnpparibas.com) of BNP Paribas Real Estate.

From: Trinity House
Received: 5/10/18

With reference to your attached letter, as it appears there are no expected works to be carried out below the high water mark, Trinity House has no comments to make. However, should this change or not be the case, such works should be discussed with Peel Ports Medway in the first instance.

Kindest regards,

Steve Vanstone
Navigation Services Officer
Trinity House