



Wheelabrator
TECHNOLOGIES



Consultation Report

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

PINS Ref: EN010083

Planning Act 2008 S37(3)(c)

Document 4.1
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1 Executive Summary

1.1 The Project Context

- 1.1.1 Wheelabrator Technologies Inc. (WTI) has made an application to the Secretary of State (SoS) for Business, Energy and Industrial Strategy for a Development Consent Order for the construction and operation of a 75MW waste-to-energy facility, 'the Wheelabrator Kemsley Generating Station' ("K3") and for the construction and operation of a 42MW waste-to-energy facility, 'Wheelabrator Kemsley North' ("WKN").
- 1.1.1 K3 is a waste-to-energy facility located adjacent to and east of the DS Smith Kemsley paper mill, to the north of Sittingbourne, Kent. Planning permission was granted for K3 in 2012 by Kent County Council with a generating capacity of 49.9MW and a waste processing capacity of 550,000 tonnes per annum. The facility is now substantially constructed and is expected to be operational in late 2019.
- 1.1.2 The applicant has identified that K3 would be capable of processing an additional 107,000 tonnes of waste per annum and, without any change to the external design, generating an additional 25.1MW of electricity. However, in order for the K3 project to be properly categorised and consented under the Planning Act 2008 the applicant is seeking consent for the construction of K3 at its total generating capacity of 75MW (i.e. 49.9MW consented + 25.1MW upgrade), together with the separate proposed total tonnage throughput of 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase).
- 1.1.3 The proposed new Waste-to-Energy plant, Wheelabrator Kemsley North (WKN), would be a single 125Mwth line facility capable of processing 390,000 tonnes of waste per annum, with a generating capacity of 42MW. WKN is not therefore a Nationally Significant Infrastructure Project (NSIP) by virtue of its generating capacity.
- 1.1.4 WTI made a formal application on the 1st June 2018 to the Secretary of State (SoS) for Business, Energy and Industrial Strategy under Section 35 of the Planning Act 2008 for a direction as to whether the project is nationally significant. The SoS issued their direction on the 27th June 2018 confirming that WKN is to be considered and treated as a development which requires development consent.
- 1.1.5 A single Development Consent Order is being sought for K3 and WKN through a single application to the Planning Inspectorate (PINS), prior to being determined by the Secretary of State (SoS) for Business, Energy and Industrial Strategy.

1.2 Summary of the Approach to Consultation

- 1.2.1 Under Sections 42, 47 and 48 of the Planning Act 2008 an applicant is required to publicise an application for a Development Consent Order and to consult the local community, specifically prescribed bodies and local authorities.
- 1.2.2 In 2017, the applicant consulted on an application to increase the maximum gross electrical power output of the existing consented Kemsley K3 Generating Station, from 49.9 Megawatts electrical (MW) to up to 75 MW.
- 1.2.3 However the scope of the proposed application then changed to instead comprise an application to increase the generating capacity and the tonnage throughput of the Wheelabrator Kemsley Generating Station (K3), as an extension to that facility, and for the construction and operation of a new 42MW waste-to-energy facility, 'Wheelabrator Kemsley North' (WKN).
- 1.2.4 S47 consultation in those terms took place in October and November 2018, followed by S42 consultation and S48 publicity concurrently during December 2018 and early January 2019. Prior to the formal consultation exercise some informal non-statutory consultation had taken place with Swale Borough Council and selected statutory bodies in order to inform the preparation of the SoCC and continued during the formal consultation process alongside S47 to engage with local politicians and residents where appropriate.
- 1.2.5 In July and August 2019 the applicant undertook a re-consultation to clarify that consent is being sought in respect of K3 for the construction of a 75MW generating station, in circumstances where that generating station has already been constructed as a 49.9MW generating station under planning permission granted under the Town & Country Planning Act 1990. This re-consultation included consultation with S42 consultees and additional S48 publicity.
- 1.2.6 Table 1.1 provides a summary timeline of the key stages and outcomes within the 2018 and 2019 consultation process:

Date	Action	Requirement
24 th May 2018	Introductory meeting with PINS	-
27 th June 2018	Section 35 Direction by SoS	-
26 th July 2018	Initial briefing meeting and site visit with SBC	-
8 th August 2018	Review meeting with PINS	-
7 th September 2018	Submission of Scoping Report to SoS	EIA
7 th September 2018	Initial briefing meeting and site visit with KCC	-
12 th September 2018	SoCC formally submitted to KCC and SBC	S47
10 th October 2018	Swale response on SoCC	S47
10 th October 2018	KCC response on SoCC	S47
10 th October 2018	Deadline for responses on SoCC from KCC and SBC	S47
17 th October 2018	SoCC/PEI uploaded to project website and deposited in stated locations	S47

17 th October 2018	Notice in Sittingbourne News Extra and Sheerness Times Guardian to publicise public exhibitions and SoCC	S47
17 th October 2018	Media release issued to Kent Online, Sittingbourne News Extra, Sittingbourne Messenger, Sheerness Times Guardian and Medway Messenger announcing the public exhibitions and consultation	S47
17 th October 2018	Notices advertising exhibitions placed in key locations	S47
18 th October 2018	Receipt of Scoping Opinion from SoS	EIA
18 th October 2018	Meeting with Cllrs James Hunt (The Meads ward) and Roger Clark (Milton Regis ward) on site	S47
19 th October 2018	Meeting with Cllr Matthew Balfour on site	S47
19 th October 2018	Distribution of project leaflet to organisations identified in the SoCC, including MP, Ward Members, Parish Council and selected local interest groups and local forums	S47
22 nd October 2018	Notice in Medway Messenger to publicise public exhibitions and SoCC	S47
24 th October 2018	News article in Sittingbourne News Extra regarding exhibitions	-
24 th October 2018	Notice in Sittingbourne News Extra and Sheerness Times Guardian to publicise public exhibitions and SoCC	S47
26/27 th October 2018	Leaflet drop to all homes within Zone of Influence	S47
29 th October 2018	Letter/leaflet sent to all businesses/other premises within Zone of Influence	S47
29 th October 2018	Notice in Medway Messenger to publicise public exhibitions and SoCC	S47
31 st October 2018	Notice in Sittingbourne News Extra and Sheerness Times Guardian to publicise public exhibitions and SoCC	S47
31 st October 2018	Article in the Sittingbourne News Extra regarding the public exhibitions	
1 st November 2018	Exhibition boards and PEIR published on project website, website questionnaire made live, press release issued.	S47
1 st November 2018	First public exhibition, Kemsley Village Hall (1:00pm to 5:30pm)	S47
2 nd November 2018	Second public exhibition, Kemsley Village Hall (10:00am to 4:00pm)	S47
3 rd November 2018	Third public exhibition, Iwade Village Hall (10:30am to 2:00pm)	S47
14 th November 2018	Meeting on site with Cllr Mike Whiting (representing Gordon Henderson, MP for Sittingbourne and Sheppey and KCC Councillor for Swale West division)	S47
28 th November 2018	S48 Notice published in Sittingbourne News Extra and Sheerness Times Guardian	S48
29 th November 2018	Meeting on site with local resident	S47
30 th November 2018	S42 consultation pack sent to prescribed bodies, statutory undertakers and local authorities	S42

3 rd – 6 th December 2018	S42 consultation pack sent to S44 parties	S42
3 rd December 2018	S42 consultation pack sent to PINS under S46	S46
3 rd December 2018	S48 Notice published in Medway Messenger	S48
6 th December 2018	PINS confirmed receipt of S46 notification	S46
4 th December 2018	S48 Notice published in London Gazette (electronically)	S48
5 th December 2018	S48 Notice published in Telegraph	S48
5 th December 2018	S48 Notice published in London Gazette (paper copy)	S48
5 th December 2018	S48 Notice published in Sittingbourne News Extra and Sheerness Times Guardian	S48
10 th December 2018	S48 Notice published in Medway Messenger	S48
10 th January 2019	Deadline for public consultation responses	S47
10 th January 2019	Deadline for SoCC consultation responses	S47
10 th January 2019	Deadline for S42 and S48 responses	S42/S48
10 th January 2019	Deadline for S42 responses from S44 parties	S42
7 th February 2019	Meeting with Minster Parish Council	S47
12 th February 2019	Review meeting with KCC	S42
2019	Re-Consultation	
16 th July 2019	Meeting with KCC	-
24 th July 2019	S48 Notice published in Sittingbourne News Extra and Sheerness Times Guardian	S48
29 th July 2019	S48 Notice published in Medway Messenger	S48
31 st July 2019	S48 Notice published in Sittingbourne News Extra and Sheerness Times Guardian	S48
31 st July 2019	S42 consultation pack sent to prescribed bodies, statutory undertakers and local authorities	S42
31 st July 2019	S42 consultation pack sent to S44 parties	S42
5 th August 2019	S48 Notice published in Medway Messenger	S48
12 th August 2019	S48 Notice published in Medway Messenger extending the deadline to respond to provide 28 days from the day of the last S48 notice.	S48
28 th August 2019	Deadline for S42 and S48 responses published in Sittingbourne News Extra and Sheerness Times Guardian	S42/S48
28 th August 2019	Deadline for S42 responses from S44 parties	S42
9 th September 2019	Deadline for S48 responses published in Medway Messenger	S48

Table 2.1 – Timeline of Consultation

1.3 Summary of Responses to Consultation

- 1.3.1 WTI has satisfied the relevant legislation relating to pre-application consultation and has endeavoured to ensure a proportionate level of engagement with statutory consultees, local authorities, interested parties and the local community regarding their proposals.

- 1.3.2 The level of response both from technical and statutory consultees and from the local community has been limited. However, the consultation process has ensured that the applicant is aware of the views and position of key statutory and technical consultees and has been able to address those, where appropriate, within the application. The limited level of responses from the local community indicates that the proposal is not locally controversial, given the efforts taken to inform a wide spectrum of the local community regarding the proposals. However, those responses which have been received have been addressed and reflected within the application where possible.
- 1.3.3 WTI thank all those parties who have engaged in their pre-application consultation.

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4 Glossary of Terms

- **CCS** – Community Consultation Strategy
- **CHP** – Combined Heat and Power
- **DCO** – Development Consent Order
- **EIA** – Environmental Impact Assessment
- **ES** – Environmental Statement
- **KCC** – Kent County Council
- **LIR** – Local Impact Report
- **MCHLG** – Ministry of Housing, Communities and Local Government
- **MW** – Megawatt
- **MWth** – Megawatt Thermal
- **NSIP** – Nationally Significant Infrastructure Project
- **PEIR** – Preliminary Environmental Information Report
- **PINS** – Planning Inspectorate
- **S42** – Duty to Consult under the Planning Act 2008
- **S46** – Duty to Notify PINS under the Planning Act 2008
- **S47** – Duty to consult local community under the Planning Act 2008
- **S48** – Duty to publicise under the Planning Act 2008
- **SBC** – Swale Borough Council
- **SoCC** – Statement of Community Consultation
- **SoS** – Secretary of State
- **'The Act'** – The Planning Act 2008, as amended by the Localism Act 2011
- **WTI** – Wheelabrator Technologies Inc.
- **WtE** – Waste to Energy

5 Introduction

- 5.1.1 This report has been produced in support of an application for a Development Consent Order by Wheelabrator Technologies Inc. in respect of the 'Wheelabrator Kemsley Generating Station' ("K3") and the 'Wheelabrator Kemsley North' ("WKN") waste-to-energy facility. K3 is located adjacent to and east of the DS Smith Kemsley paper mill, to the north of Sittingbourne and has been constructed as a 49.9MW generating station under planning permission granted under the Town & Country Planning Act 1990. WKN would be constructed on land immediately adjacent to and to the north of K3.
- 5.1.2 This report comprises the Consultation Report required to be submitted by Section 37(3)(c) of the Planning Act 2008 for all applications for a Development Consent Order.
- 5.1.3 WTI/EFW Holdings Ltd (a subsidiary of Wheelabrator Technologies Inc. – "WTI") has made an application to the Secretary of State (SoS) for Business, Energy and Industrial Strategy for a Development Consent Order for the construction and operation of a 75MW waste-to-energy facility, 'the Wheelabrator Kemsley Generating Station' ("K3") and for the construction and operation of a 42MW waste-to-energy facility, 'Wheelabrator Kemsley North' ("WKN").
- 1.1.6 K3 is a waste-to-energy facility located adjacent to and east of the DS Smith Kemsley paper mill, to the north of Sittingbourne, Kent. Planning permission was granted for K3 in 2012 by Kent County Council with a generating capacity of 49.9MW and a waste processing capacity of 550,000 tonnes per annum. The facility is now substantially constructed and is expected to be operational in late 2019.
- 1.1.7 The applicant has identified that K3 would be capable of processing an additional 107,000 tonnes of waste per annum and, without any change to the external design, generating an additional 25.1MW of electricity. However, in order for the K3 project to be properly categorised and consented under the Planning Act 2008 the applicant is seeking consent for the construction of K3 at its total generating capacity of 75MW (i.e. 49.9MW consented + 25.1MW upgrade), together with the separate proposed total tonnage throughput of 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase).
- 1.1.8 Wheelabrator Kemsley North (WKN), would be a single 125Mwth line facility capable of processing 390,000 tonnes of waste per annum, with a generating capacity of 42MW. WKN is not therefore a Nationally Significant Infrastructure Project (NSIP) by virtue of its generating capacity.
- 1.1.9 WTI made a formal application on the 1st June 2018 to the Secretary of State (SoS) for Business, Energy and Industrial Strategy under Section 35 of the Planning Act 2008 for a direction as to whether the project is nationally significant. The SoS issued their direction on the 27th June 2018 confirming that WKN is to be considered and treated as a development which requires development consent.

- 1.1.10 A single Development Consent Order is being sought for K3 and WKN through a single application to the Planning Inspectorate (PINS) which would be determined by the Secretary of State (SoS) for Business, Energy and Industrial Strategy.

5.2 Approach to Consultation

- 5.2.1 Under Sections 42, 47 and 48 of the Planning Act 2008 an applicant is required to publicise an application for a Development Consent Order and to consult the local community, specifically prescribed bodies and local authorities, including on the approach to public consultation.
- 5.2.2 The project in question has continued to evolve since its inception. This has resulted in effectively three sets of consultations broadly in 2017, 2018 and 2019.
- 5.2.3 The first consultation between February 2017 and April 2017 was for an application for development consent to increase the maximum gross electrical power output of the existing consented Kemsley Generating Station, from 49.9 Megawatts electrical (MW) to up to 75 MW. Whilst the nature of the project has changed since this consultation it provides a useful context and guide as to the scale of consultation which may be expected and suitable, together with the potential issues which were raised and demonstrates the extensive engagement the applicant has undertaken with the local community and statutory consultees. Section 9 of the Consultation Report summarises the S47, S42 and S48 consultations undertaken during 2017.
- 5.2.4 Following the 2017 consultation the applicant identified an opportunity to construct and operate a new waste-to energy facility adjacent to the K3 facility that was being constructed, as well as to increase the annual tonnage throughput of the K3 facility. As this changed the scope of the proposed application it was deemed necessary to consult the local community and statutory consultees again. The proposed application which was the subject of consultation in 2018 sought to extend the K3 facility by increasing the generating capacity and the tonnage throughput and for the construction and operation of a new 42MW waste-to-energy facility, 'Wheelabrator Kemsley North' (WKN).
- 5.2.5 S47 consultation took place in October and November 2018, followed by S42 consultation and S48 publicity concurrently during December 2018 and early January 2019. Prior to the formal consultation exercise some informal non-statutory consultation had taken place with Swale Borough Council and selected statutory bodies in order to inform the preparation of the SoCC and continued during the formal consultation process alongside S47 to engage with local politicians and residents where appropriate. Sections 10 – 16 of the Consultation Report discusses the S47, S42 and S48 consultations undertaken for this proposal and is referred to as the 2018 consultation.
- 5.2.6 Between July and September 2019, the applicant undertook a re-consultation to clarify that consent is now being sought for the construction and operation of the K3 generating station with a generating capacity of 75MW and an increased tonnage throughput, in circumstances where that generating station has already been constructed as a 49.9MW generating station under planning permission

granted under the Town & Country Planning Act 1990 as well as for the construction and operation of a 42MW waste-to-energy facility, 'Wheelabrator Kemsley North' ("WKN"). This re-consultation included consultation with S42 consultees and additional S48 publicity.

- 5.2.7 An appropriately proportionate level of re-consultation under S47 was undertaken which was agreed with Swale Borough Council and Kent County Council.
- 5.2.8 Sections 17 – 20 of the Consultation Report discusses the S42 and S48 consultations undertaken for this proposal and is referred to as the 2018 consultation.

5.3 Signposting

- 5.3.1 An Executive Summary is provided at Chapter 1 and a quick reference guide is provided at Section 5.4, setting out the actions taken to consult prior to the submission of the application in chronological order. Chapter 6 provides an overview of the proposed development.
- 5.3.2 Chapter 7 contains a summary table addressing legislative compliance and Chapter 8 discusses compliance with relevant guidance.
- 5.3.3 It should be noted that project has evolved through three iterations resulting in three sets out consultations undertaken in 2017, 2018 and 2019. The main body of the report deals with the following distinct areas of consultation and publicity in turn:
 - (1) 2017 - Consultation regarding the K3 upgrade project – Chapter 9;
 - (2) 2018 - Non-Statutory Informal consultation – Chapter 10;
 - (3) 2018 - S42 Duty to consult – Chapter 11;
 - (4) 2018 - S46 Duty to notify PINS of the proposed development – Chapter 12;
 - (5) 2018 - S47 Consultation with the local community – Chapter 13 – 15; and
 - (6) 2018 - S48 Publicity – Chapter 16.
 - (7) 2019 - S42 Duty to consult – Chapter 17;
 - (8) 2019 - S46 Duty to notify PINS of the proposed development – Chapter 18
 - (9) 2019 - S47 Consultation with the local community – Chapter 19;
 - (10) 2019 - S48 Publicity – Chapter 20.

5.4 Quick Reference Guide

5.4.1 This report has been produced using the guidance provided in 'Planning Act: Guidance on the Pre-Application Process (March 2015). In particular, the following sections are provided:

- **Explanatory text** setting the scene to the project and consultation work summarising all consultation activity in chronological order, is set out within Chapter 5 and 6;
- A **Full List of Prescribed Consultees** is set out within **Appendix 2.2**;
- A description covering the **application of S43 of the Act** is provided at Chapter 6 and includes maps identifying the authorities in question;
- A summary of the **methodology behind the SoCC** is provided at Section 13.1 and 13.2;
- Appendix 6 and Section 13.4 provide evidence that **local authorities were consulted about the proposed SoCC** and were provided with 28 days to make comments;
- The **Local Authority's comments on the proposed SoCC** are provided at Appendix 6;
- Section 13.5 and Appendix 10 document the **publication of the SoCC**;
- Section 13.6 assesses **compliance with the SoCC** and appraises where steps were not taken and where additional work was completed;
- Chapter 16 and Appendix 14 (2018) and Chapter 19 and Appendix 20 (2019) address the **S48 statutory publicity** and provide a copy of the notice, together with describing the consultation material used and how this could be accessed by prescribed consultees;
- **Non-statutory consultation work** is described in Chapter 10.
- Chapter 14 provides a **summary of responses** arising from the S47 consultation (2018).
- Responses arising from S42 consultation and S48 publicity are discussed in Chapter 11 and 16 (2018) and Chapter 17 and 20 (2019).

6 Project Context

- 6.1.1 The application seeks consent for the construction and operation of a 75MW waste-to-energy facility, 'the Wheelabrator Kemsley Generating Station' ("K3") and for the construction and operation of a 42MW waste-to-energy facility, 'Wheelabrator Kemsley North' ("WKN").
- 6.1.2 A full description of the proposal site and proposed development, including the Waste-to-Energy (WtE) process, is provided within Chapter 2 of the Environmental Statement (Document 3.1), which assesses the likely significant environmental effects of the proposed development. The Non-Technical Summary (Document 3.2) provides a concise overview of the project and the likely significant environmental effects.
- 6.1.3 A Design and Access Statement (Document 4.3) has been submitted and discusses the site context and proposed development in more detail. A Planning Statement (Document 4.2) has also been submitted and assesses the proposed development against the relevant planning policy context.

6.2 The Applicant - Wheelabrator Technologies Inc.

- 6.2.1 Wheelabrator Technologies Inc. (WTI) is the second largest US waste-to-energy business and is an industry leader in the conversion of everyday residential and business waste into clean energy. WTI currently has a platform of 25 strategically located assets across the US and UK – 19 waste-to-energy facilities (three under construction), two waste fuel facilities as well as four ash monofills.
- 6.2.2 WTI also recover metals for recycling at two advanced metals recovery systems and one central upgrade facility. WTI currently has an annual waste processing capacity of over 7.2 million tonnes (8 million tonnes), and a total combined electric generating capacity of 732 megawatts – enough energy to power more than 671,100 US homes. WTI also recovers metals for recycling into commercial products. The company's vision to develop, deliver and realize the potential of clean energy speaks to WTI's ongoing commitment to the development of clean energy solutions for its customers and local communities.
- 6.2.3 WTI is owned by Macquarie Infrastructure and Real Assets, a business within the Macquarie Asset Management division of Macquarie Group and a global alternative asset manager focused on real estate, infrastructure, and agriculture and energy assets. For more on WTI, please visit www.wtienergy.co.uk.

6.3 Site Context

- 6.3.1 The K3 and WKN sites lie to the north-east of the village of Kemsley, which itself sits at the north-eastern edge of Sittingbourne in Kent. The K3 and WKN sites lie immediately to the east of the Kemsley Paper Mill, a substantial industrial complex which is operated by DS Smith.

- 6.3.2 In April 2018 DS Smith lodged an application for a Development Consent Order (DCO) which would allow for the construction and operation of 'K4', a gas fired Combined Heat and Power Plant within the Kemsley Mill site. This DCO was granted on 5th July 2019.

Wheelabrator Kemsley – K3

- 6.3.3 Planning permission was granted for K3 in 2012 by Kent County Council under reference SW/10/444. As consented and being constructed, K3 can process up to 550,000 tonnes of waste each year and has a generation capacity of 49.9MW. K3 will export electricity to the grid and will supply steam to the DS Smith Kemsley Paper Mill. The construction of K3 began in 2016 and is now significantly advanced, with WTI anticipating K3 will be operational in late 2019.



Figure 6.1 – K3 construction progress at July 2019.

- 6.3.4 WTI has identified that K3 would be capable of processing an additional 107,000 tonnes of waste per annum and, without any change to the external design, generating an additional 25.1MW of electricity.
- 6.3.5 The 2018 consultation and publicity sought views from interested parties on an application for consent for that power upgrade and increased tonnage throughput, without any construction works being required, as an extension to the K3 facility under Section 15 of the Planning Act 2008.

- 6.3.6 However, 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 the separate proposed total tonnage throughput of 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase).
- 6.3.7 A further consultation was undertaken in 2019 to advise S42 consultees and notify the public through a number of S48 notices that construction and operation of K3 is now being sought as part of the DCO, in the context of the K3 facility already being substantially constructed.
- 6.3.8 As the K3 facility is currently being constructed and will be operational by the end of 2019 the effect in reality of the proposed application ('the practical effect') would retain the K3 facility as consented but generating an additional 25.1MW together with being able to process an additional 107,000 tonnes of waste per year.

Wheelabrator Kemsley North – WKN

- 6.3.9 WKN would be an entirely new and separate waste-to-energy facility on land to the north of K3, which is currently being used as the K3 construction laydown area. WKN would provide clean, sustainable electricity to power UK homes and businesses via the National Grid distribution network and would have the ability to export steam should a user for that steam become available.
- 6.3.10 WKN would have a generating capacity of 42MW and a waste processing capacity of 390,000 tonnes per annum and be a self-contained and fully enclosed facility with its own reception hall, waste fuel bunker, boiler, flue gas treatment, turbine, air-cooled condensers, transformers, office accommodation, weighbridge, administration building, car parking and drainage. WKN would have its own grid connection to allow for the exporting of electricity to the national grid.

6.4 Project Location, Layout and Design

- 6.4.1 The figures below set out the indicative boundary for the DCO, the indicative works plans and the indicative proposed model of K3 and WKN.

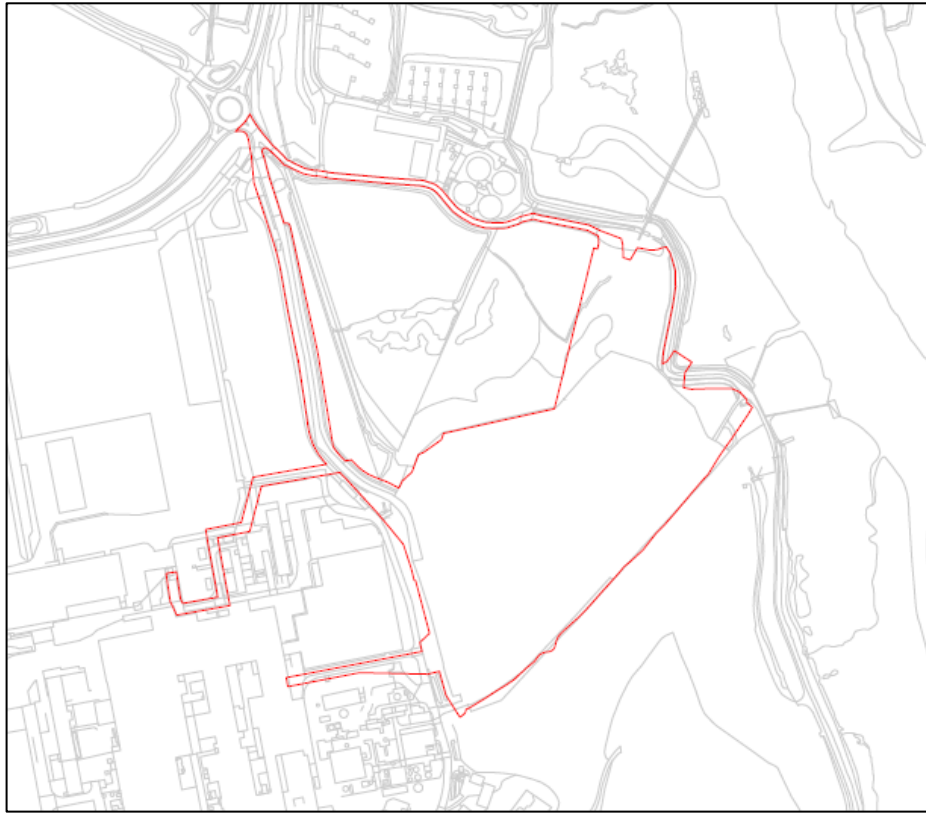


Figure 6.2 – Indicative DCO boundary

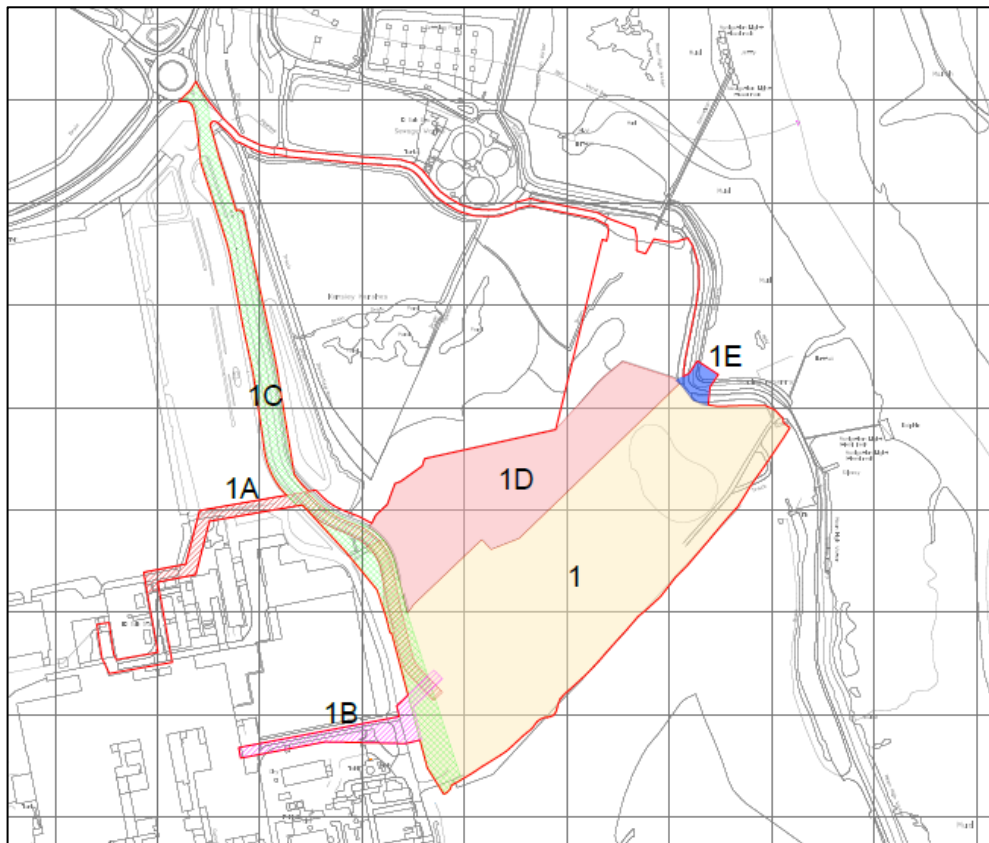


Figure 6.3: K3 Works Plan



Figure 6.4: WKN Works Plan.



Figure 6.5 – Indicative Proposed Model of K3 and WKN.

7 Compliance with Legislation

7.1.1 Table 7.1 summarises compliance with the various aspects of the Planning Act 2008 (as amended by the Localism Act 2011) for the consultation undertaken in 2018 for consent to increase the generating capacity and the tonnage throughput of the Wheelabrator Kemsley Generating Station (“K3”) and for the construction and operation of a new 42MW waste-to-energy facility, ‘Wheelabrator Kemsley North’ (“WKN”).

7.1.2 Table 7.2 summarises compliance with the various aspects of the Planning Act 2008 (as amended by the Localism Act 2011) for the consultation undertaken in 2019 for the construction and operation of a 75MW waste-to-energy facility, ‘the Wheelabrator Kemsley Generating Station’ (“K3”) and for the construction and operation of a 42MW waste-to-energy facility, ‘Wheelabrator Kemsley North’ (“WKN”).

Ref	Requirement	Compliance
Planning Act 2008 (as amended)		
S42 – Duty to Consult		
	s42(1)(a) persons prescribed?	As demonstrated by Chapter 11 of this Statement, prescribed persons were consulted under S42
	s42(1)(aa) the Marine Management Organisation?	The Marine Management Organisation (MMO) were consulted under S42 and are record 18 in the list of S42 consultation bodies in Appendix 2.2. The MMO responded to the S42 consultation as set out in Section 11.8
	s42(1)(b) each local authority within s43?	Section 11.3 of this report identifies the local authorities who were consulted under S42.
	s42(1)(c) the Greater London Authority (if in Greater London area)?	The application site is not within the Greater London Area.
	s42(1)(d) each person in one or more of s44 categories	Nine S44 parties were identified. Those parties were consulted under S42 separately, as set out at Section 11.4 of this Statement.
Section 45 – Timetable for consultation under Section 42		
1	The applicant must, when consulting a person under Section 42, notify the person of the deadline for the receipt by the applicant of the person’s response to the consultation	The deadline set for the S42 consultation, including S44 consultees, was the 10 th January 2019.
2	A deadline notified under subsection (1) must not be earlier than the end of the period of 28 days that begins with the day after the day on which the person receives the consultation documents.	The 10 th January 2019 deadline provided a 37 day period to respond for S42 consultees except the S44 consultees which had 35 days to respond. This deadline was in excess of the 28 day period.
Section 46 – Duty to notify Secretary of State of proposed application		
1	The applicant must supply the SoS with such information in relation to the proposed application as the applicant would supply to the SoS for the purpose of complying with Section 42 if the applicant were required by that section to consult the SoS about the proposed application.	The S42 consultation pack was sent to the Planning Inspectorate on the 3 rd December 2018 and delivery was confirmed on 5 th December 2018. PINS confirmed receipt on the 6 th December 2018.
2	The applicant must comply with subsection (1) on or before commencing consultation under section 42.	

Section 47 – Duty to consult local community		
1	The applicant must prepare a statement setting out how the applicant proposes to consult, about the proposed application, people living in the vicinity of the land.	A SoCC was prepared prior to public consultation being undertaken under S47, as discussed in Chapter 13 of this Consultation Report.
2	Before preparing the statement, the application must consult each local authority that is within section 43(1) about what is to be in the statement.	Kent County Council and Swale Borough Council were both consulted on the SoCC as evidenced in Section 13.4 and Appendix 6.
3	The deadline for the receipt by the applicant of a local authority’s response to consultation under subsection (2) is the end of the period of 28 days that begins with the day after the day on which the local authority receives the consultation documents.	The deadline for responses on the SoCC was the 10 th October 2018, a 28 period beginning on the 13 th September 2018.
4	In subsection (3) “the consultation documents” means the documents supplied to the local authority by the applicant for the purpose of consulting the local authority under subsection (2).	The documents supplied were the draft SoCC and an explanatory Community Consultation Strategy document.
5	In preparing the statement the applicant must have regard to any response to consultation under subsection (2) that is received by the applicant before the deadline imposed by subsection (3).	Section 13.4 of this Consultation Report sets out how regard was had to the responses received.
6	(as amended by Part 134 of the Localism Act 2011) Once the applicant has prepared the statement, the applicant must make it available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land and must publish a notice in the local paper stating where and when the notice can be inspected.	The SoCC was deposited at the Swale Borough Council offices, Sittingbourne Library and Kent County Council offices from the 17 th October 2018. Notices stating the location of the SoCC were published in the Sittingbourne News Extra and Sheerness Times Guardian on the 17 th , 24 th and 31 st October 2018 and in the Medway Messenger on the 22 nd and 29 th October 2018.
7	The applicant must carry out consultation in accordance with the proposals set out in the statement.	Section 13.6 of this Report addresses compliance with the agreed SoCC and documents further correspondence with KCC to ensure the strategy taken to public consultation was appropriate.
Section 48 – Duty to publicise		
1	The applicant must publicise the proposed application in the prescribed manner	S48 notices were placed in locally circulating newspapers for two consecutive weeks on 28 th November and 5 th December 2018 and in another local newspaper on the 3 rd and 10 th December 2018, in the London Gazette on 5 th December 2018 and in the Telegraph on 5 th December 2018.
2	Regulations made for the purposes of subsection (1) must, in particular, make provision for publicity under subsection (1) to include a deadline for receipt by the applicant of responses to the publicity.	The S48 notice states a deadline of 5pm on the 10 th January 2019 for responses, which is more than 28 days from the date of publication of the last notice.
Section 49 – Duty to take account of responses to consultation and publicity		
2	The applicant must, when deciding whether the application that the applicant is actually to make should be in the same terms as the proposed application, have regard to any relevant responses.	Section 11.7-11.10, Chapter 15 and Section 16.3 of this Report demonstrate how regard has been taken of the consultation responses received.
3	In subsection (2) “relevant responses” means – a) A response from a person consulted under S42 that is received by the application	

	<p>before the deadline imposed by S45 in that person's case;</p> <p>b) A response to consultation under S47(7) that is received by the applicant before any applicable deadline imposed in accordance with the statement prepared under section 47A response; or</p> <p>c) A response to publicity under S48 that is received by the applicant before the deadline imposed in accordance with s48(2) in relation to that publicity.</p>	
The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017		
12	<p>The consultation statement prepared under section 47 (duty to consult local community) must set out-</p> <p>a) Whether the development for which the applicant proposes to make an application for an order granting development consent is EIA development;</p> <p>b) If that development is EIA development, how the applicant intends to publicise and consult on the preliminary environmental information.</p>	<p>Page 12 of the SoCC states that the DCO application will be accompanied by an Environmental Statement. It then notes that the public consultation will be accompanied by Preliminary Environmental Information and the wider SoCC document sets out how the applicant intends to publicise and consult on that PEI.</p>
13	<p>Where the proposed application for an order granting development consent is an application for EIA development, the applicant must, at the same time as publishing notice of the proposed application under section 48(1), send a copy of that notice to the consultation bodies and to any person notified to the applicant in accordance with regulation 13 and 11(1)(c) of the 2017 EIA Regulations.</p>	<p>The S48 notice was included in the S42 consultation pack distributed to all consultees.</p>

Table 7.1: Compliance with relevant legislation for the 2018 consultation.

Ref	Requirement	Compliance
Planning Act 2008 (as amended)		
S42 – Duty to Consult		
	s42(1)(a) persons prescribed?	As demonstrated by Chapter 17 of this Statement, prescribed persons were consulted under S42
	s42(1)(aa) the Marine Management Organisation?	The Marine Management Organisation (MMO) were consulted under S42 and are record 18 in the list of S42 consultation bodies in Appendix 2.2. The MMO did not respond to the 2019 consultation.
	s42(1)(b) each local authority within s43?	Section 17.3 of this report refers to section 11.3 which identifies the local authorities who were consulted under S42.
	s42(1)(c) the Greater London Authority (if in Greater London area)?	The application site is not within the Greater London Area.
	s42(1)(d) each person in one or more of s44 categories	Nine S44 parties were identified in section 11.4 and section 17.3 notes that there were no changes to the S44 parties. Those parties were consulted under S42 separately.
Section 45 – Timetable for consultation under Section 42		

1	The applicant must, when consulting a person under Section 42, notify the person of the deadline for the receipt by the applicant of the person's response to the consultation	The deadline set for the S42 consultation, including S44 consultees, was the 28 th August 2019.
2	A deadline notified under subsection (1) must not be earlier than the end of the period of 28 days that begins with the day after the day on which the person receives the consultation documents.	All S42 consultees had a minimum of 28 days in which to respond to the consultation.
Section 46 – Duty to notify Secretary of State of proposed application		
1	The applicant must supply the SoS with such information in relation to the proposed application as the applicant would supply to the SoS for the purpose of complying with Section 42 if the applicant were required by that section to consult the SoS about the proposed application.	The S42 consultation pack was sent to the Planning Inspectorate on the 31 st July 2019 and automatic acknowledgement was received on 31 st July 2019 confirming delivery of the S42 pack.
2	The applicant must comply with subsection (1) on or before commencing consultation under section 42.	
Section 47 – Duty to consult local community		
1	The applicant must prepare a statement setting out how the applicant proposes to consult, about the proposed application, people living in the vicinity of the land.	A SoCC was prepared as part of the 2018 consultation, as discussed in Chapter 13 of this Consultation Report.
2	Before preparing the statement, the application must consult each local authority that is within section 43(1) about what is to be in the statement.	Kent County Council and Swale Borough Council were both consulted as part of the 2018 consultation.
3	The deadline for the receipt by the applicant of a local authority's response to consultation under subsection (2) is the end of the period of 28 days that begins with the day after the day on which the local authority receives the consultation documents.	See the 2018 consultation (table 7.1).
4	In subsection (3) "the consultation documents" means the documents supplied to the local authority by the applicant for the purpose of consulting the local authority under subsection (2).	See the 2018 consultation (table 7.1).
5	In preparing the statement the applicant must have regard to any response to consultation under subsection (2) that is received by the applicant before the deadline imposed by subsection (3).	See the 2018 consultation (table 7.1).
6	(as amended by Part 134 of the Localism Act 2011) Once the applicant has prepared the statement, the applicant must make it available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land and must publish a notice in the local paper stating where and when the notice can be inspected.	See the 2018 consultation (table 7.1).
7	The applicant must carry out consultation in accordance with the proposals set out in the statement.	Chapter 17 of this Report demonstrates how the 2019 consultation was undertaken in accordance with the SoCC on a proportionate basis.
Section 48 – Duty to publicise		
1	The applicant must publicise the proposed application in the prescribed manner	S48 notices were placed in locally circulating newspapers for two consecutive weeks on 24 th and 31 st July 2019 and in another local newspaper on the 29 th July and 5 th and

		12 th August 2019, in the London Gazette on 5 th 31 st July 2019 and in the Telegraph on 31 st July 2019.
2	Regulations made for the purposes of subsection (1) must, in particular, make provision for publicity under subsection (1) to include a deadline for receipt by the applicant of responses to the publicity.	The S48 notice stated a deadline of 5pm on the 28 th August 2019 for responses, which is more than 28 days from the date of publication of the notice on 31 st July 2019. However, the notice published in the local newspaper on 12 th August 2019 provided a deadline for responses of 12 th September 2019, giving a minimum of 28 days.
Section 49 – Duty to take account of responses to consultation and publicity		
2	The applicant must, when deciding whether the application that the applicant is actually to make should be in the same terms as the proposed application, have regard to any relevant responses.	Section 17.6-17.9, Section 19.2 and Section 20.3 of this Report demonstrate how regard has been taken of the consultation responses received.
3	In subsection (2) “relevant responses” means – d) A response from a person consulted under S42 that is received by the application before the deadline imposed by S45 in that person’s case; e) A response to consultation under S47(7) that is received by the applicant before any applicable deadline imposed in accordance with the statement prepared under section 47A response; or f) A response to publicity under S48 that is received by the applicant before the deadline imposed in accordance with s48(2) in relation to that publicity.	
The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017		
12	The consultation statement prepared under section 47 (duty to consult local community) must set out- c) Whether the development for which the applicant proposes to make an application for an order granting development consent is EIA development; d) If that development is EIA development, how the applicant intends to publicise and consult on the preliminary environmental information.	Page 12 of the SoCC states that the DCO application will be accompanied by an Environmental Statement. It then notes that the public consultation will be accompanied by Preliminary Environmental Information and the wider SoCC document sets out how the applicant intends to publicise and consult on that PEI.
13	Where the proposed application for an order granting development consent is an application for EIA development, the applicant must, at the same time as publishing notice of the proposed application under section 48(1), send a copy of that notice to the consultation bodies and to any person notified to the applicant in accordance with regulation 13 and 11(1)(c) of the 2017 EIA Regulations.	The S48 notice was included in the S42 consultation pack distributed to all consultees.

Table 7.2: Compliance with relevant legislation for the 2019 consultation.

8 Consultation Guidance

- 8.1.1 The applicant has had regard to the MHCLG 'Planning Act 2008: Guidance on the pre-application process' ['The Guidance'] when formulating their consultation strategy.
- 8.1.2 Paragraph 15 of the Guidance notes that effective pre-application consultation will lead to applications which are better understood by the public. In particular, there was some potential for local confusion with regard to the original K3 power upgrade consultation and with the K3 and WKN and the DS Smith K4 proposal which are similar in name, type of development and are in close proximity to each other. The applicant ensured that distinction was made between K3 and WKN and other existing and proposed developments in the local area, particularly through the use of clear descriptive text and mapping of the various projects. Subsequently the need to reconsult statutory bodies and the local community in 2019 on the construction and operation of K3, when the facility was already substantially constructed, also created clear potential for confusion to arise, with careful wording used to demonstrate why that approach was being taken.
- 8.1.3 Paragraph 17 requires developers to be clear about the status of documents. This has been reflected during the consultation process; the leaflet [Appendix 12] distributed to the local community makes clear at the outset that it is for the purpose of consulting the public.
- 8.1.4 Paragraph 30 recognises the role played by local authorities as bodies with expert knowledge of their local community, and Paragraphs 34 sets out the benefit that expertise can bring to the Statement of Community Consultation.
- 8.1.5 An inclusive approach was taken to engaging with the local community in accordance with Paragraph 54 of the Guidance. A range of publicity methods were undertaken to ensure a wide range of the local community were aware of the proposals including:
- Internet and website;
 - Leaflet drops;
 - Public consultation events;
 - Newspaper articles; and
 - Public notices and adverts
- 8.1.6 In order to capture the responses a range of methods were provided in order to capture responses including:
- Physical questionnaire;
 - Online questionnaire;
 - Email;
 - Letter; and
 - Telephone.

- 8.1.7 The material made available to the local community was non-technical to ensure it remained accessible to all. The SoCC was made widely available, in accordance with Paragraph 57 of the Guidance.
- 8.1.8 Paragraph 58 recommends that S48 publicity should coincide with S47 community consultation where possible. In this case, due in particular to the short period between the consultation with local authorities on the SoCC and the public exhibitions, it was not possible to fully align those processes. The S47 consultation commenced on the 17th October 2018, four weeks ahead of the S48 consultation. However to ensure clarity for any interested parties, both the S47 and S48 consultations finished on 10th January 2019, allowing additional time for the local community to make representations.
- 8.1.9 In the case of the 2019 consultation a proportionately limited S42 consultation was carried out, but the S42 consultation coincide with S48 publicity.
- 8.1.10 Previously the Applicant had consulted the local community on the proposed power output increase to K3 in 2017, therefore, the local community already had some knowledge regarding the proposed development. As the proposed DCO has evolved to include K3 and WKN, the 2018 consultation explicitly demonstrated how the proposed DCO has progressed and developed to incorporate wider development proposals. The same approach was then taken in the 2019 consultation to avoid confusion so far as possible. Regard has been taken of the responses made by interested parties to the original K3 proposals, as documented in Chapter 9, together with the scope of the consultation undertaken at that stage.
- 8.1.11 Paragraphs 70-71 of the Guidance encourage iterative, phased consultation across different stages where appropriate, especially for large projects with long development periods. In this case the differences in the schemes being consulted on mean that limited weight can be given to the views expressed in the K3 upgrade consultation in 2017. Whilst the 2018 consultation sought views on the extension of K3, any responses received under that consultation are considered relevant to the application as now submitted, in that they in effect address the practical effect of the K3 proposed development.
- 8.1.12 The scale and nature of the K3 and WKN proposals are not considered in themselves to warrant a multi-staged consultation process and the level of engagement experienced within the K3 and WKN projects indicates that a multi-staged consultation process was not necessary; in this case the continued evolution of the project led to the multi-staged consultation which has taken place.
- 8.1.13 In terms of the 2018 consultation, from the date of the first public notice on 17th October 2018 regarding the public exhibitions, 85 days were provided for the local community and interested parties to provide comments on the proposal which was significantly in excess of the required 28 days. As stated in Paragraph 73 some projects may require longer consultation periods. Given this DCO is dealing with two separate projects this longer consultation period enabled interested parties to fully understand the proposal. Furthermore, as the 28 day consultation period would have finished during the Christmas period the Applicant decided it was

necessary to provide additional time for interested parties to respond to the consultation.

- 8.1.14 The consultation undertaken in 2019 provided 28 days for S42 parties and for those responding to S48 notices, together with those S47 parties contacted directly, albeit that was then extended to 40 days by the publishing of a further notice within the Medway Messenger on the 12th August 2019.

9 2017 – K3 Power Upgrade Consultation

9.1 Context

- 9.1.1 As set out in Chapter 6, the consultation undertaken in 2017 was based on an application for development consent the primary purpose of which was to secure an increase in the maximum gross electrical power output of the existing consented Kemsley Generating Station, from 49.9 Megawatts electrical (MW) to up to 75 MW.
- 9.1.2 This upgrade would have only involved internal operational changes to the K3 facility and would not have had any other operational or environmental impacts compared to the facility as originally consented. Section 51 Advice was provided by PINS on that proposed project, with the first recorded meeting being on 15th July 2016. WTI advanced with the preparation of the DCO application on that basis but decided not to submit an application they had taken the decision to also seek consent for an increased tonnage throughput, due to increased efficiencies being identified as well as an opportunity to develop the separate WKN facility.
- 9.1.3 The position is therefore somewhat unusual in that throughout 2017 pre-application consultation, as required by the Planning Act 2008, had been undertaken. However, WTI considered there to be a need to begin the consultation process afresh in 2018, given the changes to the scheme proposed. A key aim of the consultation activities undertaken, as documented in section 13, was to ensure that interested parties were clear regarding the status of the earlier K3 upgrade focused consultation, and the need to re-engage in the consultation activities carried out specifically in relation to the DCO as now proposed.
- 9.1.4 Elements of the 2017 consultation remain a relevant and useful context to the consultation then undertaken in winter 2018/2019 and summer 2019 regarding the K3 and WKN schemes as now proposed, and key elements of that earlier consultation work have therefore been summarised within this section.
- 9.1.5 For context this section of the Consultation Report therefore summarises the key consultation activities undertaken in respect of the K3 upgrade proposal in 2017.

9.2 Consultation Strategy

- 9.2.1 The consultation strategy defined for the K3 upgrade proposal reflected the fact that the proposed development was not conventional. Planning permission already existed for the facility itself but a DCO consent was needed for the consequent upgrade to generating output of up to 75MW. Construction of K3 had begun by the point at which the K3 upgrade consultation commenced, but the intention was to seek to re-consent the physical facility through the DCO as the construction was at an early stage. The consultation strategy therefore sought from the outset to provide as much clarity as possible to ensure that the concept of the upgrade, and its lack of any operational or environmental changes, was understood, together with the need to re-consent the facility itself.

- 9.2.2 The consultation strategy also sought to take a proportionate approach given the original scheme had not attracted significant levels of objection from either statutory consultees or the local community, whilst reflecting the fact that since the original consent in 2010 new residential areas had been built within Kemsley with new residents present who would not have been consulted on the original application.
- 9.2.3 A staged approach to describing the project was therefore taken to explain the need for a power upgrade, to describe the changes to the facility required to facilitate that upgrade, to explain why a new consent for the facility was being sought through the DCO and to explain how consultees could become involved in the consultation process.

9.3 Informal consultation

- 9.3.1 Prior to the formal consultation stage meetings were held with specific groups and parties including the MP for Sittingbourne and Sheppey, Kent County Council and local Ward Members, Swale Borough Council and Minster-on-Sea Parish Council.

9.4 S42

- 9.4.1 All prescribed bodies under S42 were consulted formally between 8th March and 19th April 2017.

9.5 S47

SoCC

- 9.5.1 A draft SoCC was provided to the relevant authorities on 18th November 2016, with comments received from KCC on the 15th December 2016 and from SBC on 1st December 2016. The SoCC was amended as necessary to reflect the comments made and details of how the SoCC could be viewed were then published in the Sittingbourne News Extra and the Sheerness Times Guardian on the 22nd February and 1st March 2017. An article publicising the SoCC was published on the Kent Online website on the 8th March 2017 and was made available on the project website on the 8th March 2017. The SoCC is included in Appendix 1.

Consultation Zone

- 9.5.2 The consultation zone established for the purposes of consultation on the K3 upgrade proposal was centred on the project site and covered a radius of 5km, so as to replicate broadly the consultation area used for the original K3 planning application. The consultation zone extended, in broad terms, through the area north of the A2 from Bobbing in the east to Tonge in the west and north to the Sheppey crossing, together with a part of the Isle of Sheppey beyond. Some 15,200 residents and business addresses were notified by post, as well as all Kent County Councillors, Swale Borough Councillors and parish/town councils within the Swale Borough Council area.

Publicity and public exhibitions

- 9.5.3 Some 15,244 leaflets were delivered to homes and businesses within the 5km consultation zone which publicised exhibitions on Thursday 23rd March 2017 (1-7pm) at Kemsley Community Centre, Friday 24th March 2017 (10am – 4pm) at Green Porch Parish Hall and Saturday 25th March 2017 (10am – 1pm) at Iwade Village Hall. Newsletters (attached in Appendix 1) were also distributed to the constituency MP, Councillors and Parish Councils. An email address was provided which allowed direct contact with the project team, with the ability also for feedback to be submitted via the project website.
- 9.5.4 In total there were 49 attendees across the three events, 21 on the 23th March, 18 on the 24th March and 10 on the 25th March. The consultation event information boards are included in Appendix 1 along with the media coverage.
- 9.5.5 Eleven feedback forms were completed at the events, with 10 of those supportive of the proposals and one neither in support or objection. Positive comments made regarding the upgrading of K3 included less landfill being created, more power being generated, the support for local industry and the proposal representing an employment opportunity for local people. Negative comments included impacts on road congestion and noise and pollution, the potential impact on wildlife, concerns about whether there would be a realistic impact on landfill and the number of waste to energy facilities in the Swale/Sittingbourne area.
- 9.5.6 Two further responses were received via post, one acknowledging the benefits of using a consented facility to its full potential and one seeking the delivery of waste to the plant via alternative methods. In addition thirteen emails were received during the consultation process together with five calls to the project hotline, with those enquiries typically for the purpose of obtaining additional information regarding the project. Two of those thirteen emails objected to the proposal on transport issues, together with the lack of delivery of waste by alternative methods and the air quality implications of waste delivery. One query concerned the lighting of the project. Support for the project was received from Locate in Kent and the Kent Invicta Chamber of Commerce.

9.6 S48

- 9.6.1 S48 notices were published in the Sittingbourne News Extra and Sheerness Times Guardian on the 1st March and 8th March 2017 and within the national Guardian newspaper on 1st March 2017. A notice was then placed in the London Gazette on 3rd March 2017.

9.7 Conclusions of the K3 consultation

- 9.7.1 The consultation exercise concluded that the majority of the details regarding the K3 scheme had been resolved within the original planning consent, and the upgrade proposal when considered in isolation was unlikely to give rise to any significant impacts on the environment. The responses from the local community,

businesses and organisations were limited, with a number expressing support for the scheme.

9.8 Implications for the K3 and WKN consultation

- 9.8.1 The consultation work carried out on the K3 upgrade proposal was considered to have satisfied all of the relevant legal requirements to support the application for the DCO proposed at that time. It also then provides a useful context and guide as to the scale of consultation which may be expected and suitable, together with the potential issues which may be raised. However, whilst the K3 upgrade proposal included the re-consenting of the K3 facility the DCO application itself would not have included any new physical works beyond those consented by the K3 planning permission and would not have resulted in any operational changes likely to create a perceptible or significant environmental effect, such as increased vehicle movements.
- 9.8.2 In contrast the K3 and WKN schemes proposed in the 2018 and 2019 consultations would have a broader range of environmental effects. The extent to which the previous comments and response can be relied on as an indication of local and statutory consultee views on the current proposal is therefore very limited.
- 9.8.3 However, the scope and scale of the subsequent consultations undertaken for the K3 and WKN schemes broadly follows the consultation for the K3 upgrade. The construction of K3 has advanced significantly since the K3 upgrade consultation work, which has assisted with the clarity of messaging around the K3 upgrade to be proposed as part of the DCO application being submitted. However at the same time care has been taken to make clear the distinction between the three consultation exercises which have taken place and the need for interested parties to engage with the process to ensure they have taken the opportunity to comment on the current proposals.
- 9.8.4 The following sections 10 – 16 details the consultation undertaken in 2018 for an application increase the generating capacity and the tonnage throughput of the Wheelabrator Kemsley Generating Station ("K3") and for the construction and operation of a new 42MW waste-to-energy facility, 'Wheelabrator Kemsley North' ("WKN").

10 2018 - Non-Statutory Informal Consultation

10.1.1 Prior to and alongside the statutory consultation the applicant team have engaged informally with various parties regarding the proposals, as follows;

- (a) 6th July 2018 – meeting with Swale Borough Council at the K3 facility to demonstrate the extent of construction, to review the intended proposals and to discuss the broad consultation strategy to be set out within the SoCC;
- (b) 7th September 2018 – meeting with Kent County Council on site at K3 facility to show the extent of construction, to review the intended proposals and to review the draft SoCC;
- (c) 10th October 2018 – letters issued to local councillors, local MP and parish councils in the vicinity of the proposed development inviting them to site briefings.
- (d) 18th and 19th October 2018 and 14th November 2018– meetings at K3 site with local Councillors and representative of the local MP, to explain the proposals and the DCO process;
- (e) 29th November 2018 – meeting on site with a local resident who had expressed a desire to visit the site, to explain the proposals and DCO process.

11 2018 - S42 – The Duty to Consult

11.1.1 Section 42 of the Act establishes a duty to consult:

- (a) Such persons as may be prescribed;
- (b) Each local authority that is within Section 43;
- (c) The Greater London Authority if the land is in Greater London, and
- (d) Each person who is within one or more of the categories set out in Section 44.

11.1.2 In this case the land in question is not within Greater London and Part (c) of Section 42 does not apply.

11.2 Section 42 – Part a) Such Persons as may be prescribed

11.2.1 Prescribed persons are identified in Regulation 3 of, and Schedule 1 to, the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

11.2.2 In addition to the prescribed persons regard has been had to those bodies consulted by PINS as part of the Scoping Opinion, together with the Annex to PINS Advice Note 3: EIA Consultation and Notification. Where relevant, consultees have been included in the S42 list if there is any doubt as to whether they do form a prescribed body.

11.2.3 Appendix 2.2 provides a list of those prescribed persons consulted under S42.

11.3 Section 42 – Part b) Relevant Local Authorities

11.3.1 Figure 11.1 and Table 11.1 identify relevant Local Authorities under S43 of the Act (as amended by S133 of the Localism Act 2011). The Categories for the purposes of Table 11.1 are those set out within The Act, in terms of 'A', 'B', 'C' or 'D' authorities.

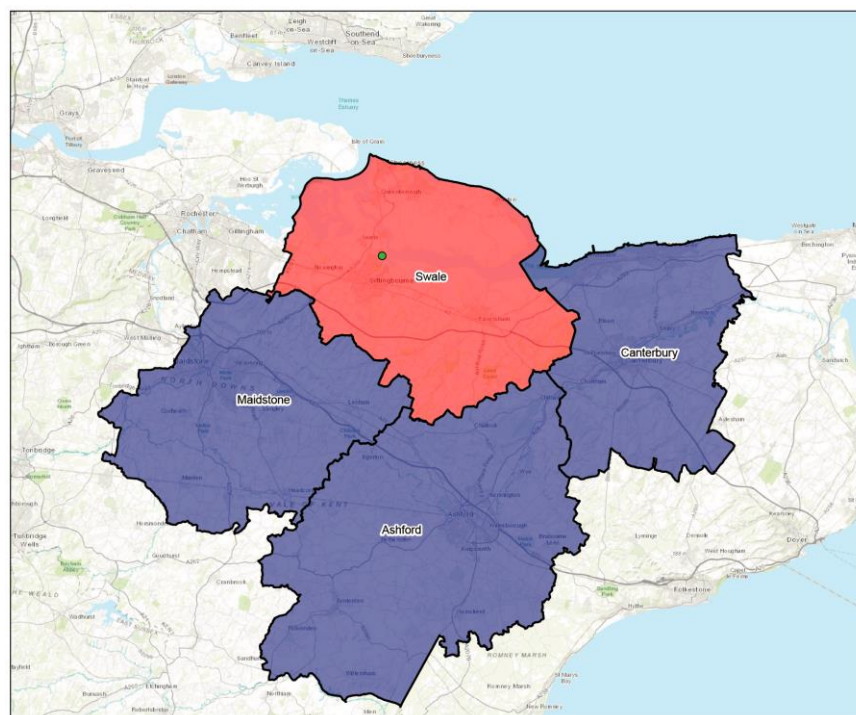
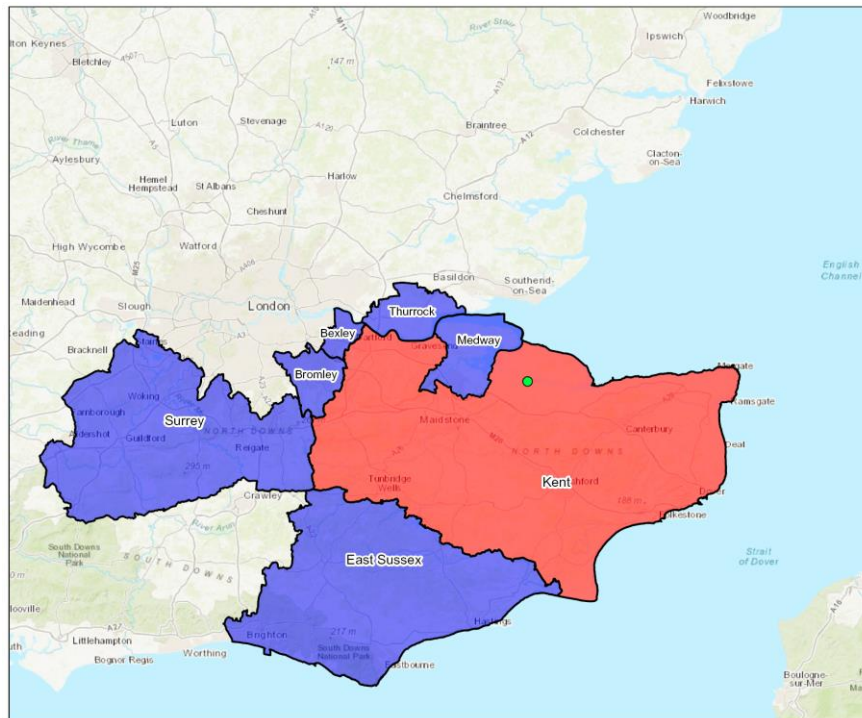


Figure 11.1 – Local Authorities under S43

Category	Authority
A	Canterbury City Council Ashford Borough Council Maidstone Borough Council

B	Swale Borough Council
C	Kent County Council
D	Medway Council Thurrock Council London Borough of Bexley London Borough of Bromley Surrey County Council East Sussex County Council

Table 11.1 – Local Authorities under S43

11.4 Section 42 – Part d) Each person within the categories in Section 44

11.4.1 Category (1) covers a person who is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land. Following diligent inquiry the following parties were identified as falling into Category (1) in respect of the land encompassed within the DCO boundary:

Organisation	Address
DS Smith Paper Limited	DS Smith Paper Limited, 7 th Floor, 350 Euston Road, London, NW1 3AX
Grovehurst Energy Limited	Mr S Parish, Grovehurst Energy Limited, 350 Euston Road, London, NW1 3AX
South Eastern Power Networks	South Eastern Power Networks PLC, Newington House, 237 Southwark Bridge Road, London, SE1 6NP
MUFG Bank Ltd	Ropemaker Place, 25 Ropemaker Street, London, EC2Y 9AN
Fletcher Challenge Forest Industries Limited	Fletcher Challenge c/o Furley Page LLP, 39 St Margarets Street Canterbury, Kent, CT1 2TX
Knauf (UK) GmbH	Knauf (UK) GmbH, Kemsley Fields Business Park Sittingbourne, Kent, ME9 8SR
Port of Sheerness	Port of Sheerness Limited, Maritime Centre Port of Liverpool, L21 1LA
Peel Land and Property Group Management Ltd	Mr S Moore, Asset Manager, Peel Land and Property Group Management Limited, Peel Dome, Intu Trafford Centre, Manchester, Trafford City, M17 8PL
SRP New Thames Limited	SRP New Thames Limited, 350 Euston Road London, NW1 3AX

Table 11.2: Section 42 – Part d) Each person within the categories in Section 44

11.4.2 The status of the various S44 parties is explained in full within the Book of Reference (Document 2.4). In summary, Grovehurst Energy Limited and SRP New Thames Limited are subsidiary companies of DS Smith Paper Ltd, who are the owners of land within the DCO boundary. MUFG are a mortgaging bank.

- 11.4.3 Fletcher Challenge are freeholders of land around the roundabout to the north of the paper mill. Given the proximity of the DCO boundary to the roundabout they have been consulted for completeness. Similarly Knauf have an agreement to access the jetty close to the proposed WKN laydown area for the purposes of receiving their gypsum deliveries and so have been consulted given the same route is proposed to be used as the WKN laydown area temporary access. South Eastern Power Networks have a leasehold which passes within the DCO boundary.
- 11.4.4 The Port of Sheerness, and their agents Peel Land and Property, have been consulted given the proposed construction of an outfall into the Swale within the DCO.
- 11.4.5 Category (2) of S44 applies to anyone who is interested in the land or has power to sell and convey or to release the land. No parties have been identified as falling within Category (2).
- 11.4.6 Category (4) of S44 applies to any person who would or might be entitled to make a 'relevant claim', as defined in S44(6) as a result of the implementing of the order, the order being implemented or as a result of the use of the land once the order has been implemented. No parties have been identified under Category (4).

11.5 Form of S42 Consultation

- 11.5.1 The consultation documents for the purposes of Section 42 comprised the following:
- A covering letter explaining the proposed project and the role of Section 42 consultation within the DCO process (Appendix 2.1);
 - A USB containing:
 - An early draft of the **Development Consent Order**;
 - a draft of the **Environmental Statement** ("ES") which is being prepared to accompany the DCO application and which provides a full technical description of the proposed development;
 - The **Preliminary Environmental Information Report**, (Appendix 9) which provides a non-technical summary of the ES for consultation purposes;
 - A set of **draft Plans** to illustrate the location and extent of the proposed development:
 - Wider Site Location Plan;
 - DCO Site Boundary Plan;
 - Works Key Plan;
 - K3 Consented Layout;
 - WKN Works Plan;
 - WKN Illustrative layout plan; and
 - K3/WKN expected CGI.

- A copy of the **S48 notice** (Appendix 14), in accordance with Regulation 13 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

11.6 Consultation Process

- 11.6.1 An initial batch of S42 consultation packs were sent by Royal Mail Recorded delivery to prescribed bodies and relevant local authorities on Friday 30th November 2018. The letter provided a deadline for responses of 5pm on the 10th January 2019, by email or by post. Royal Mail tracking records demonstrate that all S42 packs were received by prescribed bodies and relevant local authorities by the Tuesday 4th December 2018 at the latest.
- 11.6.2 That deadline provided a 37 day deadline from Wednesday 5th December 2018, starting with the day after the day on which S42 consultees received their packs. The deadline set ensured that the minimum 28 day consultation period was provided, even if there were to be some delay in a consultation body receiving the S42 pack.
- 11.6.3 The Environment Agency advised that the relevant person within the organisation had not received the S42 pack on the day of delivery, despite confirmation of receipt, and the Applicant permitted an extension to the deadline for the EA to allow a response to the S42 consultation by 5pm on Friday 18th January 2019.
- 11.6.4 S42 packs were sent to the nine S44 parties, as identified under S42(1), between Monday 3rd December 2018 and Wednesday 5th December 2018 by Royal Mail Recorded Delivery arriving with S44 parties by Thursday 6th December 2018. The deadline provided for the S44 parties was the 5pm on 10th January 2019 allowing a period of 35 days to respond starting with the day after the packs were received.

11.7 Response to S42 Consultation

- 11.7.1 The following tables document the responses received from Prescribed Bodies, Statutory Undertakers, Local Authorities and S44 parties to the S42 consultation.
- 11.7.2 Appendix 3.5 of the Environmental Statement [Document 3.1] provides a detailed response to the matters raised by S42 consultees and documents how the Environmental Statement, where necessary/appropriate, was amended to reflect the comments received. The key points are summarised below in respect of the comments made by individual consultees and in Appendix 3.5 of the ES (Document 3.1).

11.8 Prescribed Bodies

- 11.8.1 Table 11.3 summarises the comments from the S42 Prescribed Bodies and the Applicants response. The full comments from the Prescribed Bodies are attached in Appendix 3.1.

- 11.8.2 The response from the Maritime and Coastguard Agency (17) was received after the S42 deadline but has been treated as a S42 response.
- 11.8.3 A response was received from the Department for Transport as part of the S42 consultation as a result of Network Rail informing a number of their customers/stakeholders that may be affected by the proposed development. Whilst the DfT is not a prescribed body their response has been treated as a response under S42 for the purposes of this report and has been assigned a code of 32a.

Code	Consultee	Consultee Comment	Applicant Response
1	Health and Safety Executive	Notes that the development is not within any standard consultation distances, hazardous substances and explosives sites. No objection is raised to the proposed development.	A full response is provided at Appendix 3.5 of the ES (Document 3.1)
4	Natural England	Comment on air quality, and ecology/habitat loss in particular.	Appendix 3.5 of the ES documents the engagement with NE by the applicant following their S42 letter. There are not understood to be any residual key concerns and the applicant expects to enter into a Statement of Common Ground with Natural England in due course to confirm their position.
5	Historic England	Raised no issues or objections	No changes to proposed scheme or application as a result of the response.
12	Minster-on-Sea Parish Council	<p>Several comments were made and are summarised as follows:</p> <p>The proposed development will impact on highway network, particularly on the dumbbell Grovehurst Roundabout.</p> <p>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.</p> <p>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.</p> <p>Consideration should also be given to transporting the waste by barge via Ridham Dock as is undertaken by other plants of this type.</p> <p>If this application is permitted, the opportunity to travel along these routes within a reasonable timescale will be</p>	Representatives from the project team met with Minster Parish Council on the 7 th February 2019 to discuss their concerns. Chapter 4 of the ES (Document 3.1) deals with the anticipated highways impacts of the proposed scheme in detail.

		<p>severely compromised or in the worst-case scenario even lost.</p> <p>The delivery of waste will impact the Grovehurst A249 junction and M2 junction as most deliveries are scheduled for peak times.</p> <p>Clarification as to whether the Wheelabrator K3 CHP was designed and constructed with a 75MW capacity or a 49.9MW capacity from the onset.</p> <p>The current application for a 25.1 MW additional output does not take into consideration the culminative effect of the plant/s.</p>	
16	Environment Agency	<p>Address flood risk, groundwater and contaminated land and permitting. The EA do not raise any specific issues regarding flood risk. They state that contamination will be controlled through the permit and a CEMP.</p>	<p>Appendix 3.5 of the ES (Document 3.1) provides a detailed response to the EA points. An application for an Environmental Permit for WKN and for an amended permit for K3 will be submitted alongside the DCO application and the applicant intends to enter into a SoCG with the EA during the examination process.</p>
17	Maritime and Coastguard Agency (MCA)	<p>MCA state that wish to be consulted during the DCO Process and intend to register as an interested party should PINS accept the application for examination, and that they will consider the proposed development in more detail. They suggest that the developer includes a short section within the revised DCO commenting on any intent to use equipment or transport heavy material from the River both during and post construction.</p>	<p>At present there is no intention to transport heavy material via the river for construction. A Rail and Water Transportation Strategy is provided for both K3 (Document 4.8) and WKN (Document 4.9) as part of the application which deals with the longer term potential for transporting waste to K3 and/or WKN via rail or barge, but at present the necessary contracts do not exist which would allow that to be possible. The intention is for that position to be reviewed regularly in the future.</p>
18	Marine Management Organisation	<p>The MMO note that a marine licence exists for K3 and consider that all the works proposed associated with K3 are above the Mean High Water Spring. They note the presence of the outfall for WKN and request clarification regarding that element of the proposal.</p>	<p>The applicant is seeking consent via the DCO for the physical works to construct the outfall, and separately to the DCO process had submitted an application to the MMO for a licence relating to that work, with that licence now approved. Appendix 3.5 of the ES (Appendix 3.1) addresses the MMO response in detail.</p>
20	Kent County Council Highways	<p>Included within KCC response (see Local Authority – Record 82)</p>	
21	Highways England	<p>Make detailed comments on the S42 Transport Assessment in respect of the Strategic Road Network.</p>	<p>The applicant has sought to engage with Highways England following the S42 consultation response, and the technical points have been addressed within Chapter 4 of the ES (Document 3.1) together with the Transport Assessment (Appendix 4.1) which accompanies it. Appendix 3.5 of the</p>

			ES then addresses the Highways England response in detail.
23	Trinity House	Has no comments to make	No changes to proposed scheme or application as a result of the response.
25	Relevant Statutory Undertakers	See Section 10.9 below	

Table 11.3: Prescribed bodies consulted as part of the Section 42 consultation.

11.9 Relevant Statutory Undertakers

11.9.1 Table 11.4 summaries the comments from the S42 Relevant Statutory Undertakers and the Applicants response. The full comments from the Relevant Statutory Undertakers are attached in Appendix 3.2

Code	Consultee	Consultee Comment	Applicant Response
32	Network Rail Infrastructure Limited	Request for further information in order to assess the fully assess potential impacts of the scheme on the railway. Network Rail will be seeking standard protective provisions to be included in the DCO.	The applicant has sought to clarify the position with Network Rail following the receipt of their S42 response. The applicant's position is that there are no NR assets in proximity to the DCO boundary and no offsite works proposed through the DCO which would impact on any NR assets. On that basis no protective provisions are considered to be necessary in this case.
32a	Department for Transport (DfT)	Request 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, as well as querying whether the scheme developments have considered the potential for rail to be used to transport waste to the site.	The applicant has responded to DfT to set out that no compulsory purchase powers are sought through the DCO. The use of rail to transport waste is dealt with by the K3 Rail and Water Transportation Strategy (Document 4.8) and WKN Rail and Water Transportation Strategy (Document 4.9) which accompanies the application. That concludes that the applicant will continue to review the ability to bring waste to the site via alternative means, but the ability to do so will depend on the type and location of waste contracts available.
33	NATS En-route (NERL) Safeguarding	No infrastructure within 10km of the proposed development site. Accordingly it anticipates no impact and has no comments to make on the application.	No changes to proposed scheme or application as a result of the response.
34	Royal Mail Group	Request that the application requires Royal Mail to be consulted regarding matters including road closures/diversions and the content of the Construction Traffic Management Plan, and that the CTMP includes a requirement to inform major road users about works affecting the local network.	A draft CTMP has been prepared to accompany the application (Document 3.1 – Appendix 4.2).

36	Southern Water	A spreadsheet was provided listing the SWS's assets/easements in proximity to the proposed works, including approximate Grid references. Requested the Applicant to obtain copies of SWS's records to ascertain the full extent of plant affected. SW state that appropriate protective provisions will be required to ensure the protection of SWS's assets and ensure that necessary provisions are in place to ensure that the apparatus can be maintained in perpetuity.	The applicant has reviewed the plan provided by SW and does not consider that the assets would be affected, given they lie outside the DCO boundary. On that basis no protective provisions have been included within the dDCO.
42	ESP Connections Ltd	ESP Utilities Group Ltd has no gas or electricity apparatus in the vicinity of this site address and will not be affected by your proposed works.	No changes to proposed scheme or application as a result of the response.
53	Wales and West Utilities Ltd	This is within Cadent's area and not Wales and West Utilities area.	No changes to proposed scheme or application as a result of the response.
60	Harlaxton Energy Networks Limited	Harlaxton Energy Networks Ltd. at this time has no assets in the area and will not be implementing any in the near future, therefore Harlaxton has no comment to make on this project.	No changes to proposed scheme or application as a result of the response.
71	British Telecommunications Plc	The enclosed plan and Openreach records indicate that either no apparatus either exists or would be affected by the proposed development.	No changes to proposed scheme or application as a result of the response

Table 11.4: Relevant Statutory Undertakers consulted as part of the Section 42 consultation.

11.10 Local Authorities

11.10.1 Table 11.5 summaries the comments from the S42 Local Authorities and the Applicants response. The full comments from the Local Authorities are attached in Appendix 3.3

Code	Consultee	Consultee Comment	Applicant Response
77	Medway Council	No objections raised	No changes to proposed scheme or application as a result of the response
79	Canterbury City Council	No comments to make at this time	No changes to proposed scheme or application as a result of the response
80	Maidstone Borough Council	No objections raised.	No changes to proposed scheme or application as a result of the response
82	Kent County Council	Made comments regarding the principle of the use of the DCO process to seek consent for WKN, the compliance of the proposals with the Kent Minerals and Waste Local Plan Review and on highways.	The applicant met with KCC on 12 th February 2019 to discuss their response. The Planning Statement (Document 4.2) and Waste Hierarchy and Fuel Availability Study (Document 4.6) deal in detail with the compliance of the proposed

			<p>development with the Kent Minerals and Waste Local Plan and the Kent Minerals and Waste Local Plan Review, as required by EN-3.</p> <p>The technical highways points have been addressed within Chapter 4 of the ES (Document 3.1) together with the Transport Assessment (Appendix 4.1) which accompanies it. Appendix 3.5 of the ES then addresses the KCC response in detail.</p> <p>The applicant and KCC have discussed the intention to enter into a SoCG during the examination process.</p>
84	Surrey County Council	Surrey County Council is currently producing a new Waste Local Plan and the Draft Submission Plan will be published in mid-January 2019 for a Regulation 19 consultation. Surrey County Council note that they and other authorities in the south east are planning on the basis of net self-sufficiency and not on the basis that Surrey's requirements will be met by facilities in Kent.	The principles of the waste hierarchy and the conformity of the proposed development with local waste plans and strategy is dealt with within the Waste Hierarchy and Fuel Study report (Document 4.6) and the Planning Statement (Document 4.2).
85	London Borough of Bexley	Do not wish to make any comments.	No changes to proposed scheme or application as a result of the response

Table 11.5: Local Authorities consulted as part of the Section 42 consultation.

11.11 S42 Consultation – Summary

11.11.1 In total, 24 responses were received from S42 consultees, including an additional body that was not directly consulted.

11.11.2 None of the comments received are considered to require a change to the design of the proposed development. Instead the representations received have been dealt with in a number of ways:

- (1) Through further discussions post the S42 consultation comments with individual consultees, such as Natural England, KCC and Highways England;
- (2) Through amendments to the technical Chapters and Studies within the Environmental Statement (Document 3.1), in particular the sections on Highways, Air Quality and Ecology, as summarised in Appendix 3.5 of the ES which documents the response to individual S42 consultation responses.
- (3) A number of Statements of Common Ground will be prepared between the applicant and specific consultees. Based on the S42 consultation responses it is expected that in particular SoCG's will be prepared with the Environment Agency, Natural England and Kent County Council, together

with any additional SoCG's considered necessary by the Examining Authority;

- (4) Through an application for an Environmental Permit, pursuant to the EA's consultation response, and an MMO licence.
- (5) Through other documents submitted as part of the application, in particular the Planning Statement (Document 4.2), Waste Hierarchy and Fuel Availability Assessment (Document 4.6), K3 Rail and Water Transportation Strategy (Document 4.8) and WKN Rail and Transportation Strategy (Document 4.9) and the Draft Construction Traffic Management Plan (Document 3.1 – Appendix 4.2).

11.11.3 It is submitted that the applicant has addressed the requirements of S42 and has taken the necessary actions to address comments made by parties consulted under S42.

12 2018 - S46 Duty to Notify PINS of the Proposed Development

- 12.1.1 S46(1) of The Act requires an applicant to supply PINS with such information as would be required should PINS be consulted under S42. S46(2) requires the application to comply with (1) on or before commencing consultation under S42.
- 12.1.2 The S42 consultation pack, comprising the draft Environmental Statement, Non-Technical Summary and plan set, together with the S48 notice, were sent to PINS on the 3rd December 2018, at the same time as the S42 consultation packs were distributed. The S46 notification is appended at Appendix 4. The submission to PINS included, for information, the covering letter sent to S42 consultees and the list of prescribed bodies, statutory undertakers and local authorities consulted under S42.
- 12.1.3 PINS confirmed receipt of the S42 pack on the 6th December 2018. The acknowledgement of receipt was more than 28 days before the conclusion of the S42 consultation period and therefore S46 of The Act has been satisfied.

13 2018 - S47 - Statement of Community Consultation (SoCC)

13.1 Preparation of SoCC

- 13.1.1 Section 47 of The Act states that the applicant must prepare a statement setting out how the applicant proposes to consult people living in the vicinity of the land regarding the proposed application. Before preparing the statement, the applicant must consult each local authority that is within Section 43(1) about what is to be in the statement.
- 13.1.2 The Local Authorities for the purposes of Section 43(1) are Swale Borough Council (SBC) and Kent County Council (KCC).
- 13.1.3 In preparing the SoCC, regard was had to a variety of sources which include the MHCLG - Planning Act 2008 – Guidance on the Pre-Application Process (March 2015) and the Planning Inspectorate Advice Note 14: Compiling the consultation report.

13.2 Community Consultation Strategy (CCS)

- 13.2.1 A Community Consultation Strategy (CCS) (Appendix 5) was produced in order to inform the SoCC and to provide explanatory context to the SoCC for the purposes of SBC and KCC.
- 13.2.2 The CCS outlined the proposed development and summarised the likely environmental effects, based on early EIA work which had been undertaken at that stage. The KCC Statement of Community Involvement sets out the principles and strategy for consulting the local community within the County on planning applications relating to minerals and waste developments and therefore formed a basis for determining the approach to be taken to public consultation on K3 & WKN. The Swale Borough Council Statement of Community Involvement document, 'Shaping Spaces and Places' was also used to inform the public consultation process.
- 13.2.3 The CCS set a number of core aims and objectives for the public consultation:
- (i) To notify stakeholders of the proposed K3 and WKN developments at an early stage in the process to inform them about the context, function and expected environmental impacts of the two proposed projects;
 - (ii) To provide clarity between the first K3 consultation, the current K3 consultation, WKN and the Combined Heat and Power plants (K1, K2 and K4) of the adjacent DS Smith Paper Mill;

- (iii) To inform stakeholders about the process through which a Development Consent Order is sought from the Planning Inspectorate and the stages where they can be involved;
- (iv) To provide an early opportunity for stakeholders to comment on and shape the proposed development and to resolve any queries they may have; and
- (v) To allow the project team the opportunity at an early stage in the process to reflect the comments made on the proposed developments and to feedback to stakeholders.

13.2.4 Based on the proposed development and its likely environmental effects, a Zone of Influence was defined to form the focus of public consultation in addition to the wider community. As set out in Section 7.2 of the CCS the Zone of Influence was defined using natural boundaries in the surrounding area and was informed by the initial work undertaken as part of the Environmental Impact Assessment of topics such as landscape and visual impact and air quality, together with the Consultation Zone defined for the K3 upgrade consultation.

13.2.5 Census data was used to assess the composition of the local community, to ensure an appropriately wide range of consultation methods were used. A series of consultation actions were defined on that basis to target the Zone of Influence, such as leaflet mailings, together with newspaper notices and the project website intended to target the wider community. A range of local consultees, comprising the defined local authorities, politicians, Parish Councils and other organisations were identified as bodies who should be consulted directly on the proposals.

13.2.6 The outcomes of the consultation were expected to be a contact list of interested parties, comments on the proposed scheme and queries addressed to the project team.

13.3 Preparation and Methodology of the SoCC

13.3.1 The first version of the SoCC was prepared on the basis of the CCS discussed above. It provides a brief overview context to the proposal and consultation process, together with a list of key terms. The SoCC provides an overview of the proposed developments and the setting of the site using a context plan and indicative DCO boundary plan.

13.3.2 A summary of the DCO process is set out within the SoCC, which makes clear that an Environmental Impact Assessment will be carried out and submitted with the application within an Environmental Statement. It also states that a Preliminary Environmental Information Report will be produced to inform the consultation.

13.3.3 The SoCC explains the methods by which it will be circulated, sets out contact details for the project team and explains how anyone interested can find out more and engage in the process. The SoCC clearly states the deadline for responses and sets out how interested parties can request documents in alternative formats and be kept up-to-date, before then explaining the future programme of events.

13.4 SoCC Consultation

- 13.4.1 An early version of the SoCC was discussed in the initial briefing meetings with Swale Borough Council on the 26th July 2018 and with KCC on the 7th September 2018.
- 13.4.2 The draft SoCC and the accompanying Consultation Strategy document were formally submitted to SBC and KCC on the 12th September 2018. A deadline for responses of the 10th October 2018 was provided, which allowed for a 28 day period for KCC and SBC to respond. During that consultation period the applicant clarified the approach to the consultation zone and leaflet distribution, as demonstrated by the SoCC correspondence in Appendix 6. The opportunity was also taken to confirm the arrangements regarding the proposed exhibitions during the SoCC consultation period, with correspondence relating to that included in Appendix 6.
- 13.4.3 Both the SBC and KCC consultation responses were received on the 10th October 2018 and are provided within Appendix 6. SBC raised no issue with the SoCC.
- 13.4.4 KCC raised a number of points within their comments. Those are addressed as follows, with subsequent correspondence between the applicant and KCC provided in Appendix 6.
- (a) **Previous K3 consultation responses** – as documented in this Consultation Report regard has been taken of previous responses where relevant, particularly to provide context to the consultation undertaken for the current K3 and WKN proposals. The applicant has reservations with attributing full weight to those earlier representations, given the K3 scheme has now altered compared to the upgrade proposal previously consulted upon. The SoCC was altered to reflect that balance, whilst encouraging interested parties to submit fresh representations.
 - (b) **The proposed developments** – the SoCC was amended to clarify the proposed developments together with the planning history and the context of other plant in Kemsley.
 - (c) **Application programme** – the SoCC was updated to provide website links together with an indication of when the Consultation Report will be provided.
 - (d) **Environmental Impact Assessment** – the SoCC was amended to provide more detail on this point;
 - (e) **Scope and circulation of the SoCC** – the points made by KCC regarding the location of hard copies at the KCC offices and the consent of the Sittingbourne library were addressed;
 - (f) **Social media** – the use of social media was discussed further with KCC. WTI do not have an appropriate UK channel to publicise events and it was agreed that it would not be appropriate to use KCC or SBC channels. The

SoCC was therefore amended to reflect the fact that WTI will use social media where possible and appropriate during the consultation period and thereafter;

- (g) **Seldom heard groups** – the SoCC was amended to reflect the suggested terminology;
- (h) **Website** – the SoCC was amended to reflect the period during which comments could be made;
- (i) **Contact Details** – as noted above the details were altered in the final SoCC as requested;
- (j) **Appendices F and H** – the appendices were amended as necessary to reflect the KCC comments;

13.4.5 KCC then made comments regarding the Consultation Strategy. That document was not formally published but was intended to provide context to and commentary on the approach taken within the SoCC. The comments within that section of the KCC response, such as the rationale regarding the Zone of Influence and the use of plain English, were reflected in the final SoCC. The final SoCC is attached at Appendix 7.

13.5 Publication of the SoCC

13.5.1 Notices publicising the SoCC were placed in the Sittingbourne News Extra and the Sheerness Times Guardian on the 17th, 24th and 31st October 2018 and in the Medway Messenger on the 22nd and 29th October 2018. The notices set out the ways which the SoCC could be viewed which includes at the deposit locations (the Kent County Council offices, the Swale Borough Council Offices and the Sittingbourne library), on the project website or by requesting a copy from the project team via email. The notices stated that the deadline for any representations on the proposed development was 5pm on the 10th January 2019.

13.6 Compliance with SoCC

13.6.1 The compliance of the consultation undertaken with the various aspects of the SoCC are summarised in Table 13.1 below.

SoCC / Consultation Strategy Element	Compliance
Notices relating to SoCC availability published in the Sittingbourne News Extra and Sheppey Times/Guardian	Yes – notices published on the 17 th , 24 th and 31 st October 2018.
Notices relating to SoCC availability published in the Medway Messenger	Yes – notices published on the 22 nd and 29 th October 2018.
Copies of the SoCC made available at stated deposit locations	Yes – the SoCC was placed on deposit at the Kent County Council Offices, the Swale Borough Council Offices and the Sittingbourne Library on 17 th October 2018.

SoCC sent to stated local authorities, local MP's, Ward Members, Parish Councils and selected local interest groups and local forums	Yes – packs containing the SoCC were sent on the 29 th October 2018
Public exhibitions	Yes – public exhibitions held on the 1 st , 2 nd and 3 rd November 2018.
Copies of PEI and feedback forms to be available at exhibitions	Yes - both documents were available at the exhibitions
Targeted mailings	Yes – packs containing the leaflet were sent on the 29 th October 2018
Deadline for responses	Interested parties were made aware of the deadline for responses by 5pm Thursday 10 th January 2019.
Alternative formats	No requests were received for any of the documents in an alternative format.
Register of stakeholders	A register of stakeholders has been compiled and updates will be provided at appropriate points during the project.
Local press	An article was published in the Sittingbourne News Extra regarding K3 and WKN, which publicised the exhibitions, on the 24 th October 2018.
Website	The project website was been updated to reflect the S42 and S48 consultation which commenced in December 2018 and the SoCC was uploaded to the website.

Table 13.1 – Compliance with agreed SoCC

14 2018 - S47 - Consultation Events

14.1 Exhibition Arrangements

14.1.1 Three public exhibitions were held:

(1) Thursday 1st November 2018 – 1:00pm to 5:30pm

Kemsley Community Centre, The Square, Ridham Avenue, Kemsley,
ME10 2SL.

(2) Friday 2nd November 2018 – 10:00am to 4:00pm

Kemsley Community Centre, The Square, Ridham Avenue, Kemsley,
ME10 2SL.

(3) Saturday 3rd November 2018 – 10:30am to 2:00pm

Iwade Village Hall, Ferry Road, Iwade, ME9 8RG.

14.1.2 The times selected were intended to provide sufficient opportunity for a wide range of the local community to attend, either on a working day or on the weekend. Evening availability of the two venues was limited, so the approach discussed with KCC was that the level of attendance at those exhibitions would be reviewed, in order to determine whether additional events should be held.

14.1.3 The exhibition events took place at two locations: Kemsley Village Hall and Iwade Village Hall. The Kemsley Village Hall lies about 1.2km to the west of the K3 and WKN sites. The hall is a focal feature of the community and is easily accessible for both immediate residents and any other interested parties from the wider local area.

14.1.4 The Iwade Village Hall lies about 2.2km north west of the K3 and WKN sites and to the west of the A249. The junction between the A249 and B2005 provides access to both K3 and WKN and Iwade village. The Iwade Village Hall is also a focal feature of the surrounding community and is easily accessible for both immediate residents and any other interested parties from the wider local area.

14.2 Exhibition Material

14.2.1 The focus of the exhibitions was a set of information boards which provided information regarding WTI, the K3 and WKN site and proposals and the DCO process. The subject of the boards was as follows:

- (1) Welcome to our exhibition;
- (2) About Wheelabrator Technologies;
- (3) Our Proposals;

- (4) The Wheelabrator Kemsley (K3) Power Upgrade;
- (5) The Wheelabrator Kemsley (K3) Tonnage Throughput Increase;
- (6) Wheelabrator Kemsley North (WKN);
- (7) Our Generating Capacity;
- (8) The Application Process Explained;
- (9) Wheelabrator in the Community;
- (10) How to Get Involved; and
- (11) Committed to a Sustainable Future.

14.2.2 The exhibition boards are provided as Appendix 8.

14.2.3 In addition, a Preliminary Environmental Information Document (PEIR) (Appendix 9) was also available to view.



Figure 14.1 – Public Exhibition – Kemsley Village Hall (Thursday 1st November 2018)



Figure 14.2 – Public Exhibition – Iwade Village Hall (Saturday 3rd November 2018)

14.3 Publicity

Newspaper notices

- 14.3.1 A notice was first placed in the Sittingbourne News Extra and Sheerness Times Guardian on the 17th October 2018 to publicise the SoCC and the proposed exhibitions. The subsequent notices placed in the same papers relating to the publicity of the SoCC, on the 24th and 31st October 2018 also publicised the SoCC and the three public exhibitions. Further notices were placed the Medway Messenger on the 22nd and 29th October 2018 to publicise the SoCC and the proposed exhibitions. These notices are included in Appendix 10.

Project Website

- 14.3.2 The project website was updated to provide information regarding the dates, times and exhibition venues. Consultation material was also uploaded to the website. This included the exhibition panels, public consultation leaflet, PEIR and the feedback form. The PEIR in the form of a draft Environmental Statement (broken into chapters) was added to the website on 4th December 2018. Evidence of this is attached in Appendix 11.

Leaflet Drop

- 14.3.3 Some 15,000 leaflets were hand delivered to residential properties within the defined Zone of Influence on the 26th and 27th October 2018. The leaflets provided a broad overview of the project and publicised the exhibitions.
- 14.3.4 The same leaflets were sent by post on the 29th October 2018 to businesses and other non-residential properties within the Zone of Influence, to Parish Councils, local politicians and to local interest groups and forums. A copy of the leaflet is included in Appendix 12.

Flyers

- 14.3.5 Posters advertising the exhibitions were placed at the Kemsley village hall, the Sittingbourne library, Swale Borough Council Reception, two Iwade Parish Council noticeboards (School Mews and opposite Iwade Village Hall), the Saxon Shore Way and on the junction with Barge Way and Fleet End. A copy of the poster is attached at Appendix 12.

Newspaper Articles

- 14.3.6 An article was published in the Sittingbourne News Extra on the 24th October 2018, providing an overview of the project and which highlighted the exhibitions. A further article was published on the 31st October and provided the dates and times of the exhibitions. A copy of these articles is included in Appendix 12.

14.4 Deadline

- 14.4.1 The deadline for consultation responses to be received was 5pm on the 10th January 2019. That provided a period of over 85 days from the publication of the first exhibition notice in the local paper, 70 days from the date of the first public exhibition and 68 days from the last public exhibition.

14.5 Key Statistics

- 14.5.1 Across the three consultation events there were a total of twenty nine attendees with seven attendees at the Thursday event, nine attendees at the Friday event and 13 attendees at the Saturday event.
- 14.5.2 In total, six feedback forms were returned; two were from the Thursday event and two from the Friday event with another two submitted online. Three email enquiries were also received between 25th and 26 October 2018 from two separate individuals, which were responded to.
- 14.5.3 Following the exhibitions an update was provided to KCC and SBC regarding the level of attendance. It was agreed, on the basis of the low number of attendees, that it was not necessary to hold any further exhibitions, particularly given the ability for interested parties to review the exhibition boards and other explanatory

documentation at the project website and to submit comments and contact the project team through a range of mediums.

15 2018 - S47 - Consultation Responses

15.1 Responses to S47 Notices

- 15.1.1 One request for further information was received via email following the publication of the S47 notices. The requested was related to noise levels and the applicant provided a response which satisfied the request.
- 15.1.2 Two email responses were received from one local individual raising various issues. The applicant provided a comprehensive response addressing the issues raised and where the relevant information could be found. Previously, the applicant had invited the respondent to undertake a site tour of K3 being constructed and the WKN proposed application site. This invitation was accepted and a site tour undertaken in September 2018

15.2 Feedback Form

- 15.2.1 The feedback form allowed respondents to provide comments in the form of free text questions to enable open answers on what were considered to be key issues relating to the proposed development. The questions were split into three sections relating to the K3 proposed development, the WKN proposed development and a general section on both proposals and the consultation itself. That approach was taken to ensure that there was clarity regarding the different elements of the proposed development, and to allow respondents to comment on elements individually if they desired. The feedback form was coloured coded to make clear the distinction between the different sections. The feedback form is attached at Appendix 13.
- 15.2.2 The feedback form also provided the respondents with the opportunity to request future updates about the project by being added to the project contact list.

15.3 Rates of Response

- 15.3.1 In total six feedback forms were provided at or after the consultation events with two of those submitted online.

15.4 Overview of Respondents

- 15.4.1 The majority of the respondents were located within Kemsley and all respondents were located in the Sittingbourne area. Of the six respondents, two were providing comments on behalf of an organisation.
- 15.4.2 It is important to note that whilst the comments from the six respondents have been taken into account, it cannot be considered that they represent the local community as whole due to the low response rate. Therefore, the intention of this analysis is not to extrapolate the representations made to express the views of the local community but instead to use them as an indication of the specific issues raised by the six respondents.

15.5 Responses – Q1 – Principle of K3 and WKN proposals

- 15.5.1 Question 1 of both the K3 and WKN sections asked respondents if they support the proposals for K3 and WKN. All but one respondent stated that they do support the proposals for both K3 and WKN. One respondent caveated their support by requiring issues relating to traffic are adequately addressed.
- 15.5.2 A concern was raised regarding the waste-to-energy process and the lack of recycling whilst another respondent questioned why two small facilities were being built rather than one larger one.
- 15.5.3 **Applicant Response** - There appears to have been broad support in principle to optimising the ability of K3 to generate electricity and to develop a new waste-to-energy plant alongside it in the form of WKN.

15.6 Responses – Q2 – Associated Vehicle Movements

- 15.6.1 Question 2 of both the K3 and WKN sections asked respondents for their views on the proposed number of vehicles movements associated with K3 and WKN. The majority of the respondents raised particular concerns regarding traffic for both proposals and the increase in vehicles using the M2, A249, Swale Way and the Grovehurst Roundabout.
- 15.6.2 Further concerns were raised regarding the use of 'local' roads and the need to improve the roads in the local area. Several respondents noted that WKN would have more of an impact on the local road network.
- 15.6.3 **Applicant Response** - The highways impact of the proposals was the primary concern of the respondents, which is also highlighted by the S42 response by Minster Parish Council.
- 15.6.4 A Transport Assessment has been produced (Document 3.1 – Appendix 4.1) and provides a detailed assessment of the highways impacts of the proposed development, with that Assessment having been refined following S42 comments by Kent Highways and the Department of Transport in particular. The applicant's position is that the proposed development of K3 and WKN would not result in a severe impact on the surrounding highway network. Furthermore various forms of mitigation are proposed, including a Construction Traffic Management Plan and Operational Staff Management Plan, as well as an ongoing commitment by the applicant to review the ability to bring waste to site via alternative methods.

15.7 Responses – Q3 (K3) and Q6 (WKN) – Issues of Concern About the K3 and WKN Proposals

- 15.7.1 A range of concerns were raised by the respondents including:
- Environmental monitoring;
 - Air Quality;

- Traffic;
- Noise and vibration;
- Climate Change;
- Pollution;
- Incinerator Bottom Ash and
- Insufficient temperature for incineration.

15.7.2 **Applicant Response** - The environmental issues identified were all included in the Scoping Opinion provided by PINS and therefore are comprehensively addressed in the ES and summarised in the NTS.

15.7.3 In respect of the other comments made, residual bottom ash from the waste combustion process is exported from the facility in HGVs and either landfilled or used as an aggregate by the construction industry. Prior to safely disposing to landfill, ferrous metals such as iron and steel, and non-ferrous metals, such as copper and aluminium, are extracted from the ash residue and sent to recycling facilities. The temperature at which waste is combusted will be in excess of 1000 °C and controls are in place to ensure waste is exposed to appropriate temperatures for an appropriate length of time.

15.8 Responses – Q4 – General Comments Regarding K3

15.8.1 Half of the respondents provided general comments regarding the K3 proposal which included access to local housing estates for residents at peak times, a lack of a collective approach between waste operators and the potential to transport waste via barge.

15.8.2 **Applicant Response** - The impact of traffic has been comprehensively assessed in the ES. The collective approach between waste operators is a commercial matter but WTI remain open to exploring other opportunities to increase efficiencies. The delivery of waste via alternative methods such as water or rail has been addressed in the Rail and Water Transportation Strategies submitted to address both the K3 and WKN schemes. That document concludes that WTI will continue to monitor the ability to bring waste to the K3 and WKN sites via alternative methods, but that the ability to do so will ultimately be dictated by the location and nature of the waste contracts which arise. The Rail and Water Transportation Strategies make provision for that situation to be reviewed every five years.

15.9 WKN Specific Questions

Q3 - Approach to Construction for WKN

- 15.9.1 There were no specific responses which related directly to the approach to construction of WKN.

Q4 - Mitigating and Managing Impacts on the Local Environment

- 15.9.2 Many respondents referred to their previous responses relating the concerns about K3 regarding the monitoring and control of the potential environmental impacts. One respondent was encouraged by the examples of provided by WTI of previous mitigation and management of the local environment at other sites.
- 15.9.3 ***Applicant Response*** - the mitigation and management of impacts on the local environment are key factors that form part of the ES and where there are impacts the ES sets out how these will be mitigated and managed.

15.10 Q5 - Comments About Air Quality

- 15.10.1 As with the previous questions, respondents were concerned with effective monitoring and control of emissions and air quality. Concerns were raised regarding the temperature of combustion 800 °C being too low and allowing particulate matter to fall on the local area.
- 15.10.2 ***Applicant Response*** - Air Quality was included in the Scoping Opinion by PINS and has been assessed in the ES and summarised in the NTS. Both the K3 and WKN facilities would be carefully regulated by the Environment Agency through the environmental permitting regime and both K3 and WKN would be fitted with emission monitoring equipment on the stack. The method of combustion has been chosen as it is the most effective and suitable to meet the needs of WKN and it meets the industry standards. The temperature at which waste is combusted will be in excess of 1000 °C

15.11 Q7 – Architecture and Colour of the WKN facility

- 15.11.1 Several respondents stated that WKN should try to minimise its visual impact on the surrounding and should meet best practice. A suggestion was made to plant both quick and slow growing trees to lessen the visual impact.
- 15.11.2 ***Applicant Response*** - The ES has assessed the landscape and visual impact and concluded there are no significant effects arising from the proposed development. The DCO application seeks consent for a range of maximum parameters for the WKN element of the scheme, with a Requirement proposed which ensures that full design details would be provided to KCC for approval prior to the construction of WKN. In addition the WKN parameter plans make provision for an appropriate level of soft landscaping in the eastern part of the WKN site.

15.12 Q8 – General Comments Regarding WKN

- 15.12.1 A concern was raised regarding the type of waste feeding into the waste-to-energy process for WKN and the licences required for certain types of waste.
- 15.12.2 **Applicant Response** - The WKN facility will import post-recycled solid recovered fuel waste, commercial and industrial waste and pre-treated municipal solid waste. The environmental permit which controls the operation of the K3 and WKN facilities would require waste being processed to have the correct licencing permits.

15.13 General Questions

Q1 – Suggestions for Enhancing the Positive Impacts of Both Proposals.

- 15.13.1 It was suggested that the local community should be kept informed about the proposed developments through engagement with local schools.
- 15.13.2 **Applicant Response** – local schools were written to as part of the distribution of the project leaflet. The applicant will continue to look for opportunities to engage where appropriate.

15.14 Q2 – Suggestions for Being a Good Neighbour in the Local Community

- 15.14.1 A suggestion was made to set up a local liaison committee in which information on the monitoring and managing of environmental impacts can be shared with the local community. In addition, the operators of the proposed developments should commit to the funding of projects in the local community. It was also stated that WTI should be prominent in the local community and actively engage with local residents.
- 15.14.2 **Applicant Response** – WTI have set up a Community Benefit Fund with £50,000 available to local community groups and organisations. The project leaflet, exhibition boards and project website have been used to publicise that fund and a number of discussions took place with interested parties at the project exhibitions.

15.15 Q3 – Suggestions for Local Causes and Organisations to be Supported.

- 15.15.1 There were several suggestions for supporting the Sittingbourne Society. Other suggestions were choosing sustainable projects and encouraging employees to help in the community.
- 15.15.2 **Applicant Response** – as noted above WTI have set up a Community Benefit Fund to contribute to local organisations and projects.

15.16 Q4 – Adequacy of information provided

- 15.16.1 Five of the six respondents agreed that the information provided as part of this consultation was sufficient to enable them to understand the proposals.
- 15.16.2 **Applicant Response** - This demonstrates that the information provided was adequate in informing the attendees of the proposed developments.

15.17 Q5 – Additional Information

- 15.17.1 Five of the six respondents were satisfied that no further information was needed as part of this consultation. One respondent wanted more detailed information on the full waste-to-energy process and the waste it creates.
- 15.17.2 **Applicant Response** - The consultation materials provided sufficient information to inform those that attended. Where more information was requested, this information was available on the project website.

15.18 Q6 – Future Updates

- 15.18.1 All respondents advised that they would like to be kept up to date on future developments on the DCO application.
- 15.18.2 **Applicant Response** - The respondents were added to the project contact list for future correspondence and will be contacted at key points during the application process.

15.19 S47 Summary

- 15.19.1 The consultation strategy took appropriate steps to ensure the local community was informed about the proposed developments and had the opportunity to comment on the proposals. Around 15,000 leaflets were delivered to households and businesses within the defined Zone of Influence which summarised the proposed developments and the likely significant effects. It also provided details on how to get involved and where to find further information. In addition, the proposed DCO application and the three public consultation events were publicised in three local newspapers
- 15.19.2 Unfortunately the rate of response to the S47 consultation was low. This could reflect the fact that K3 and WKN are of limited local interest given that they are located in an area of high industrial activity.
- 15.19.3 The key environmental concerns raised by those comments which were received addressed traffic, air quality/emissions, noise and vibration and climate change. It was clear that respondents wanted to ensure there was sufficient monitoring and management of these impacts and the proposed mitigation. Those matters are being addressed within the application through the Environmental Statement.

- 15.19.4 The majority of respondents were supportive of both K3 and WKN and were satisfied that the consultation event had provided sufficient information to inform them of the proposed developments.

16 2018 - S48 Statutory Publicity

16.1.1 Section 48 of The Act states that the applicant must publicise the proposed application in the prescribed manner and requires any publication notices to include a deadline for receipt by the applicant of responses to the publicity.

16.1.2 Regulation 4 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 then sets out provisions for the publication of the public notice and what this must contain.

16.2 The S48 Notice

16.2.1 The S48 notice addresses all of the specific points within Regulation 4(3) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

16.2.2 The following notices were published:

- Sittingbourne News Extra – 28th November and 5th December 2018
- Sheerness Times Guardian – 28th November and 5th December 2018
- Medway Messenger – 3rd and 10th December 2018
- The London Gazette – online 4th December 2018, in paper 5th December 2018
- The Telegraph – 5th December 2018

16.2.3 The above reflects Regulation 4(2) of the Prescribed Forms and Procedure Regulations 2009 which requires the S48 Notice to be published for two consecutive weeks in a locally circulating paper, once in the London Gazette and once in a national newspaper.

16.2.4 The S48 notice provided a deadline for responses of 5pm on the 10th January 2019, which is consistent with the deadline provided for S42 consultees. That deadline provided a period of 32 days from the 10th December 2018, which is when the last S48 was published in the local newspaper following the publication in consecutive local newspapers, a national newspaper and London Gazette. Copies of the S48 notices are provided in Appendix 14.

16.2.5 The documents, maps and plans (as required under Regulation 4(3)(e)) comprise the draft Environmental Statement, Non-Technical Summary and plan set as issued under the S42 consultation. Those documents were placed on deposit at the Kent County Council offices, the Swale Borough Council offices and at the Sittingbourne library on the 28th November 2018.

- 16.2.6 The S48 notices were also placed at the Kemsley village hall, the Sittingbourne library, the Saxon Shore Way, on the junction with Barge Way and Fleet End and on the junction with Swale Way and Ridham Avenue.

16.3 Response to S48 Publicity

- 16.3.1 The S48 publicity was undertaken over a similar period to that of the S47 and S42 consultation. All responses received were in reference to either the S47 publication or consultation events or the S42 consultation. No other responses were received from any other parties as a direct result of S48 publicity.

17 2019 – S42 Duty to Consult

17.1 Approach to S42 consultation

17.1.1 The S42 consultation was undertaken in the same manner as the 2018 S42 consultation. Prior to the consultation, the contact details of all S42 consultees were checked and there had been no changes to the list of the prescribed bodies. There were also no changes to the persons within category S44.

17.1.2 Section 42 of the Act establishes a duty to consult:

- (a) Such persons as may be prescribed;
- (b) Each local authority that is within Section 43;
- (c) The Greater London Authority if the land is in Greater London, and
- (d) Each person who is within one or more of the categories set out in Section 44.

17.1.3 In this case the land in question is not within Greater London and Part (c) of Section 42 does not apply.

17.2 Section 42 – Part a) Such Persons as may be prescribed

17.2.1 Prescribed persons are identified in Regulation 3 of, and Schedule 1 to, the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

17.2.2 In addition to the prescribed persons regard has been had to those bodies consulted by PINS as part of the Scoping Opinion, together with the Annex to PINS Advice Note 3: EIA Consultation and Notification. Where relevant, consultees have been included in the S42 list if there is any doubt as to whether they do form a prescribed body.

17.2.3 Appendix 2.2 provides a list of those prescribed persons consulted under S42. There were no changes to the prescribed persons and all addresses were checked and confirmed.

17.3 Section 42 – Part b) Relevant Local Authorities

17.3.1 Section 11.3 identified the relevant Local Authorities under S43 of the Act (as amended by S133 of the Localism Act 2011) as listed in Figure 11.1 and Table 11.1. The Categories for the purposes of Table 11.1 are those set out within The Act, in terms of 'A', 'B', 'C' or 'D' authorities. There were no changes to the Local Authorities between the 2018 consultation and the 2019 consultation.

17.3.2 Category (1) covers a person who is an owner, lessee, tenant (whatever the tenancy period) or occupier of the land. Since the 2018 consultation there were

no changes to the parties falling within Category (1) and all parties listed in Table 11.2 were consulted.

17.3.3 The status of the various S44 parties is explained in full within the Book of Reference (Document 2.4). It has been identified that there were no changes to S44 parties since the 2018 consultation.

17.4 Form of S42 Consultation

17.4.1 The consultation documents for the purposes of Section 42 comprised the following:

- A covering letter (Appendix 15) explaining the proposed project, the reason for re-consulting and the role of Section 42 consultation within the DCO process;
- A USB containing:
 - The **Preliminary Environmental Information Report** (Appendix 18), which provides a non-technical summary of the ES for consultation purposes and explains the approach being taken to the K3 and WKN application;
 - A set of **draft Plans** to illustrate the location and extent of the proposed development including:
 - Site Location Plans;
 - Key Works Plan; and
 - plans/drawings illustrating the design and scale of K3 and WKN.
 - An early draft of the **Development Consent Order**;
- A copy of the **S48 notice** (Appendix 20), in accordance with Regulation 13 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017.

17.5 Consultation Process

17.5.1 An initial batch of S42 consultation packs were sent by Royal Mail Recorded delivery to prescribed bodies and relevant local authorities on Monday 29th July 2019. The letter provided a deadline for responses of 5pm on the Wednesday 28th August 2019, by email or by post. That deadline provided a 28 day deadline from Thursday 1st August 2019, starting with the day after the day on which S42 consultees received their packs. The deadline set ensured that the minimum 28 day consultation period was provided.

17.5.2 The minimum period of 28 days was considered appropriate in this case as all the S42 parties consulted had the chance to comment on the previous consultation and the practical effect of the proposed K3 and WKN schemes remained the same; in total K3 would generate up to 75MW and process up to 657,000 tonnes of waste per annum and WKN would generate up to 42MW and process up to

390,000 tonnes of waste per annum. As such the environmental effects assessed in respect of the practical effect of the K3 proposed development and the WKN proposed development were the same as those consulted upon in 2018.

- 17.5.3 Royal Mail tracking records demonstrate that S42 packs were received by the majority of prescribed bodies and relevant local authorities by the Thursday 1st August 2019 at the latest. Where packs were not received emailed electronic packs were issued.
- 17.5.4 S42 packs were sent to the nine S44 parties, as identified under S42(1), on Tuesday 30th July 2019 by Royal Mail Recorded Delivery. The deadline provided for the S44 parties was the 5pm on 28th August 2019 allowing a period of between 28 days to respond. The minimum period of 28 days was provided as all those consulted have had the chance to comment on the previous consultation and the practical effect of this consultation remains the same.

17.6 Response to S42 Consultation

- 17.6.1 The following tables document the responses received from Prescribed Bodies, Statutory Undertakers, Local Authorities and S44 parties to the S42 consultation.
- 17.6.2 Appendix 3.5 of the Environmental Statement (Document 3.1) provides a detailed response to the matters raised by S42 consultees and documents how the Environmental Statement, where necessary/appropriate, was amended to reflect the comments received. The key points are summarised below in respect of the comments made by individual consultees and Appendix 3.7 Environmental Statement (Document 3.1) provides a detailed response.

17.7 Prescribed Bodies

- 17.7.1 Table 17.1 summarises the comments from the S42 Prescribed Bodies and the Applicants response. The full comments from the Prescribed Bodies are attached in Appendix 16.1.

Code	Consultee	Consultee Comment	Applicant Response
1	Health and Safety Executive	Notes that the development is not within any standard consultation distances, hazardous substances and explosives sites. No objection is raised to the proposed development. Also advised a change in address from 2.2 Redgrave Court to 1.2 Redgrave Court.	A full response is provided at Appendix 3.7 of the ES (Document 3.1).
4	Natural England	Refers to response letter dated 10 th January 2019 regarding mainly on ecology, air quality, water quality, hydrology, and disturbance (noise, light and visual). States that additional information provided in the latest draft Environmental Chapters addresses their concerns provided that	There are not understood to be any residual key concerns and the applicant expects to enter into a Statement of Common Ground with Natural England in due course to confirm their position. The construction of K3 and WKN is not due to overlap.

		<p>the construction of K3 and WKN do not overlap.</p> <p>This will also be covered by the statement of common ground to be agreed at a later date.</p>	<p>A full response is provided at Appendix 3.7 of the ES (Document 3.1).</p> <p>Any further comments will be dealt with through a Statement of Common Ground.</p>
5	Historic England	<p>Several comments were made and are summarised as follows:</p> <p>The proposed development is likely to be visible across a large area and could, as a result, affect the significance of heritage assets at some distance, include the Scheduled Ancient Monument, Castle Rough c.500m south-south west of the site.</p> <p>Potential for an impact upon designated heritage assets and their settings in the area around the site.</p> <p>The PEIR (dated July 2019) gives insufficient regard to setting-related effects in relation to individual assets.</p> <p>The significance of these assets, and the interests that contribute to that significance, are not explained in the PEIR or 2018 draft ES and DBA.</p>	<p>The 2018 response from Historic England stated: 'It is not necessary for us [Historic England] to be consulted again on this application unless there are material changes to the proposals.'</p> <p>The practical effect of including the construction of K3 would not result in any changes as no additional construction is required beyond the permitted scheme. Therefore, there are no additional impacts of the historic environment beyond those consulted on in 2018.</p> <p>A full response is provided at Appendix 3.7 of the ES (Document 3.1).</p>
9	Bobbing Parish Council	<p>Bobbing Parish Council asked a number of questions relating emissions from the stacks, additional vehicles as a result of the additional waste throughput, additional planting and purposed of the energy created.</p> <p>The applicant provided a response to these questions and resulted in the following s42 comments:</p> <p>The impact on highway network, particularly on the Grovehurst Roundabout and A249.</p> <p>The environmental impact on the nearby SSSI/Ramsar Site.</p> <p>The need to transport waste via river or rail.</p>	<p>Chapter 4 of the ES (Document 3.1) deals with the anticipated highways impacts of the proposed scheme in detail.</p> <p>Chapter 11 of the ES (Document 3.1) deals with the potential impacts of the proposed scheme on the SSSI and Ramsar site in detail.</p> <p>The K3 Rail and Water Transportation Strategy (Document 4.8) and the WKN Rail and Water Transportation Strategy (Document 4.9) assess the potential to transport waste via river or rail.</p>
12	Minster-on-Sea Parish Council	<p>Several comments were made and are summarised as follows:</p>	<p>Representatives from the project team met with Minster Parish Council on the 22nd August 2019 in which these points were</p>

		<p>The proposed development will impact on highway network, particularly on the dumbbell Grovehurst Roundabout.</p> <p>Committed developments do not include the operational Aldi Southern Region Distribution Centre or Morrisons' Warehouse.</p> <p>The Parish Council estimates that over the year, over one million tonnes of waste will be carried by approximately 200,000 additional heavy goods vehicles (HGVs) per annum and this very significant number of HGVs and cars will descend upon this area due to their involvement with these proposals.</p> <p>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.</p> <p>Consideration should also be given to transporting the waste by barge via Ridham Dock as is undertaken by other plants of this type.</p> <p>If this application is permitted, the opportunity to travel along these routes within a reasonable timescale will be severely compromised or in the worst-case scenario even lost.</p> <p>Concern regarding the amount of waste coming to the area for processing and issues around bottom ash and flue dust.</p> <p>Concern that flue dust will be sent to landfill at Norwood Farm Landfill on the Isle of Sheppey, resulting in an additional 20 HGV movements.</p> <p>The delivery of waste will impact the Grovehurst A249 junction and M2 junction as most deliveries are scheduled for peak times.</p> <p>Clarification as to whether the Wheelabrator K3 CHP was designed and constructed with a 75MW capacity or a 49.9MW capacity from the onset.</p>	<p>discussed prior to the submission of the response.</p> <p>Chapter 4 of the ES (Document 3.1) deals with the anticipated highways impacts of the proposed scheme in detail.</p> <p>A full response is provided at Appendix 3.7 of the ES (Document 3.1).</p>
16	Environment Agency	The EA wish to reiterate our previous comments, which I have attached for your convenience.	See section 11.8 for response to their previous comments.
20	Kent County Council Highways	Included within KCC response (see Local Authority – Record 82)	
23	Trinity House	Has no comments to make as per previous response.	

			No changes to proposed scheme or application as a result of the response.
24	Public Health England	The scoping out of the effects of electric and magnetic fields (EMF) in the Environmental Impact Assessment is considered reasonable.	The applicant notes the comment. No changes to proposed scheme or application as a result of the response.
25	Relevant Statutory Undertakers	See Section 10.9 below	

Table 17.1: Prescribed bodies consulted as part of the Section 42 consultation.

17.8 Relevant Statutory Undertakers

17.8.1 Table 17.2 summaries the comments from the S42 Relevant Statutory Undertakers and the Applicants response. The full comments from the Statutory Undertakers are attached in Appendix 16.2.

Code	Consultee	Consultee Comment	Applicant Response
32	Network Rail Infrastructure Limited	No direct impact on Network Rail but will need to check the land associated does not contain any rights or covenants, if so, Network Rail would seek to retain such rights. Request for further information in order to assess the fully assess potential impacts of the scheme on the railway.	The applicant's position is that there are no NR assets in proximity to the DCO boundary and no offsite works proposed through the DCO which would impact on any NR assets. On that basis no protective provisions are considered to be necessary in this case. The K3 Rail and Water Transportation Strategy (Document 4.8) and the WKN Rail and Water Transportation Strategy (Document 4.9) assess the potential to transport waste via river or rail.
33	NATS En-route (NERL) Safeguarding	No infrastructure within 10km of the proposed development site. Accordingly it anticipates no impact and has no comments to make on the application.	No changes to proposed scheme or application as a result of the response.
34	Royal Mail Group	Royal mails position on the scheme remains the same as per the response from January 2019.	See section 11.9 for response to their previous comments.
48	Indigo Pipelines	Indigo Pipelines do not have any network records within the area requested as the site location is out of our distribution area.	No changes to proposed scheme or application as a result of the response.
50	National Grid Gas Plc.	National Grid Gas has no apparatus within or in close proximity to the proposed order limits.	No changes to proposed scheme or application as a result of the response.
52	Southern Gas Networks	Southern Gas operates gas infrastructure under the Subject Land. Please can details of the arrangements that it will be making to ensure that the Works will not adversely affect the said gas infrastructure.	Requirement 6 has been included within the Draft DCO to ensure that no work shall take place within 3 metres of gas apparatus belonging to Southern Gas Networks PLC unless the undertaker has first obtained written consent from Southern Gas Networks PLC.
60	Harlaxton Energy Networks Limited	Harlaxton Energy Networks Ltd. at this time has no assets in the area and will not be implementing any in the near future,	No changes to proposed scheme or application as a result of the response.

		therefore Harlaxton has no comment to make on this project.	
70	National Grid Electricity Transmission Plc.	National Grid Electricity Transmission has no apparatus within or in close proximity to the proposed order limits.	No changes to proposed scheme or application as a result of the response.

Table 17.2: Relevant Statutory Undertakers consulted as part of the Section 42 consultation.

17.9 Local Authorities

17.9.1 Table 17.3 summaries the comments from the S42 Local Authorities and the Applicants response. The full comments from the Local Authorities are attached in Appendix 16.3.

17.9.2 The response from Kent County Council, which included Kent County Council Highways, was received after the deadline for S42 responses, however, the applicant has had consideration to the comments made by Kent County Council.

Code	Consultee	Consultee Comment	Applicant Response
76	Swale Borough Council	The site lies within an area generally set aside for industrial uses, and it is anticipated that matters relating to transport; ecology; noise; contamination; local amenity; and landscape and visual impact will be fully addressed through formal submissions at later stages of the application.	No changes to proposed scheme or application as a result of the response
79	Canterbury City Council	No comments to make at this time	No changes to proposed scheme or application as a result of the response
82	Kent County Council	KCC advised that the response dated 10 January 2019 relating to the 2018 consultation continue to be of relevance and should be considered. A number of additional comments were made regarding the Transport Assessment, the use of rail and water to transport waste, the compliance of the proposals with the Kent Minerals and Waste Local Plan and the Kent Minerals and Waste Local Plan Review and impact on Air Quality Management Area no. 6 Ospringe Extended.	The Planning Statement (Document 4.2) and Waste Hierarchy and Fuel Availability Study (Document 4.6) deal in detail with the compliance of the proposed development with the Kent Minerals and Waste Local Plan and the Kent Minerals and Waste Local Plan Review, as required by EN-3. The K3 Rail and Water Transportation Strategy (Document 4.8) and the WKN Rail and Water Transportation Strategy (Document 4.9) assess the potential to transport waste via river or rail. The technical highways and air quality points have been addressed in detail in Appendix 3.7 of the ES. The applicant and KCC have discussed the intention to enter into a SoCG during the examination process.
85	London Borough of Bexley	LBB raise no objections and do not wish to make any comments.	No changes to proposed scheme or application as a result of the response

Table 17.3: Local Authorities consulted as part of the Section 42 consultation.

17.10 S42 Consultation – Summary

17.10.1 In total, 19 responses were received from S42 consultees.

17.10.2 None of the comments received are considered to require a change to the design of the proposed development. Instead the representations received have been dealt with in a number of ways:

- (1) Through further discussions post the S42 consultation comments with individual consultees, such as Historic England and KCC;
- (2) Through amendments to the technical Chapters and Studies within the Environmental Statement (Document 3.1), in particular the sections on Highways, Air Quality and Ecology, as summarised in Appendix 3.7 of the ES which documents the response to individual S42 consultation responses;
- (3) A number of Statements of Common Ground will be prepared between the applicant and specific consultees. Based on the S42 consultation responses it is expected that in particular SoCG's will be prepared with the Environment Agency, Natural England and Kent County Council, together with any additional SoCG's considered necessary by the Examining Authority;
- (4) Through an application for an Environmental Permit, pursuant to the EA's consultation response, and an MMO licence.
- (5) Through other documents submitted as part of the application, in particular the Planning Statement (Document 4.2), Waste Hierarchy and Fuel Availability Assessment (Document 4.6), K3 Rail and Water Transportation Strategy (Document 4.8) and WKN Rail and Water Transportation Strategy (Document 4.9) and the Draft Construction Traffic Management Plan (Document 3.1 – Appendix 4.2).

17.10.3 It is submitted that the applicant has addressed the requirements of S42 and has taken the necessary actions to address comments made by parties consulted under S42.

18 2019 - S46 Duty to Notify PINS of the Proposed Development

- 18.1.1 S46(1) of The Act requires an applicant to supply PINS with such information as would be required should PINS be consulted under S42. S46(2) requires the application to comply with (1) on or before commencing consultation under S42.
- 18.1.2 The S42 consultation pack, comprising the Preliminary Environmental Information Report, draft DCO and plan set, together with the S48 notice, were sent to PINS on the 31st July 2019, at the same time as the S42 consultation packs were distributed. A copy of the S46 Notification is included in Appendix 17. The submission to PINS included, for information, the covering letter sent to S42 consultees and the list of prescribed bodies, statutory undertakers and local authorities consulted under S42.
- 18.1.3 The automatic acknowledgement was received on 31st July 2019 confirming delivery of the S42 pack. The acknowledgement of receipt was more than 28 days before the conclusion of the S42 consultation period and therefore S46 of The Act has been satisfied.

19 2019 - S47 Consultation with the local community

- 19.1.1 The 2018 consultation was undertaken in accordance with the Statement of Community Consultation. However, given the low attendance at the three public exhibitions and the low interest shown by the public, as demonstrated by the small number of responses to the questionnaire and comments overall, a proportionate re-consultation was undertaken in 2019 alongside the 2019 S42 consultation and S48 publicity. That proportionate response was discussed with both Kent County Council and Swale Borough Council.
- 19.1.2 It was not considered necessary to undertake any further public exhibitions, leaflet mailings or posters. In addition, the proposed application was re-publicised under S48 (see section 20) which provided the local community the opportunity to provide comments.
- 19.1.3 The applicant wrote to all members of local community that has provided comments as part of the 2018 consultation to inform them of the additional consultation being undertaken and to clarify that they had an opportunity to comment on the construction of K3 as well as the operation of K3 and the construction and operation of WKN, albeit with the practical effect of the proposal remaining as per the consultation in 2018.
- 19.1.4 In addition, the project website was updated to reflect the 2019 consultation as demonstrated in Appendix 19 and included a new PEIR (Appendix 18).

19.2 S47 Responses

- 19.2.1 In response to the applicant writing to those member of the local community who had engaged previously in the 2018 consultation, one email response was received. The nature of the comments related to highways issues and the capacity of the Grovehurst Roundabout and emissions. The applicant provided a comprehensive response addressing the issues raised and where the relevant information could be found.

20 2019 - S48 Statutory Publicity

20.1.1 Section 48 of The Act states that the applicant must publicise the proposed application in the prescribed manner and requires any publication notices to include a deadline for receipt by the applicant of responses to the publicity.

20.1.2 Regulation 4 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 then sets out provisions for the publication of the public notice and what this must contain.

20.2 The S48 Notice

20.2.1 The S48 notice addresses all of the specific points within Regulation 4(3) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

20.2.2 The following notices were published:

- Sittingbourne News Extra – 24th and 31st July 2019;
- Sheerness Times Guardian – 24th and 31st July 2019;
- Medway Messenger – 29th July and 5th August 2019;
- The London Gazette – online 30th July 2019 and in the paper 31st July 2019; and
- The Telegraph – 31st July 2019.

20.2.3 The above reflects Regulation 4(2) of the Prescribed Forms and Procedure Regulations 2009 which requires the S48 Notice to be published for two consecutive weeks in a locally circulating paper, once in the London Gazette and once in a national newspaper.

20.2.4 The S48 notice provided a deadline for responses of 5pm on the 28th August 2019, which is consistent with the deadline provided for S42 consultees. That deadline provides a period of 28 days from the 31st July 2019, which is when the second consecutive local notice and the national and Gazette notices were published. Copies of the S48 notice is provided as Appendix 20.

20.2.5 The documents, maps and plans (as required under Regulation 4(3)(e)) comprise the Preliminary Environmental Information Report, draft DCO and plan set as issued under the S42 consultation. Those documents were placed on deposit at the Kent County Council offices, the Swale Borough Council offices and at the Sittingbourne library on the 31st July 2019.

20.2.6 However, it was identified that the notice published in the Medway Messenger on the 5th August 2019 did not provide the minimum of 28 days from the date of the last notice published in which responses to the proposed application could be

received by the application, as set out in Regulation 4(2)(i) of the Prescribed Forms and Procedure Regulations 2009, as it stated the same date of the 28th August 2019 as stated in the other S48 notices.

20.2.7 Therefore, the applicant published an additional S48 notice (included in Appendix 20) in the Medway Messenger on Monday 12th August 2019 with a deadline to submit responses of Monday 9th September 2019. Therefore, those that saw the notice in Medway Messenger had the minimum of 28 days in which to provide comments as part of the section 48 notice.

20.2.8 The applicant updated the project website to reflect the fact that any comments could be made until the later S48 notice deadline of the 9th September and agreed extensions with a number of S42 parties as necessary to provide them with sufficient flexibility to provide a response.

20.3 Response to S48 Publicity

20.3.1 Only one response was received as a result of the S48 publicity. The nature of the comments related to access to the documents, inclusion in the list for future correspondence and confirmation of the application process. The applicant provided a comprehensive response by addressing the issues raised, adding the respondent to the contact list and advising where the relevant information could be found.

21 Summary and Conclusions

- 21.1.1 In accordance with paragraph 25 of the Guidance on the pre-application process (March 2015), the consultation undertaken for the proposed developments of K3 and WKN is considered to have been thorough, effective and proportionate. This Report demonstrates that all necessary areas of the relevant legislation have been addressed ahead of the application seeking Development Consent Order being submitted.
- 21.1.2 The applicant has consulted the local community and statutory consultees on three separate occasions as the project has evolved over time. The level of response and engagement from the local community has consistently been low, despite extensive efforts to make a wide range of the community aware of the proposals through a variety of mediums and providing a range of ways to be involved in the process. That lack of interest suggests that the proposed developments are not controversial locally.
- 21.1.3 Some statutory consultees have engaged in the consultation process and this has prompted a number of changes to the application particularly from the 2018 consultation. The outcomes of this Consultation Report are therefore embedded within elements of the Environmental Statement, where technical assessments have been amended to address technical comments, and within the Planning Statement and Waste Hierarchy and Fuel Availability Study.
- 21.1.4 The applicant will continue to engage with statutory and technical consultees, particularly to seek to agree Statements of Common Ground where appropriate and in particular with the Environment Agency, Natural England and Kent County Council. Appropriate steps will then be taken to continue to engage with those parties who have expressed an interest in the project, as the application moves forward towards formal examination.