

planning
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Document 3.1 – ES Volume 2

Appendix 3.5: Response to S42 consultation 2018

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

September 2019 -Submission Version

PINS ref: EN010083



Response to the S42 Consultation and S48 Publication 2018 Comments

Introduction

Section 42 of the Planning Act 2008 (the Act) requires the applicant to consult various prescribed bodies, directly affected and adjoining local authorities, the Greater London Authority where relevant and any parties identified under S44, such as owner, lessees, tenants or occupiers and others. Section 48 of the Act requires the applicant to publicise the proposed application in the prescribed manner.

The pre-application consultation and publicity is set out in full in the Consultation Report [Document 4.1] which forms part of the DCO application. In summary, S42 consultation packs, which comprised a USB containing all consultation documents were sent to all consultees and sent to the required parties on Friday 30th November 2018 with the S42 consultation packs sent to the S44 parties by Thursday 6th December 2018. In accordance with the EIA Regulations a copy of the Section 48 notice was included within the S42 consultation packs.

The S42 consultation pack included a draft ES and Preliminary Environmental Information Report pursuant to the EIA Scoping process. A copy of the consultation letter and the relevant documents, which were also published on WTI's website, is provided in Technical Appendix 3.4 as well as any consultation responses received.

Statutory notices under Section 48 were placed in two local newspapers on the 28th November 2018 and 5th December 2018, the London Gazette and the Daily Telegraph on the 5th December 2018 and a third local newspaper on the 10th December 2018.

Responses were received from 22 of the bodies that were consulted under Section 42 and there were no responses received as a result of the Section 48 notices. The full consultation responses are provided in Appendix 3.4.

The following table sets out the key issues raised by consultees and provides responses to each of the relevant comments i.e. where a suggested amendment to the proposed scope of the ES is made. Comments that do not suggest an amendment to the scope of the draft ES pursuant to the S42 consultation have been excluded for ease of reference.

Where applicable, cross-references are made to where the issues have been addressed in the Environmental Statement. Please note, where comments received from consultees are quite lengthy, only the main points have been extracted and noted in the comment's column below.

It should be noted that at the time of S42 and S48 consultation in 2018 the intention was to apply for an extension to K3 as consented to comprise a power upgrade from 49.9MW to 75MW and an increase in annual permissible waste throughput of 107,000tpa.

In order for the K3 project to be properly categorised and consented under the Planning Act 2008 the applicant is now seeking consent for the construction of K3 at its total generating capacity of 75MW (49.9MW consented + 25.1MW upgrade) together with its

proposed tonnage throughput of 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase) (the 'K3 Proposed Development').

However, the practical effect of the K3 Proposed Development would simply allow K3 as consented to generate an additional 25.1MW and process an additional 107,000 tpa of waste i.e. the same effect of proposed development at the time of scoping.

Construction of K3 began in July 2016 and is expected to be completed with the facility operational by late 2019. The DCO being consent sought would not result in any additional external physical changes to K3 as consented and the layout and appearance of the facility would remain as per its consented design.

It is therefore considered that the responses received remain relevant to the DCO sought. However, due to the change in description of the DCO sought (in order to properly categorise and consent the development under the Planning Act 2008) a further round of S42 and S47 consultation and S48 publicity was therefore undertaken in July 2019 on the description of development as it is now set out within the application, i.e. the construction and operation of a 75MW generating station with a total annual throughput of 657,000tpa, together with the construction and operation of the WKN facility. The intention of the third round of consultation and publicity was to inform interested stakeholders about the change to the description of development and to clarify the effect of that on the approach to EIA within the application, in order to allow them the opportunity to comment on the application in those terms prior to submission. See Appendix 3.6 and 3.7 for further details.

Statutory and non-statutory consultee scoping response/comments	Response to issues raised in scoping/cross references to where issues have been addressed
Environment Agency	
Groundwater and Contaminated Land	
<p>On the understanding that there is no further significant construction on the K3 site, but only internal re-configuration we have no comments or requirements for the K3 site over and above our previous recommendations. Environmental pollution control in the operational phase will be covered by the environmental permit.</p>	<p>Whilst there will be no further construction activities as part of the K3 Proposed Development beyond K3 as consented the associated increase in tonnage throughput will increase emissions from the facility. In accordance with Schedule 1 of the EPR 2016, an amended Environmental Permit will be required in order to operate K3 in accordance with the K3 Proposed Development proposals. This is required in addition to a DCO granted by the Secretary of State (SoS). An application to amend the permit is being prepared and it is anticipated that this will be submitted in the spring of 2020. Notwithstanding this the ES has modelled the effect and determined the significance of any impact in Chapter 5 Air Quality.</p>
<p>On the additional WK[N] site we would ask for similar requirements as have been previously agreed. Of particular concern would be the piling proposed and potential effects in the shallow secondary aquifer and associated surface waters and habitats. A piling risk assessment is required to be approved by the planning authority with consultation with us.</p>	<p>The requirement for a piling risk assessment is secured through the Ground Conditions Chapter 9 of the ES and the dDCO.</p>
<p>Relevant groundwater monitoring should be undertaken before, during and after piling to indicate that preliminary risk assessments are valid, and no additional actions or measures are required to address risks to surface waters connected to the secondary aquifer. The key concern is migration of perched waters in the made ground or landfill materials transmitting down installed piling through areas with thinner clay horizons into the secondary aquifer.</p>	<p>A draft CEMP has been produced in support of the application (ES Appendix 2.1). The requirement for a full detailed CEMP to be produced and subject to the approval of the relevant planning authority is secured via the dDCO.</p>
<p>A requirement for a CEMP which covers all pollution management during construction should be put in place for any permission granted.</p>	

Installations Permitting

We are aware of the proposals for the Wheelabrator Kemsley North Incinerator which will require a Permit under the Environmental Permitting Regulation 2016 (EPR). The Environment Agency does not propose to directly comment on the issues covered by the Environmental Permit Application. In particular, impacts to Air Quality, Habitats and Noise are subject to detailed audits during a permit application, which when complete, could be released to the inspectorate if required.

At this time, no application under EPR has been made. Initial discussions with the applicant have not identified any significant concerns over the proposal. The plant would be considered to be "new plant" and required to comply with the limits for new plant specified under the EU Best Available Technology (BAT) Conclusions document following publication of the BREF. We note the operator proposes a Stack Height of 90m but would reserve judgement as to whether this is suitable to our determination of the Permit Application when we will examine predicted ground level contributions.

Assessments on impact should be made in-combination of existing and proposed operations at the Kemsley Mill Installation. It is notable that background concentration will not include emissions from the K3 Incinerator (Wheelabrator) but will include those of the K2 Incinerator (E.On / DS Smith) which has ceased operating, and the K1 CHP Plant, emissions from which are anticipated to be lower when replaced by the K4 CHP proposals.

The Applicant has entered into formal discussions with the EA regarding the Environmental Permit for the WKN Proposed Development. An application for the permit is being prepared and it is anticipated that this will be submitted in the Spring of 2020.

A stack height determination exercise and consequential dispersion modelling exercise has been undertaken as part of the ES and is presented in Chapter 5 Air Quality and its appendices. This assessment includes an in-combination assessment with the other operations in the surrounding areas.

Natural England

"Natural England has considered the documents submitted against the range of our interests in the natural environment. As such, our comments focus mainly on ecology, air quality, water quality, hydrology, and disturbance (noise, light and visual) to ecological receptors. We may have further or additional points to make as further information about the project becomes available. This letter does not contain an exhaustive appraisal of on all matters relating to biodiversity, and a lack of comments on matters

relating to biodiversity should not be taken to mean that there are no other impacts.

We note that analysis of the K3 development focuses only on this current application to seek consent for increased generating capacity. We note that no further construction works are required above those consented for the K3 facility. As such, our comments on the K3 development focus purely on impacts of the power upgrade both independently and in combination with all other relevant developments, including the consented K3 development.

All aspects of the WKN development have been considered against Natural England's priorities both alone and in combination with all other relevant developments.

Air quality – operations emissions

Appendix 5.4 sets out an 'Air Quality Assessment of Impacts on Ecological Receptors' for both WKN and the increase in K3. It is Natural England's understanding that this assessment only takes account of the increase in generating capacity of K3 above that which has already been consented.

It is noted that supporting habitats of the relevant SPAs and Ramsar sites have been included in Table 5.4.4.

Page 12 of Appendix 5.4 states "Cumulative Impacts - For the cumulative impacts across the grid, only interest features where the PC as a % of the CL exceeds 1% are considered further. Where the PC does not exceed 1% of the CL, the cumulative impacts are considered to be insignificant." This method of determining which interest features should be subject to an in-combination assessment is not in accordance with the Habitats Regulations or the Wealden Judgement¹. The Habitats Regulations require that where a plan or project is "likely to have a significant effect on any European site either alone or in combination with other plans or projects" then an appropriate assessment is required. Therefore, in order to be compliant with the Habitats Regulations, all interest features, including those which do not have a likely significant effect alone, should be subject to an in-combination

The HRA in Appendix 11.2 has been reviewed and amended to ensure it is in accordance with the Wealden Judgement.

assessment from the outset and the significance of effects should be determined accordingly.

It is generally well-established that the scope of an in-combination assessment is restricted to plans and projects which are 'live' at the same time as the assessment being undertaken. These can potentially include:

- The incomplete or non-implemented parts of plans or projects that have already commenced;
- Plans or projects given consent or given effect but not yet started.
- Plans or projects currently subject to an application for consent or proposed to be given effect;
- Projects that are the subject of an outstanding appeal;
- Ongoing plans or projects that are the subject of regular review
- Any draft plans being prepared by any public body
- Any proposed plans or projects that are reasonably foreseeable and/or published for consultation prior to application

Natural England have concerns that the consented K3 development has been included in the baseline (ambient concentration (AC)). It is our understanding that the consented K3 development is still being constructed and is not yet operational. As such, the consented K3 development should not be included in the baseline and should instead be assessed in combination with other plans and projects (in line with the above list of plans and projects to include in an in-combination assessment). In combination assessments should also include transport movements as a result of operation of the proposals.

Air quality – construction (traffic and dust)

During construction of the WKN development, further air quality impacts could potentially arise from HGV emissions and dust from construction.

Appendix 4.1 concludes that the construction of the WKN Proposed Development will generate a maximum of 90 HGV movements per day. It is Natural England's view that as the number of HGV movements per day will not exceed 200, which is the threshold set for significant change, that

A full of list of cumulative sites is provided in Chapter 3 and includes 46 other development sites which are considered. Chapter 5 sets out how these have been assessed with regard to air quality impacts.

DHA Planning contacted Marion Ashdown of Natural England to clarify that K3 would be operational by late 2019 before examination of the application. Notwithstanding this the ES presented the effect of the K3 Proposed Development and the practical effect of the K3 Proposed Development which in effect addresses this point.

emissions from HGVs is unlikely to pose a threat to designated sites. We understand that construction activities for K3 and WKN are not expected to overlap so there is unlikely to be a cumulative effect however if that is not the case then further assessment of the short term impacts from construction traffic will be required.

Natural England agrees that provided best practice construction measures are followed, as detailed within a Construction Management Plan, adverse effects from construction related dust on The Swale SPA and Ramsar site can be avoided.

Air quality – operations traffic

Appendix 4.1 concludes that, when operational, the WKN Proposed Development will generate approximately 250 HGV movements per day. Natural England notes that the HRA specifies that further analysis on the impacts of air quality associated operational traffic with respect to designated sites is being undertaken and will be reported in the final ES. As increasing inputs and outputs of K3 will also result in an increase of 68 HGV movements per day, the analysis will need to be on the cumulative impacts. As such, Natural England cannot comment on such impacts until this further information is provided.

As detailed above for 'air quality – operations emissions', in order to be compliant with the Habitats Regulations and the Wealden Judgement, air quality impacts arising from traffic should be assessed in combination with other projects and in combination with the operational emissions from the new proposals.

Habitat loss

Natural England note that the WKN development will not result in direct loss of any designated habitat within any designated site or functionally linked land.

This is presented in the HRA Appendix 11.2.

Water quality (ground conditions – Chapter 9) and Hydrological changes

Natural England is satisfied that the K3 proposed development will have no effect on K3 site drainage or flood risk.

The following will discuss the WKN development. There is a risk of pollution to surface water during construction and therefore due to the close proximity of The Swale SPA and Ramsar site there is potential for contaminated water to be discharged into the designated site. Natural England agrees that the implementation of “general industry guidelines and best practice measures”, which will be detailed within the CEMP, are sufficient to avoid adverse effects on The Swale SPA/Ramsar site.

We note that during operation, process water from WKN will be discharged to The Swale via a separate outfall pipe to that used by K3. We note that this outfall pipe is set to be constructed under the previously granted Marine Licence (MMO Ref: L/2017/00/482/1) which allows for the construction of two discharge pipes. It is not clear if this permit was issued before or after The Swale Estuary MCZ was designated. In addition, it is not clear that the license issued for the IBA plant is sufficient for the WKN development i.e. it should be confirmed that using the outfall for a different purpose won't have further impacts. Natural England recommend that clarity is sought as to whether the change of use of facility for which the outfall is used will result in further impacts.

Further, Natural England recommends that an MCZ assessment of the discharge of WKN may be required, in accordance with the Marine and Coastal Access Act 2009.

A new surface water outfall is to be constructed next to the K3 Proposed Development outfall to discharge into the Swale. A variation of the existing MMO licence (ref: L/2017/00482/2) has been sought to permit the discharge of surface water from the WKN Site. This has been subject to MCZ and WFD assessment as appropriate and concluded no likely significant water quality effects.

Disturbance

Visual

Visual disturbance of birds for which the SPA is designated has been assessed. A number of qualifying species were identified as being potentially susceptible to visual disturbance from the WKN site. Natural England advises that the erection of a visual screen along the periphery of the WKN Site is sufficient to reduce visual disturbance to birds for which The Swale SPA and Ramsar is designated.

The traffic data utilised in the ES presented the K3 Proposed Development and the practical effect of the K3 Proposed Development and therefore all vehicle movements associated with the facility.

Noise

Traffic modelling for the K3 Proposed Development indicates that there will be a relatively small increase in AADT (Annual Average Daily Traffic) associated with the operational development. It is our assumption that the baseline figure of 2569 AADT includes HGVs associated with the consented K3 development, therefore taking account the combined impacts of both K3 developments. Please highlight if this is not the case. Due to the small increase in AADT and distance of designated sites from the roads, Natural England are satisfied that noise disturbance due to operational traffic increases can be screened out as no likely significant effect on qualifying features of Ramsar sites / SPAs.

Construction activities listed include:

- (1) Site preparation and ground excavations,
- (2) Driving pre-cast concrete piles,
- (3) 24-hour concrete pours for foundations, and
- (4) General building construction.

Of these construction activities, piling is likely to have the greatest impact on the birds for which The Swale SPA, Ramsar and SSSI are designated. These birds are most susceptible to loud intermittent noise, for example percussive piling. Noise modelling the worst-case scenario estimated that the maximum noise experienced at The Swale SPA and Ramsar will be 61.5 dB L_{Amax}. Noise disturbance of this level is likely to impact upon the birds

This is addressed in Chapter 11 of the ES.

for which The Swale SPA and Ramsar are designated and as such mitigation measures required to prevent an adverse effect on integrity. Natural England is satisfied that the measures detailed in paragraph 11.9.21 of the Ecology report are sufficient to avoid an adverse effect on the integrity of The Swale SPA and Ramsar.

It is noted that noise disturbance from construction traffic has not been assessed. The Traffic and Transport Chapter (Chapter 4) specifies that 405 vehicle two way movements (including 50 HGVs) will access the WKN site during construction. Whilst it has been concluded in Chapter 7 that there will be no impacts of construction traffic on residential receptors, it does not appear that ecological receptors have been assessed. Natural England advise that such noise modelling should be conducted to ascertain if there will be a likely significant effect on designated sites.

This is addressed in Chapter 11 of the ES.

Operational noise modelling has been carried out for the WKN development. 11.9.78 of Chapter 11 Ecology states that this modelling is demonstrated in Figures 7.3 and 7.5. It is noted that the title of Figure 7.3 is "K3 Operational Noise – additional HGVs" and therefore does not seem to relate to the WKN Proposed Development. Further, Figure 7.3 is referenced in 7.6.4 in relation to the increase in HGVs in the K3 Proposed Development. Natural England advises that a noise contour map is produced to demonstrate the impact of HGV movements from the operational WKN site. Figure 7.5 supports the conclusion that noise from standard operation activities will not have a likely significant impact on The Swale SPA and Ramsar site.

In addition, it is noted that marsh harrier which breed in reedbeds to the north of the WKN site will be subject to increased noise disturbance during construction and operation of the WKN proposed Development. The reedbeds are not designated but the marsh harrier is part of The Swale SPA breeding bird assemblage and therefore the reedbeds can be considered functionally linked land. Natural England agrees with the conclusion that the marsh harriers appear to be habituated and are unlikely to be disturbed during construction or operation.

Recreation

It is not anticipated that impacts from construction or operational staff accessing the SPA / Ramsar will have an adverse effect on the integrity on The Swale SPA and Ramsar site.

Light

Given the distance of the WKN site from the Swale SPA and Ramsar site, the existing developments in the area and the use of industry best practice standards to ensure no additional light spill above the current situation, Natural England agrees that lighting is unlikely to lead to adverse effects on the designated sites."

Historic England

"On the basis of the information available to date we do not wish to offer any comments. We suggest that you seek the view of the specialist conservation officer or archaeology department at your local authority. N/A

It is not necessary for us to be consulted again on this application unless there are material changes to the proposals."

Marine Management Organisation (MMO)

"Kemsley K3 Combined Heat and Power (K3 CHP)

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. N/A

On 20 September 2018 the MMO submitted a response to a Scoping Opinion consultation request from The Planning Inspectorate, which concluded that the proposals to upgrade the K3 facility capacity did not fall within the legislative remit of the MMO, as the 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') illustrated 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.

'S42 Site Location Plan' within this Section 42 consultation appears to support the conclusion of the Scoping Opinion consultation response with the K3 site, (Works Area 1 as illustrated on 'S42 Works Plan'), shown as entirely above MHWS.

Wheelabrator Kemsley North (WKN)

The Scoping Opinion consultation response submitted by the MMO on 20 September 2018 also concluded that the application boundary for WKN was located entirely above MHWS. Furthermore, the scoping report contained no reference to any additional infrastructure, such as an outfall pipe, which may extend below MHWS.

Again, 'S42 Site Location Plan' within this Section 42 consultation request appears to support this conclusion with relation to the WKN site, (Works Area 2 as illustrated on 'S42 Works Plan'), shown as entirely above MHWS. However, 'Appendix 10.2 Drainage Design Philosophy', submitted with the S42 documents, states at paragraph 2.7 that 'Surface water will be discharged offsite from the attenuation pond into the Swale Estuary to the east of the WKN Site' and that 'Surface water will therefore be discharge un-attenuated via a new headwall adjacent to the existing headwall serving the neighbouring site.'

'S42 Works Plan' within this Section 42 consultation identifies Work Area 7, which appears to correspond with the outfall licence area for L/2017/00482/1, and, from the plans submitted, is the only area of works which appears to fall below MHWS and therefore within the MMO's remit.

A new surface water outfall will be constructed adjacent to the existing K3 outfall between the Mean High Water and Mean Low Water intertidal area (Work No.7, see Chapter 2).

A variation to the K3 MMO licence (Marine Licence L/2017/00482/1) has been approved to discharge clean water from the WKN Proposed Development into the Swale Estuary.

However, there appears to be no further reference to this Work Area within the submitted S42 documents.

The MMO is aware of a recent Enquiry (ENQ/2018/00192) submitted to the MMO on 01 October 2018 in regard to the potential scope of a variation to Marine Licence L/2017/00482/1 (Kemsley Generating Outfall). It is not clear from the information provided whether the proposed outfall works will be carried out under marine licence or development consent.

'Appendix 11.2 Habitats Regulations Assessment Report' briefly references, at paragraph 6.20, the potential for noise disturbance during construction of the outfall and at paragraph 6.146 states that 'Construction of the new outfall will follow the same avoidance methods as for the first outfall, i.e. will only take place between 1st April and 31st September' and that 'This avoidance measure will be secured via the Marine Licence.'

It is understood that a new foul water drainage system for WKN will discharge offsite to the D.S. Smith waste treatment facility to the north of the WKN Site, via third party assets, and will not discharge to the Swale Estuary. The MMO has therefore concluded that the foul water drainage system and pumping station is located entirely above MHWS and is outside the legislative remit of the MMO.

Conclusion

Clarification is required as to whether works in relation to the proposed outfall and new headwall for WKN will be carried out under marine licence (i.e. variation to L/2017/00482/1), under a new marine licence application, or via deemed marine licence incorporated into the current DCO application.

The undertaker for this DCO should contact the MMO to discuss licensing requirements should any additional works be required which are outside of the parameters of marine licence L/2017/00482/1.

Any works associated with Works Area 7 and falling below MHWS, (i.e. proposed outfall and new headwall) must be fully assessed in terms of potential impacts on the designated features of the Swale Estuary.

Please note that this response constitutes the MMO's initial comments, and that the MMO reserves the right to make further comments on this project throughout the determination process, and to modify its present advice or opinion in view of any additional information that may come to its attention."

Highways England

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. We will therefore be concerned with proposals that have the potential to impact the safe and efficient operation of the SRN, in this case particularly the A249 and the M2 in the vicinity of Sittingbourne.

Having reviewed the Transport Assessment (TA) (ES Appendix 4.1 dated 20 November 2018) we have the following comments:

General

- The TA is provided includes no appendixes or figures verification of some of the key assumptions and impacts is not possible at this stage.
- Para 1.9 states that "TA has been prepared in accordance with discussions and agreements with Highway Officers at KCC and Highways England...." records of any agreements should be included within the TA appendixes.
- Para 2.26 refers to June 2017 data for the M2 links east and west of the A249 and the links north and south of the Grovehurst junction

A Transport Assessment has been prepared (ES Appendix 4.1) to assess the impact of the proposals on the operation of the Strategic Road Network.

A Transport Assessment has been prepared and this is complete with all appendixes.

being obtained from Highways England. This data should be fully referenced and appended.

- Para 2.27 to 2.30 – the analysis contains no listing / analysis or plot of the latest STATS 19 collision data, neither is this data referred to as being in an appendix. Without this the existing conditions and the potential impact on the SRN cannot be considered at this stage.

Future Year Traffic Flows

- Para 5.1 states that discussion with HE have informed the future year assessment of 2031 – any scoping discussions should be detailed in Appendices.
- Section 5.3 to 5.5 states that, for 2021, 2024 and 2031 “No TEMPRO growth rates have been applied to the base traffic flows as the quantity of development associated with the committed development exceeds the assumptions for projected development within TEMPRO”. A comparison should be made to demonstrate that the assumptions made are robust and that they are comparable to TEMPRO.
- Para 5.24 – identifies developments that have been considered for the cumulative assessment: it is not 100% clear what constitutes the “cumulative assessment” and what it represents. For example, how does it align with the Local plan to 2031 and does the assessment align with Webtag’s definition of uncertainty?
- It is not clear how trip rates have been calculated and included for the future year developments – for example para. 5.33 states that “MU3 allocation for residential – no application to date. Traffic flows associated with full occupation are included in the 2031 cumulative assessment. Traffic flows associated with construction are included in the 2024 assessment” A table of what developments are included

The Transport Assessment sets out the assumptions for projected development within TEMPRO along with a comparison to the committed and cumulative development traffic flows.

The Transport Assessment sets out details of the cumulative developments in the context of the Local Plan and certainty of deliverability.

The Transport Assessment sets out the trip generation assumptions for cumulative developments.

within each junction model scenario would help to clarify assumptions made.

Trip Generation, Mode Share and Assignment

Construction

- Para 6.19 states that based on original K3 assumptions, 75% of the movements assumed for the previous K3 application have been used as the WKN is a single line facility and K3 double - further evidence should be provided to explain this.
 - Para 3.18 and 6.21 – peak construction outlines a maximum of 45 HGVs per day and 482 workforce – there is no evidence of how this has been calculated.
- Section 3 of the Transport Assessment provides details on WKN being a single line facility and representing 75% of the trip generation estimates for K3.

Operation

- The HGV numbers quoted in section 3 for WKN (125 HGVs per day / 250 movements from 390k tonnes waste) and K3 (34 HGVs per day / 68 movements from 107k tonnes waste) are not evidenced. Details of how these numbers have been calculated should be provided. For example, Para. 3.1 to 3.3 refer to the waste products being imported to the site but there is no mention of any exports from the site as per the 2010 application which included aggregates. Are these aggregates included in the daily movements quoted?
 - Para 6.50 - Staff arrivals and departures have been based on the K3 shift pattern. However, section 4.1.7 of the 2010 application contradicts this stating that shifts are expected to be 07:00 to 14:00, 14:00 to 22:00 and 22:00 to 07:00. Is a different shift pattern now proposed? It is not clear how the numbers presented in para 6.50 translate to table 6.4. For example, the table indicates that 5 cars are expected to arrive at 21:00 whilst the text suggests that the shift starts at 19:00.
- The Transport Assessment sets out details on staff shifts.

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| <ul style="list-style-type: none"> • Whilst the policy section refers to the need for a travel plan the TA does not mention that one will be produced. A Travel Plan should be prepared and agreed with the Highways Authorities in order to manage operational HGV and staff movements and minimise impact in peak hours. | <p>A Travel Plan has been prepared (ES Appendix 4.3) to support the application.</p> |
| <ul style="list-style-type: none"> • Para 6.6 and 6.48 states that “HGV movements would be generated throughout the day and would typically be spread fairly equally in terms of hourly movements according to the percentages set out above,” It is not clear where these percentages are set out. Therefore the figures in table 6.1 (and 6.4) cannot be verified. | <p>This has been addressed in the Chapter.</p> |
| <ul style="list-style-type: none"> • Para 6.12 and para 6.57 outlines assumptions regarding distribution of deliveries however it is not clear how these proportions have been determined and how they compare with assumptions in the 2010 TA for K3. | <p>This has been addressed in the Chapter.</p> |

Transport Assessment

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| <ul style="list-style-type: none"> • A Construction Traffic Management Plan should be prepared and agreed with the Highways Authorities that includes details of AILs required, travel plan for construction workers, optimising deliveries outside of the peak hours (08:00 to 09:00 and 17:00 to 18:00. It should also minimise conflict with other construction activities in the local and wider area such as for K4 to minimise disruption caused. | <p>A Construction Traffic Management Plan has been prepared (ES Appendix 4.2) to support the application.</p> |
| <ul style="list-style-type: none"> • In Tables 7.1 to 7.12 it would be useful to include numbers as well as percentages to help understand impact. | <p>Numbers have been included within the Appendices to the Transport Assessment.</p> |
| <ul style="list-style-type: none"> • Notwithstanding the comments above regarding definition of scenarios, Table 7.16 does not present a scenario of the “2031 base + cumulative development” traffic flows – therefore it is not easy to readily identify the impact of the proposed developments on junction performance. | <p>The Transport Assessment includes an assessment for the ‘2031 base + cumulative development’ scenario.</p> |

Summary and conclusions

- Para 8.3 states that “the principle of up to eight movements in a peak hour is unlikely to have a significant impact.” The overall trip generation on the A249 Grovehurst junction and the wider SRN in peak hours is not specified in the current TA however the numbers presented in the analysis suggest the overall impact is greater than 8 trips?
- Para 8.6 states that the K3 and WKN proposals “would not result in a severe impact upon the operation of the highway network.” However, considering the comments above we do not currently have sufficient information to assess the potential transport impact of the development on the SRN and therefore cannot determine if the proposal will materially affect the safety, reliability and/or operation of the existing SRN in accordance with the tests set out in Department for Transport Circular C2/13, particularly para’s 9 & 10, and DCLG NPPF, particularly para 109.

The A249 and M2 Junction 5 experience congestion and are sensitive to increases in traffic at peak times; indeed Para 4.44 of the TA acknowledges that “congestion at M2 junction 5 is a barrier to development on Swale and capacity improvements required at A249 Key Street and Grovehurst”. Accordingly, in addition to the above, Highways England require a breakdown of the numbers of HGVs and cars in the AM and PM peak during construction and operation scenarios, as a minimum at these locations on the SRN. This is to ensure that the additional traffic from the development can be accommodated on the SRN without additional queues and delays.

It is also requested that the number of vehicle movements during peak hours (08:00 – 09:00 and 17:00 – 18:00) be avoided where possible / practicable and that this should be encouraged through a Construction Traffic Management Plan during construction and a Travel Plan during

This was a previous statement being replicated.

A Transport Assessment has been prepared to assess the impact of the proposals on the operation of the Strategic Road Network and contains all Appendices.

A breakdown of the numbers of HGVs and cars during the AM and PM peak hours during construction and operation scenarios is set out in the of the Transport Assessment.

A Construction Traffic Management Plan has been prepared (ES Appendix 4.2) to support the application.

operation, particularly in the period prior to an improvement at the M2 Junction 5 being completed and opened to traffic.

Considering growth in the wider area, it is understood that Swale Borough Council adopted the Local Plan 'Bearing Fruits 2031' with a number of Major Modifications as recommended by the Inspector following June 2017's examination in public. One such modification related to the Plan being reviewed in detail at 5 years and that there was a requirement to determine the implications of the Local Plan on the operation of both the Strategic and Local Road networks and address any necessary requirements i.e. highway mitigations required to the end of the Local Plan period (2031) and at 2022 which covers the accepted 5 years.

This DCO application would fall outside of the Local Plan proposals which must now be considered as committed development. The highway mitigations sought on both the Local and Strategic Road networks will be designed to ensure that the traffic situation is no worse than currently experienced with the addition of the strategic developments i.e. 'a nil detriment'. Accordingly, the implications of the traffic impacts of the DCO proposals will need to be considered in the same way assuming full buildout of the Local Plan proposals. Accordingly, any worsening of traffic conditions resulting from the DCO proposals will require highway mitigation to ensure at least 'nil detriment' is achieved at full operation.

Without an understanding of what mitigations are required and a managed approach to the funding of such, there is insufficient information for us to be satisfied that the proposals will not materially affect the safety, reliability and/or operation of the SRN (the tests set in Department for Transport Circular C2/13, particularly para's 9 & 10, and DCLG NPPF, particularly para 109). Accordingly, based on the information presented, Highways England would be recommending that the application be refused."

Assessments have been undertaken for the end of plan period 2031 and also 2024 which is the proposed opening year for WKN.

The policy test is not to mitigate any impact to achieve 'nil detriment'. The policy test is that developments should only be refused if the residual cumulative impact on the highway network is 'severe'.

A Transport Assessment has been prepared to assess the impact of the proposals on the operation of the Strategic Road Network and contains all Appendices.

Department for Transport

"The Department for Transport is grateful for the opportunity to comment on this application. Whilst the Department does not object to the application, we are seeking further information regarding what land is planned to be compulsory purchased and whether this is in connection with the proposed enlargement of the site or the original scheme. We would be keen to see evidence that the scheme developers and the local authorities have considered with Network Rail what potential exists for a rail solution for the waste flows to the site?

The Department notes a second waste to power plant, Kemsley North, at 42MW, is also proposed. The increase from 49.9MW to 75MW generating capability causes an application for an extra 107,000 tons of waste to be processed, from 550,000 to 657,000. The addition of a further 42MW generating capability adds a further 390,000 tons, taking the total annual waste processing capability to 947,000 tons, or around 2,600 tons each day. As the maximum load for a lorry would be in the region of 30 tons, an average of around 90-100 lorry movements a day into and out of the sites if the full generating capability is used is implied.

In rail terms, this equates to two full containerised compacted waste trains. This is a large volume of material being moved and the Department notes that the environmental statement for the original 2012 scheme shows that all the waste material movements are expected to be by road. The Department would like to understand whether this assumption remains the same for this larger scheme. We would be grateful for further information in response to these points, as well as information on engagement with Network Rail as part of this process."

The K3 consent (SW/10/0444) had a Condition attached that the feasibility of non-road-based transportation should be analysed on an ongoing basis. The Applicant has submitted an updated Rail and Water Strategy which also covers the feasibility of barge movements in support of the DCO application. The existing K3 condition has been transposed into the DCO as a Requirement.

A Transport Assessment has been prepared (ES Appendix 4.1) to assess the impact of the proposals on the operation of the highway network assuming all waste is transported via road.

Kent County Council

Chapter 4 Traffic and Transport

Appendix 4.1 Transport Assessment (TA)

2 Existing Situation

Traffic Flows

The traffic and junction counts were completed in neutral dates in March 2017 and June 2016 and the County Council is satisfied that these are valid.

3 Development Proposal

Access and Site Layout

The route of access is unchanged and no assessment is required to ensure suitable geometry can be achieved.

Timescales

K3 is currently under construction (KCC/SW/10/444) and is expected to be operational by 2019, with the additional waste lorries expected in 2020. Construction of the WKN plant is expected to commence in 2021 and to last over three years.

Abnormal loads would be expected and would be subject to the usual authorisation from the relevant Highway Authorities.

The timing of the works raises some concern, as delivery would be in direct conflict with Highways England's announced M2 J5 improvement scheme delivery. The proposed build timeline and peak for construction vehicles and staff for the construction of WKN would take place at the same time that the junctions would be expected to be under construction. During highways construction, capacity constraints or route diversion are always likely. The proposed K3/WKN build timeline would therefore increase volumes of traffic at a time when the network is planned to be constrained.

The Transport Assessment considers the construction timescales in the context of possible works at the M2 Junction 5.

Additionally, and subject to development contributions, the County Council as Local Highway Authority is seeking to secure grant funding to improve the Grovehurst junctions. In order to meet with the grant requirements, construction of the road improvements is expected to commence Q3 2021.

4 Compatibility with Transport Policies

National Policy Statements

The TA includes the correct location and details of the surrounding highway network. However, the assessment fails to mention that there is an operational dockyard and redundant railway siding within one mile of the application site. National Planning Policy Framework (NPPF) paragraph 108 states that development should seek to encourage sustainable travel, lessen traffic generation and its detrimental impacts and reduce carbon emissions and climate impacts. In this context, KCC recommends there is a clear opportunity, which should be explored by the applicant, to deliver the large quantities of waste via rail or water.

The fact that the surrounding highway network is over capacity at both the M2 J5 and Grovehurst junctions adds significant weight to the need to seek alternative means of waste delivery to reduce the potential of highway delays caused by congestion. Without investigations on the use of the available and alternative methods of delivery, it is considered that the application is not in full compliance with paragraph 108 of the NPPF.

5 Future Year Traffic Flows

Future Assessment Year

Assessments have been carried out for the appropriate Swale Borough Local Plan (2017). Additionally, an assessment has been completed for 2021, which considers the WKN construction traffic and K3 operational movements.

The K3 consent (SW/10/0444) had a Condition attached that the feasibility of non-road-based transportation should be analysed on an ongoing basis. The Applicant has submitted an updated Rail and Water Strategy which also covers the feasibility of barge movements in support of the DCO application. The existing K3 condition has been transposed into the DCO as a Requirement.

The 2021 assessment is considered to include the appropriate consented developments. The 2031 assessment is also considered to include all appropriate cumulative sites.

6 Trip Generation, Mode Share and Assignment

The cumulative impact of the K3 operation includes an additional 68 daily Heavy Good Vehicle (HGV) movements for this proposal, 258 daily HGV movements for the consented scheme and an additional 90 HGV movements for collection undertaken by Refuse Collection Vehicles (RCV). In summary, the K3 site is expected to generate 416 HGV movements per day. Adding the 90 WKN and 80 K4 construction traffic brings a total of 586 movements for the site in the immediate future. In addition to that are the 84 K4 construction staff and 409 WKN construction staff, of which a percentage would be expected to hit the junctions in peak periods.

K3 Proposed Development

The TA states that the additional 107,000 tonnes of waste per annum would generate an additional 68 movements per day and evidence should be provided as to how this has been calculated and what assumptions have been made around the size of the delivery vehicles. It is assumed from the calculations that, on average, vehicles would carry 8.5 tonnes, but this would need to be clarified. The applicant has stated that there is no increase in construction traffic to increase the capacity. An explanation is required as to how this is justified, providing evidence to demonstrate that the plant has no change to its size or materials required. KCC requests clarity to explain why, if the plant was capable of processing the additional waste, the consent was not sought in the original application (KCC/SW/10/444).

The assessment states that the HGV movements would be spread equally in terms of hourly movements. In paragraph 6.5 it is stated that "typically HGV movements would not be in the night time periods". However, as shown in table 6.1, eleven of the movements are during night time hours. KCC requests that these movements are reprofiled within daylight hours to

The practical effect of the K3 Proposed Development would not generate any additional construction traffic.

The Transport Assessment includes a sensitivity assessment that reprofiles the temporal distribution of HGV movements to daytime periods only.

give a more accurate representation as to how the plant will operate.

WKN Proposed Development

The WKN operational temporal distribution is also inconsistent with that of the K3 analysis, and as such, is not accepted by the County Council as Local Highway Authority. For the WKN site, an assumption has been made that 25% of movements would be at night. The County Council accepts the statement in paragraph 6.5 that typically, movements would not occur over night and therefore requests that evidence is supplied from operational waste to energy sites, such as that at Aylesford. A day time comparison of the actual delivery times between 07:00 and 19:00 received from the Aylesford site should be compared to table 6.1 presented in the assessment, enabling a comparable delivery time profile to be provided. KCC has been in contact with RPS Transport Consultants requesting this detail. However, it has not been forthcoming with a level of detail to satisfy the County Council's query.

WKN Operation

The TA states that the additional 390,000 tonnes of waste per annum would generate an additional 250 HGV movements per day.

An estimation of staff numbers ranges between 35 to 49, with 49 being assumed for the assessment. Therefore, 41 car movements are expected, representing the 84% travelling by car. However, only 37 car movements appear to be accounted for. Table 6.4 would therefore require adjustment.

Table 6.4, demonstrating the expected HGV traffic, includes 38 movements at night - contrary to the above referenced statement in paragraph 6.5. As such, these movements should be reprofiled between the hours of 07:00 and 19:00.

WKN Construction

The TA demonstrates that a peak of 482 staff would be on site during months 24-40 of construction - 45 HGV deliveries or 90 movements. The County Council requests evidence from the existing K3 construction

The Transport Assessment provides reasoning on why the temporal distribution at one facility (such as Aylesford) is not suitable to use as an estimate at another facility.

This query appears to arise because some staff work on a shift pattern to cover a 24/7 working schedule and therefore not all staff employed are on site every day. Section 3 of the Transport Assessment has been updated to make this clear.

The Transport Assessment includes a sensitivity assessment that reprofiles the temporal distribution of HGV movements to daytime periods only.

The Transport Assessment considers how the existing K3 construction activities could be used to inform the construction vehicle estimates at WKN.

programme to understand the level of HGV movements and to confirm that the application is robust in this respect. The County Council also requests that the hourly number of deliveries is demonstrated through traffic count evidence for one week. The information will provide evidence that the assumptions made are justifiable.

Census data has been used to calculate the mode share of staff transport. The assessment carried out assumes 84% of staff would travel by car. This allows 409 staff accessing the site per day by car and the County Council considers this a fair assumption. The assessment shows that no staff are arriving during the peak hours, which KCC considers is inaccurate. Evidence from traffic counts for the existing construction site should again be provided to justify the assumption.

Operational Trip Distribution and Assignment

The HGV distribution assumes all traffic accessing the site would come via M2 J5 and the Grovehurst junction, which is considered robust. The RCV distribution rates are assumed to be coming from the neighbouring Countrystyle Recycling plant based at Ridham Docks. An assumption has been made that waste would be collected equally from twelve surrounding districts. It is requested that the applicant provides evidence from the Countrystyle site to demonstrate what percentage of waste is routed to and from the east, avoiding the A249/Grovehurst junction, to justify this assumption.

Appendix F appears only to show numbers and not the distribution percentages. The County Council requires a percentage flow diagram to be provided so that this can be compared to the current Countrystyle site.

7 Transport Assessment

Junction Assessment

On the assessment provided for this application, there would be expected 59 peak hour movements through the A249/Swale Way corridor - 32 in the AM and 27 in the PM. However, this assumes an even spread of HGV

All waste has been assumed to arrive from the external highway network and all waste movements have been assumed to be new to the network, rather than coming from Countrystyle.

All waste has been assumed to arrive from the external highway network and all waste movements have been assumed to be new to the network, rather than coming from Countrystyle.

movements. Traffic flow counts supplied for the previous Incinerator Bottom Ash (IBA) facility assessment (KCC/0625/2018), along with KCC's own data, shows that the peaks for the M2/A249 and A249/Grovehurst junctions are spread over a three-hour shoulder between 06:00 and 09:00 in the AM and 15:00 and 18:00 in the PM.

Although a general spread of deliveries could be assumed, it could equally be assumed that up to 50% of HGV deliveries come through the affected junctions during the peak shoulders. This assumption would result in 208 deliveries from the K3 operation, 125 from the WKN operation and 45 for the WKN construction, totally a plausible 378 movements through the peak shoulders. The 2017 observed data records 245 through the eastern A249/Grovehurst roundabout in the AM. Assessing a single peak hour would produce approximately 63 HGV movements accounting for 26% of the total HGV movements through a junction that is already operating over capacity.

Site Access

Details on the expected peak operational queueing of the combined K3 and K4 WKN traffic within the site should be demonstrated so that the Local Highway Authority can be certain that this will not spill out onto Barge Way.

The Transport Assessment considers the traffic generated by the combined K3, WKN and K4 and the potential for queueing to affect Barge Way.

Barge Way between Northern Access & Fleet End

This junction has been demonstrated to operate well within capacity at the future year scenarios. As such, the Highway Authority has no concerns with the proposed development impact at this junction.

The Transport Assessment considers the impact of the proposals on the Swale Way / Barge Way roundabout and concludes that there is no requirement for mitigation.

Swale Way/Barge Way Roundabout

The assessment demonstrates that the roundabout currently operates above operational capacity at the 2024 assessment and includes the proposal's operational traffic in both the AM and PM peaks. In the AM peak, the Swale Way West arm reaches an RFC of 1.12 with 94 queueing vehicles. In the PM peak, the Swale Way South arm reaches its operational capacity with an RFC of 0.87. The applicant should note if that proposal is progressed, it should be expected that appropriate mitigation by way of a left turn lane

facility off the Swale West arm may be required, which may potentially be delivered under a s278 agreement, depending on land ownership. The approach is currently of single carriageway width and mitigation will be required for the dominant HGV left turning movements resulting from this application.

A249/Grovehurst Junction

The assessment demonstrates that this junction is already operating beyond its operational capacity and it is on that basis that an application has been submitted for "Housing Infrastructure Funding" in order that the proposed Local Plan growth can be accommodated.

The proposed development would decrease the operational effectiveness of the junction and as such, appropriate levels of mitigation should be provided. The assessment demonstrates that the junction is exceeding its capacity on five of the seven arms of the junction in the AM peak and three in the PM peak. Queues in the PM peak are of such severity that they extend for over 362 vehicles. In the AM peak, the south A249 slip has queues of 23 vehicles, introducing significant safety concerns.

Therefore, any development affecting this junction would be required to provide mitigation and until such mitigation is complete, any development that adds traffic to the junction could not proceed prior to guaranteed delivery of improvements.

Car Parking

A detailed drawing of the operational and construction car parking arrangements should be submitted in order for the County Council to assess that the expected demand is provided for.

Summary

The proposed development would be required to provide mitigating measures for the Swale Way/Barge Way roundabout and A249/Grovehurst roundabouts. These junctions are over capacity and it is considered

The Transport Assessment considers the impact of the proposals on the A249 Grovehurst roundabouts and concludes that there is no requirement for mitigation.

Car parking at WKN is shown on the Site Layout Plan attached at Appendix C of the Transport Assessment. Car parking during construction will be developed as part of a final Construction Traffic Management Plan, after a contractor is appointed.

unacceptable to route the proposed amounts of traffic through the junctions until such a time as mitigation measures are secured.

A number of areas within the TA have been identified where further information should be provided to enable the County Council to provide a definitive response.

KCC considers that fundamentally, measures must be explored to secure delivery of the waste through the available rail and water facilities in order to demonstrate that it is compliant with paragraph 108 of the NPPF.

A Construction Management Plan and Framework Travel Plan will need to be provided for the WKN site in line with that of K4 and will need to be approved by the County Council as the Local Highway Authority. A Decommissioning Management Plan will also be required for the WKN site. KCC would welcome an opportunity to review these documents as early as possible in the DCO process. If these documents are to be included as a DCO requirement, KCC requests that they are subject to approval of the Local Highway Authority.

A Construction Traffic Management Plan has been prepared (ES Appendix 4.2) to support the application. A Travel Plan has been prepared (ES Appendix 4.3) to support the application.

Chapter 10 Water Environment

Appendix 10.2 Drainage Design Philosophy

The County Council supports the Drainage Strategy as proposed in Appendix 10.2. Suitable levels of surface water treatment have been proposed, including interceptors and attenuation ponds. However, the County Council recommends that additional cross-sectional drawings of the proposed attenuation pond are provided within the Drainage Strategy report when the final ES is submitted. The drawings should include the available freeboard of the pond.

It is noted that as this stage the WKN Proposed Development is sought in outline form. Details are secured by way of Requirements pursuant to the dDCO.

Chapter 11 Ecology

Chapter 11 indicates that there is a good understanding of the ecology within the site both currently and prior to existing works occurring on site, and the County Council is satisfied with the range of surveys proposed and completed within the development footprint.

The area that WKN is proposed to be built on, currently a construction compound, was intended to be restored to grassland and scrub. However, the submitted information has confirmed that the applicant will assess the impact on the site based on the habitats previously within the site prior to it being used as a construction compound. Therefore, the County Council is satisfied that appropriate mitigation for the continued loss of habitat from WKN can be properly demonstrated.

The site is adjacent to the Swale Special Protection Area (SPA), Ramsar and Site of Special Scientific Interest (SSSI) and therefore the development may result in a likely significant impact on designated sites. The information submitted suggests that the impact on the designated sites from the development will be assessed, but this has not been clearly set out within the report. The County Council would fully expect information to be submitted within the report to assess the impact the proposed development would have on the designated sites, particularly due to the increase in noise, lighting and air quality. The applicant would be submitting a noise, air quality and transport report and KCC highlights that the conclusions of these reports would need to inform the ES.

As the determining authority, the Planning Inspectorate will have to undertake an Appropriate Assessment (AA) as part of the planning process. The applicant has submitted information to inform an AA, but the County Council highlights that the Planning Inspectorate will need to produce/take ownership of the AA and be satisfied that the conclusions of the AA indicate that there will be no likely significant effect on the designated site.

Appendix 11.2 Habitats Regulations Assessment Report

The Habitats Regulations Assessment (HRA) concludes, either within the Screening or AA, that there will be no likely significant effect on the designated sites. The report has set out a number of mitigation measures within the AA to avoid a likely significant effect and the County Council highlights that if the DCO application is granted, these mitigation measures will need to be implemented.

However, paragraph 5.43 of the HRA outlines an exception that details that additional work is being carried out to assess the impact that the proposed development would have on the designated site in relation to an increase in traffic. The County Council highlights that this work would have to be completed and the HRA updated prior to the determination of the application.

This is included in Appendix 11.2 in the ES.

Chapter 12 Landscape and Visual Effects

The applicant has acknowledged the existence of the Public Rights of Way (PRoW) network surrounding the site and the Saxon Shore Way promoted route, which runs alongside Milton Creek. With reference to the County Council's previous response to the Scoping Report dated 5 October 2018 (Appendix 19), the applicant should be aware that Natural England has proposed a route for the England Coast Path along Public Footpath ZU1 (Appendix 20). If this proposal 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. The impacts of the development may therefore affect a higher number of path users than expected by the applicant.

The County Council is pleased to see that the PRoW network and its users are being considered as receptors when assessing the potential impacts of this development. The County Council notes the applicant has considered the potential landscape and visual impacts for users of these routes. Whilst

Matters relating to air quality and noise are addressed in Chapter 5 and 7 of the ES respectively and do not identified any significant adverse effects. It is not considered in light of the negligible effect on landscape and visual impact that mitigation is required.

these visual impacts may on balance be considered negligible, due to the existing industrial nature of the landscape, the proposed development may have a detrimental impact on path users, due to deteriorating air quality and noise effects arising from the development.

With this in mind, improvements to the existing PRoW network should be considered as mitigation for the potential impacts of the development on path users. The PRoW and Access service would welcome future engagement with the applicant to consider surfacing improvements along Public Footpath ZU1/The Saxon Shore Way, which would enhance accessibility for path users. These network improvements would provide positive community outcomes for the scheme and help to mitigate any negative effects arising from the development.

Chapter 13 Archaeology and Cultural Heritage

The County Council notes that in response to previous comments made on the Scoping Report (Appendix 19), the desk-based assessment now includes the results of site investigations within the WKN site, and this shows that there are substantial deposits of made ground of a modern date present. On this basis, the County Council is satisfied with the findings of the draft ES and PEIR with respect to the archaeological potential. Any archaeological mitigation can be accommodated through an appropriate programme of investigation and recording as stated in section 13.10.2 of the Environmental Statement.

N/A

Preliminary Environmental Impact Report

The County Council notes the omission of light and light pollution within the PEIR and would encourage its inclusion in the document.

Detailed lighting is to be addressed by way of a Requirement of the dDCO. Lighting impact with regard to landscape and visual receptors and ecology are dealt with in Chapter 11 and 12 respectively.

KCC also recommends that the applicant actively seeks to promote employment opportunities that arise during construction and operation of

K3 and WKN, in the local labour market. This should include training and development opportunities, developed in collaboration with local educational providers e.g. construction apprenticeships.”

Health and Safety Executive

“According to HSE’s records, there are no major accident sites or major accident hazard pipelines within the DCO applications boundary of the proposed Wheelabrator Kemsley Generating Station and Wheelabrator Kemsley North Waste to Energy Facility.

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 should be sort from the Hazardous Substances Authority.

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 the would not attract reduced “vulnerable building distance”.

It is noted that the WKN Proposed Development does not fall within the scope of EU legislation 2012/18/EU (control of major-accident hazards involving dangerous substances) or Council Directive 2009/71/Euratom (Community framework for the nuclear safety of nuclear installations) and does not fall within the consultation zones of any major accident hazard site with Hazardous Substance Consent. Similarly, the WKN Proposed Development does not fall within the scope of The Planning (Hazardous Substances) Regulations 2015 as amended.

Royal Mail

“The approach and content of both the Traffic and Transportation section of the PEI Rand the Traffic and Transport chapter of the draft ES (Chapter 4) look generally adequate to Royal Mail. It is noted that the new generating

The draft Construction Traffic Management Plan provided as Appendix 4.2 of the ES includes provision for a mechanism to inform major road users about any works affecting the local network (with particular regard to Royal

station is expected to produce an average of 34 additional HGV deliveries per day as a result of the additional 107 tonnes of waste with WKN adding a further 125 HGV deliveries per day. If these estimates are accurate then the impact on Swale Way and the surrounding highway network should be insignificant.

Notwithstanding this, Royal Mail asks that the Traffic and Transport chapter of the final 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.

Royal Mail wishes to be 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 the revised and extended Construction Traffic Management Plan. The final version of the ES should acknowledge the need for this consultation with Royal Mail and other relevant local businesses / occupiers.

In order to address the above, Royal Mail requests that:

1. Wheelabrator Technologies Inc's forthcoming DCO application offers a requirement that Royal Mail is pre-consulted by Wheelabrator Technologies Inc or its contractors on any proposed road closures/ diversions/ alternative access arrangements, hours of working and the content of the final Construction Traffic Management Plan.
2. The forthcoming DCO application offers a requirement that the final Construction Traffic Management Plan includes provision for a mechanism to inform major road users about any works affecting the local network (with particular regard to Royal Mail's distribution facilities in the vicinity of the DCO application boundary as listed above).

Mail's distribution facilities in the vicinity of the DCO application boundary as listed above).

The CTMP is secured through the DCO.

The above requests, as made by Royal Mail at the section 42 consultation stage of another NSIP proposal have been agreed and actioned by the developer to the satisfaction of Royal Mail, resulting in no further action by Royal Mail as a statutory consultee.

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

Minster Parish Council

“In brief, although Minster-on-Sea Parish Council acknowledges that there are some benefits to the creation of more waste-to energy facilities, it has no choice but to strongly oppose the application on the following grounds:

- The impact on the highway network particularly on the dumbbell Grovehurst Roundabout will be substantial. It will result in total gridlock. For example, traffic approaching the Grovehurst Roundabout from the D.S. Smith facilities themselves and traffic travelling north along the A249 route is already gridlocked at peak periods. This proposal will exacerbate the existing problem unless significant improvements are made to the highway network. The Parish Council estimates that over the year, one million tonnes of waste will be carried by approximately 100,000 additional heavy goods vehicles (HGVs) and this very significant number of HGVs and cars will descend upon this area due to their involvement with these proposals. This is in direct conflict with Paragraph 32 of the National Planning Policy Framework (NPPF) which makes it clear that: “Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe” as is the case here. To mitigate this effect, it is suggested that the DCO should not be applied for until the proposed upgrading of the Grovehurst Roundabout is completed. Consideration should also be given to transporting the waste by barge via Ratham Dock as is undertaken by other plants of this type. If this application is permitted, the opportunity to travel along these routes within a

A full Traffic and Traffic assessment of the effects on the K3 and WKN Proposed Development in combination with other approved or proposed development is provided in Chapter 4 of the ES and its appendices.

This will be the subject of consideration of the traffic impact and its acceptability by the relevant statutory experts including KCC Highways and Highways England.

reasonable timescale will be severely compromised or in the worst-case scenario even lost.

- There is concern that the periods for waste deliveries will have a knock-on effect on the Grovehurst A249 Junction and M2 junctions as most of the deliveries are scheduled to take place during peak periods.

It would also be beneficial to point out that the current application for a 25.1 MW additional output does not take into consideration the culminative effect of the plant/s.

To conclude, whilst bearing the above in mind, it appears that the applicant has not shown due diligence in understanding the impact of the proposal on the highway network and no consideration has been given to the required solutions. For these reasons and more Minster-on-Sea Parish Council asks you to refuse permission of the DCO. It suggests that the applicant seeks a solution that does not have a negative effect on the highway network. As it stands, the Parish Council believes Wheelabrator's proposal is similar to the Grovehurst Roundabout in that it is not fit for purpose. I hope this clarifies Minster-on-Sea Parish Council's position. Please do not hesitate to contact me if you have any questions or need any further information."