Wheelabrator TECHNOLOGIES

Planning Statement

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

PINS Ref: EN010083

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

Document 4.2
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Executive Summary

EFW/WTI Holdings Ltd (a subsidiary of Wheelabrator Technologies Inc.) are seeking a Development Consent Order ('DCO') for the construction and operation of the Wheelabrator Kemsley ('K3' Generating Station) and the 'Wheelabrator Kemsley North' (WKN) energy from waste facility.

Planning permission was granted for K3 by Kent County Council in 2012. Construction of the plant began in July 2016 and is expected to be completed with the plant operational by late 2019. K3, as consented, will be capable of processing 550,000 tonnes of waste per annum and will have a generating capacity of 49.9 megawatts (MW). The applicant has identified that K3 would be capable of processing an additional 107,000 tonnes of waste per annum and generating an additional 25.1MW of electricity without any changes to the external layout or design as consented and as currently being constructed.

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 up to 75MW together with its proposed tonnage throughput of up to 657,000 tonnes per annum. However the practical effect of the K3 proposed development remains the additional 25.1MW generating capacity and 107,000 tonne increased throughput. It is intended that the DCO would replace the existing K3 planning permission and become the operational consent for the K3 facility.

The proposed WKN waste-to-energy facility would be capable of processing 390,000 tonnes of waste per annum, with a generating capacity of 42MW. As the generating capacity of WKN is below 50MW it does not qualify as an NSIP under the Planning Act 2008, but the Secretary of State has directed that development consent be sought for WKN on the basis that it is considered to be nationally significant.

The draft DCO makes provision for works to construct and operate K3 and WKN together with other associated elements. Three groups of Requirements are proposed; general requirements and those relating specifically to K3 and WKN. The K3 requirements transpose any conditions still relevant from the K3 planning permission into the DCO. Any approved plans and documents relating to the K3 facility are listed within the DCO for certification.

K3 is an NSIP and as such the Secretary of State will determine the K3 element of the application in accordance with the relevant National Policy Statements; in this case EN-1 and EN-3. WKN is not an NSIP and will not be determined in accordance with the NPS's, albeit they are considered to remain an important and relevant consideration.

The K3 and WKN proposed developments have been assessed against the range of generic environmental impacts identified in EN-1 and EN-2. The Environmental Statement which supports the application proposes a range of mitigation measures where appropriate, which are secured through Requirements in the draft DCO and which ensure that K3 and WKN are environmentally benign.

EN-1 makes clear that there is an urgent need for energy projects to come forward. K3 and WKN would both be capable of generating energy using waste without prejudicing

either the waste hierarchy or national and/or local waste strategies. No policy conflicts are identified for the K3 and WKN proposed developments. There are not considered to be any adverse impacts arising from the K3 and WKN proposed development (including the practical effect of the K3 proposed development) which outweigh the benefits the facilities would bring in terms of energy generation and waste management. It is therefore submitted that K3 is in accordance with EN-1 and EN-3 and that accordingly development consent should be granted. In the case of WKN, EN-1 and EN-3 are submitted to be an important and relevant consideration and in the absence of any adverse impacts it is requested that development consent be granted.

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Glossary

ACC – Air Cooled Condenser

AOD – Above Ordnance Datum: above mean sea level

AQMA – Air Quality Management Area

CEMP – Construction Environmental management Plan

CHP – Combined Heat and Power Plant

CCS – Carbon Capture and Storage

CCR – Carbon Capture Readiness

CTMP – Construction Traffic Management Plan

DCO – Development Consent Order

dDCO – Draft Development Consent Order

BEIS – Secretary of State for Business, Energy and Industrial Strategy

EIA – Environmental Impact Assessment

EIA Regulations – The Infrastructure Planning (Environmental Impact Assessment) Regulation 2017

EN-1 – Overarching National Policy Statement for Energy

EN-3 – National Policy Statement for Renewable Energy Infrastructure

ES – Environmental Statement: provides the written account of the findings of the EIA.

HRSG – Heat Recovery Steam Boiler

IBA – Incinerator Bottom Ash: the ash that is left over after waste is burnt in an incinerator.

KCC – Kent County Council

LWS – Local Wildlife Site

MHCLG – Ministry of Housing, Communities and Local Government

MW – Megawatts

MWth – Megawatt Thermal

NNR – National Nature Reserve

NPPF – National Planning Policy Framework

NPPG – National Planning Policy Guidance

NPS – National Policy Statement

NSIP – Nationally Significant Infrastructure Project

PINS – Planning Inspectorate

RAMSAR – a site designated under the 1971 Ramsar Convention on wetlands

SAC – Special Area of Conservation

SBC – Swale Borough Council

SoS – Secretary of State

SPA – Special Protection Area (pSPA – proposed Special Protection Area)

SSSI – Site of Special Scientific Interest

WTI – Wheelabrator Technologies Inc.

WtE – Waste-to-Energy

1 Introduction

1.1 Context

1.1.1 This Planning Statement has been produced in support of an application by WTI/EFW Holdings Ltd to the Secretary of State for Business, Energy and Industrial Strategy ("SoS") for a Development Consent Order ('DCO') for the construction and operation of the Wheelabrator Kemsley ('K3' Generating Station) with a generating capacity of up to 75MW and the construction and operation of a new 42MW gross waste-to-energy facility, 'Wheelabrator Kemsley North' (WKN).

1.1.2 K3, which is currently under construction, is located adjacent to and east of the DS Smith Kemsley paper mill, in Kemsley, to the north of Sittingbourne. WKN would be constructed on land immediately adjacent to the north of K3.

1.1.3 Planning permission was granted under the Town and Country Planning Act 1990 by Kent County Council in 2012 for a sustainable waste-to-energy facility (K3). Construction of the plant began in July 2016 and is expected to be completed with the plant operational by late 2019. K3, as consented, will be capable of processing 550,000 tonnes of waste per annum and will have a generating capacity of 49.9 megawatts (MW).

1.1.4 The Planning Act 2008 states that the construction or extension of an onshore generating station with a capacity of more than 50MW in England or Wales is considered by Section 14(1)(a) and Section 15 of the Act to be a 'nationally significant infrastructure project' (NSIP) and as such requires an application for a DCO to be made to the Planning Inspectorate (PINS) for determination and approval by the SoS.

1.1.5 The applicant has identified that K3 would be capable of processing an additional 107,000 tonnes of waste per annum and generating an additional 25.1MW of electricity without any changes to the external layout or design as consented and as currently being constructed.

1.1.6 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 up to 75MW (49.9MW consented + 25.1MW upgrade) together with its proposed tonnage throughput of up to 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase).

1.1.7 The proposed WKN waste-to-energy facility would be capable of processing 390,000 tonnes of waste per annum, with a generating capacity of 42MW. As the generating capacity of WKN is below 50MW it does not qualify as an NSIP under the Planning Act 2008. Instead WTI made a formal application on the 1st June 2018 to the SoS under Section 35 of the Planning Act 2008 for a direction as to whether WKN, together with any matters associated with it, can be treated as a development for which Development Consent is required. The SoS issued his direction on the 27th June 2018 confirming that WKN is to be treated as development for which Development Consent is required. Accordingly the application seeks development consent for WKN.

1.1.8 Consent for the K3 and WKN Proposed Developments is therefore being sought through a single application to the SoS via the Planning Inspectorate for a single DCO.

1.1.9 This Planning Statement assesses the extent to which the proposed development complies with the planning policies relevant to the K3 and WKN proposals, together with identifying any other factors which would constitute other relevant and important matters under S104 and S105 of The Planning Act 2008, and documenting the relationship between the K3 element of the proposed DCO and the existing K3 planning permission.

1.2 Using this Statement

1.2.1 This Planning Statement should be read alongside the other documents which form the DCO application, and in particular:

- The Application Guide [Document 1.2];
- The draft Development Consent Order and its Explanatory Memorandum [Documents 2.1 and 2.2];
- The 2019 Environmental Statement and Non-Technical Summary [Documents 3.1 and 3.2] and the 2010 Environmental Statement and Non-Technical Summary [Documents 3.3 and 3.4];
- The Consultation Report [Document 4.1];
- The Design and Access Statement [Document 4.3].

1.2.2 Chapters 2 to 6 provide an overview of the application for the DCO, the proposal sites and the K3 and WKN proposed developments. Chapters 7 to 10 summarise the approach taken within the draft DCO to matters such as Requirements, approved K3 drawings and obligations.

1.2.3 Chapters 11, 12 and 13 establish the policy context set out in the relevant NPS's and local planning policies. Chapter 14 sets out the principle of and the need for the K3 and WKN proposed developments. Chapters 16 to 29 then appraise each of the generic impacts set out within the EN-1, with reference to the more specific impacts within EN-3, where appropriate.

2 The DCO Application

2.1 The Draft Order

2.1.1 The draft Order is 'The Wheelabrator Kemsley (K3 Generating Station) and (WKN Waste-to-Energy Facility) Order.

2.2 The Applicant

2.2.1 The applicant is WTI/EFW Holdings Ltd, who are a subsidiary of Wheelabrator Technologies Inc. ("WTI").

2.2.2 Whilst WTI/EFW Holdings Ltd are the formal applicant, for ease reference is made to WTI throughout the application documents, including this Statement.

2.2.3 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.

2.2.4 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, 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.

2.2.5 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.

2.2.6 For more on Wheelabrator, please visit www.wtienergy.co.uk.

2.3 Project Team

2.3.1 The Project Team assembled by WTI for this application comprises the following:

Consultant	Input
Carmague	Public Relations
DHA Environment	EIA Co-ordination
DHA Planning	Planning consultant
Fichtner Consulting Engineers	CHP Assessment
Fieldfisher	Legal advisor
GSDA	Project Architects
Hendeca	Waste Consultant
LRS	Land referencing

RPS	Environmental topic specialists
SLR	Carbon Assessments

2.4 The DCO Application

2.4.1 The Application Guide [Document 1.2] provides a full list of the documents and plans submitted which form the DCO application.

3 Site Context and Surroundings

3.1.1 The Design and Access Statement [Document 5.3] and 2019 ES [Document 3.1] include a full appraisal of the proposal site and its context and surroundings, a summary of which is provided here for context.

3.2 The Proposal Site(s)

3.2.1 The K3 site is located on land immediately to the east of the Kemsley Paper Mill, located to the east of Kemsley, a residential suburb in the north of Sittingbourne in Kent. To the south of the site lies a capped former landfill site which lies adjacent to the confluence between Milton Creek and the Swale Estuary.

3.2.2 The WKN site is located immediately north of the permitted K3 facility which is currently under construction and immediately to the east of the Kemsley Paper Mill. The proposed WKN site is currently being used by WTI as the laydown and parking area for the construction of the adjacent K3 facility. The site has been cleared of vegetation and laid to concrete or hardcore with a perimeter fence.

3.2.3 To the east of the site lies the Swale Estuary with the Isle of Sheppey beyond. Immediately to the north of the site lie the Kemsley Marshes beyond which lies the Kemsley Paper Mill effluent treatment works and a jetty operated by Knauf for the import of gypsum by barge.

3.2.4 Sittingbourne is situated approximately 2.6km south of the application site. The site lies in proximity to A249 which links to both the M2 and M20 motorways to the south and with the Isle of Sheppey to the north.

3.2.5 The DCO boundary comprises the construction zone/site of the existing K3 development and proposed WKN development, together with existing and proposed electricity and water tie ins, internal access roads leading to a roundabout on Barge Way to the north of the site and the proposed laydown area to be used during construction of WKN to the north east of the site.

3.2.6 For the purposes of this application the following terminology is used:

- **K3** – refers to the permitted Wheelabrator Kemsley waste-to-energy facility (K3) under the Town and Country Planning Act 1990 by Kent County Council (KCC/SW/10/444 as amended) in 2012.

- **The K3 proposed development** – refers to the construction and operation of waste-to-energy facility with a generating capacity of up to 75MW, 'the Wheelabrator Kemsley Generating Station' (K3), which is currently under construction;

- **Practical effect of the K3 proposed development** – refers to the increase in electrical output of up to 25.1MW and processing of an additional 107,000 tonnes of waste per annum which is in addition to the permitted Wheelabrator Kemsley waste-to-energy facility (K3) under the Town and Country Planning Act 1990 by Kent County Council (KCC/SW/10/444 as amended) in 2012.

- **The WKN proposed development** – refers to the construction and operation of a new 42MW gross waste-to-energy facility, 'Wheelabrator Kemsley North' (WKN);

- **The DCO boundary/site** – the entirety of the land within the DCO boundary including by K3 and WKN; and

- **K4** – Refers to the DS Smith Paper Ltd Kemsley Paper Mill (K4) CHP Plant Development Consent Order which was granted on 5th July 2019.

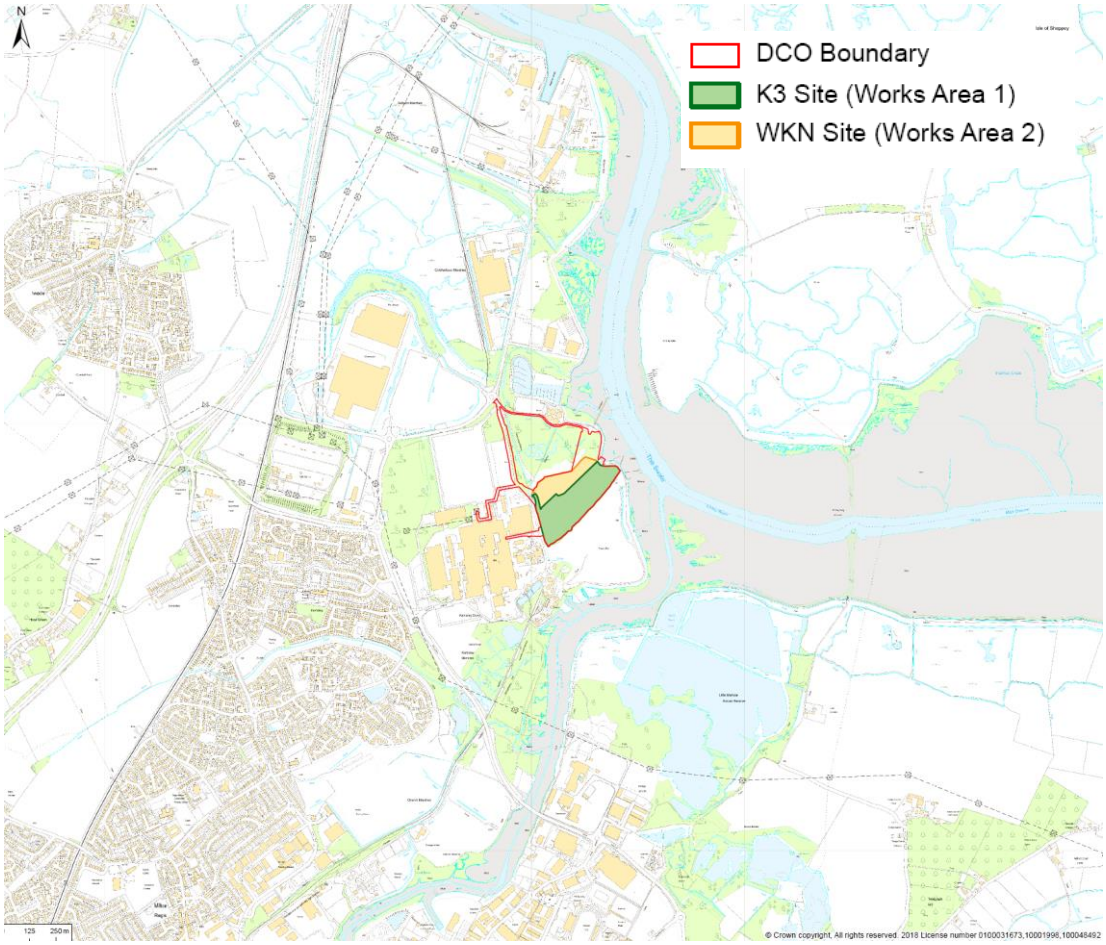

Figure 3.1 – DCO Site Location and Boundary

3.3 Planning History

3.3.1 The full planning history of the K3 and WKN development sites is provided in **Appendix A**, together with a summary of other relevant applications locally.

3.3.2 The K3 development site does not have any historical planning history for other uses, prior to consent first being obtained for the K3 facility in 2012, under reference SW/444/10. **Appendix B** contains the original decision notice and accompanying S106 relating to that application, with the Committee Report relating to that application provided as **Appendix C** to this Statement.

3.3.3 The K3 site does then have an extensive planning history relating to a series of non-material amendments, applications to vary the terms of the original K3 planning permission and to discharge the conditions relating to it. Separately the access road serving the K3 site, which runs along the eastern side of the Kemsley paper mill, was the subject of its own planning permission granted in 2012 which has also been the subject of further amendments since.

3.3.4 The current operational consent for the K3 facility is SW/19/501345 and was granted on the 14th June 2019. It resulted from an application to remove a planning condition under Section 73 of the Town and Country Planning Act 1990; specifically Condition 11 which had required the provision and management of a buffer zone to the west of the K3 site. Appendix D provides the decision notice relating to that application, together with the Ecology note which supported it.

3.3.5 The only consent associated directly with the WKN proposal site was the consent granted in 2017 for the construction and operation of an Incinerator Bottom Ash Recycling Facility on the WKN site. That consent expires in February 2020.

3.3.6 An anaerobic digester was consented in 2012 to serve the DS Smith Kemsley Paper mill and has since been constructed on land to the north of the Jetty Road which would be used to access the WKN construction laydown area. DS Smith obtained development consent in July 2019 for the construction and operation of 'K4'; a gas fired combined heat and power plant which will be constructed within the Kemsley Paper Mill site and which will replace an existing CHP plant ('K2') and provide heat and steam to the paper mill.

4 Waste-to-Energy Process

4.1.1 Figure 4.4 provides a simplified illustration of the waste-to-energy process which will be undertaken within the K3 facility and the proposed WKN facility.

4.1.2 The simplified steps are as follows:

(1) A crane places post-recycled waste from a bunker into a fuel hopper. The waste then drops down a feed chute onto a moving grate;

(2) The action of the moving grate turns the waste to allow it to fully combust;

(3) Hot gases produced in the combustion process pass through a water boiler where the water is converted to high pressure steam;

(4) A control room monitors processes and air quality – which is also regulated by the Environment Agency;

(5) The steam drives a highly efficient turbine to create clean electricity;

(6) Part of the steam we create could be used by other businesses to help reduce their reliance on fossil fuels and reduce their overall carbon footprint;

(7) Electricity is produced and exported to homes and businesses via the National Grid distribution network.

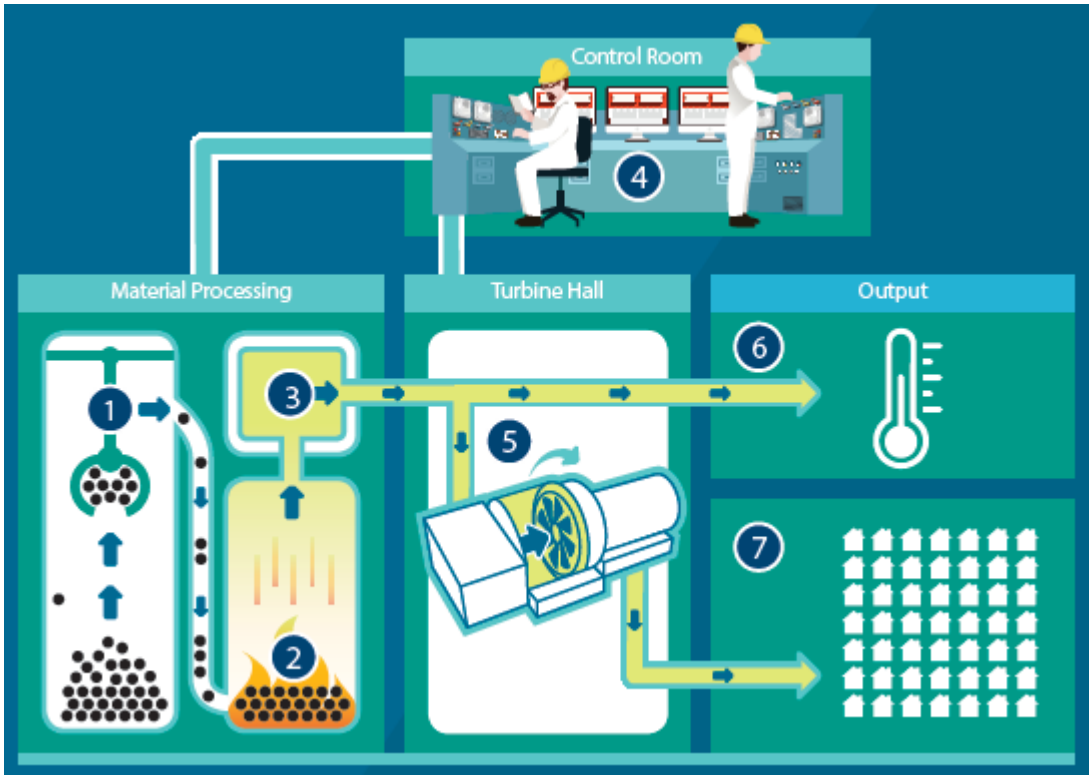

Figure 4.4 – WtE Process

5 Proposed Development – Kemsley K3 Generating Station

5.1.1 The Development Consent Order seeks consent for the construction and operation of a waste-to-energy facility with a generating capacity of up to 75MW and with an annual waste throughput of 657,000 tonnes, 'the Wheelabrator Kemsley ("K3" Generating Station)'.

5.2 Background

5.2.1 In early 2010 an application was submitted to Kent County Council under the Town and Country Planning Act 1990 by St Regis Paper Co Ltd and EON Energy from Waste UK Ltd for a 'sustainable energy plant' ('now known as K3') on land to the east of the Kemsley Paper Mill, to the north of Sittingbourne.

5.2.2 The application was validated on the 23rd March 2010 and given the reference SW/10/444. The description of development within the 2010 application was as follows:

> *'Development of a sustainable energy plant to serve Kemsley Paper Mill, comprising pre-treated waste fuel reception, moving grate technology, power generation and export facility, air cooled condenser, 2 no stacks (90m high), transformer, bottom ash facility, steam pipe connection, office accommodation, vehicle parking, landscaping, drainage and access.'*

5.2.3 The intention was for the plant to be constructed to provide steam and power to the Kemsley Paper Mill.

5.2.4 In May 2010 WTI and EON entered the North London Waste Authority (NLWA) Tender, with the intention being for waste arising from the NLWA to be dealt with by K3. In October 2010 the Private Funding Initiative (PFI) credits for the NLWA tender were withdrawn.

5.2.5 Planning permission was granted for K3 by Kent County Council on the 6th March 2012. The K3 facility, as consented, has two 102MWth lines, is capable of processing up to 550,000 tonnes of waste per annum and has an electricity generating capacity of up to 49.9MW.

5.2.6 Subsequent to consent being issued for K3 the NLWA procurement process was cancelled in September 2013. However WTI decided to build out K3 and accordingly the necessary transfer agreements with St Regis and EON were put in place and construction of the K3 plant by WTI began in July 2016. K3 will still supply steam to the Kemsley Paper Mill and will export electricity to the national grid. The waste processed by K3 will come from a range of commercial and industrial sources.

5.2.7 As demonstrated by Table 3.3. there have been a number of applications made since to vary the terms of the SW/10/444 consent under S73 of the Town and Country Planning Act 1990, to discharge the conditions attached to SW/10/444 and to make non-material variations to the layout and design of the facility. The

'operational' consent for the facility currently comprises SW/19/501345 which was granted on 14th June 2019 and which is provided as **Appendix D** to this Statement.

5.2.8 Figure 5.1 shows the K3 facility at July 2019. The construction of the K3 facility is expected to be completed shortly with the plant operational, under the terms of its existing town and country planning consent, by late 2019.

Figure 5.1 – K3 facility being constructed (July 2019)

5.3 Proposed Development

5.3.1 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 layout or design, of generating an additional 25.1MW of electricity.

Generating Capacity

5.3.2 The ability to increase the generating capacity of K3 reflects improvements to the efficiency of waste-to-energy plant technology since the original application was made.

5.3.3 The generating capacity of a waste-to-energy facility is not predicated on the amount of waste being processed per annum. Instead it reflects the ability of a facility to take the energy being created by the combustion of a particular 'load' of waste at any one time and to use that energy to create sufficient steam which in turn is used to power a turbine. In simple terms the generating capacity of a facility is dependent on a range of factors including the energy being generated by combustion, the amount of steam being created, the ability to transfer that steam to the turbine and the capacity of the turbine itself, together with the generation capabilities of the wider systems within the facility.

5.3.4 As currently being constructed K3 is physically able to generate up to 49.9MW of electrical power, whilst also providing steam to the Kemsley Paper Mill. In

particular there are physical restrictions within the systems supplying steam to the turbine which prevent sufficient steam from being transferred in order to generate above 49.9MW of electrical power.

5.3.5 The improvements in the efficiency of waste-to-energy technology means that, at times when steam is not being provided to the Kemsley Paper Mill (for instance at times when paper machines are being maintained or if steam is being provided from other sources) K3 would be producing sufficient steam to generate up to 75MW of electricity.

5.3.6 The turbine installed within K3 has sufficient operational capacity to generate up to 75MW. In order to facilitate the proposed increase in generating capacity therefore requires internal works to derestrict the flow of steam to the turbine, together with works to reconfigure the central control system. No other changes to the external design or layout of K3 are required.

Waste Throughput

5.3.7 WTI's experience of similar waste-to-energy facilities is that their annual availability (i.e. the amount of time the facility can operate between routine maintenance shut-downs) is beyond expected levels, again due to improvements in waste-to-energy technology and through careful management. That means that K3 is expected to be capable of having an increased operational availability per year compared to the position assessed in 2010, and would therefore be able to process additional waste per annum. Based on WTI's experience of other facilities it is anticipated that K3 would be capable of processing an additional 107,000 tonnes of waste per annum over the 550,000 tonnes currently consented.

5.3.8 In addition WTI's recent experience has demonstrated that the Calorific Value (CV) of the waste being received is varying more than in the past, most likely as a result of improving recycling levels in general within the UK. A lower CV means that more waste has to be combusted to generate the same levels of electricity output, and the proposed increase in tonnage throughput would allow WTI more flexibility to ensure the K3 facility is effectively generating electricity and steam despite potential variance in the CV of the waste being processed.

5.4 The Application

5.4.1 As demonstrated in the description above the proposed increase in generating capacity and waste tonnage throughput would not require any changes to the built form or to the layout of K3 as consented and currently being constructed. There would be no increase in the amount of staff required to operate the facility and the facility will continue to be able to operate twenty-four hours a day seven days a week. The increase in waste throughput would generate an additional 34 HGV visits to the site (or 68 HGV movements) per day above the current K3 consent therefore taking total daily HGV's associated with the K3 Proposed Development to 208 (or 416 movements).

5.4.2 As documented in the Consultation Report [Document 5.1], in 2017 WTI held discussions with PINS regarding an application for a Development Consent Order to allow K3 to generate up to 75MW of electricity, and subsequently consulted on and publicised that proposed application under Sections 42, 47 and 48 of the Act.

At that stage, in 2017, the construction of K3 was not significantly advanced and the application proposed at that time was for the construction and operation of K3 to its proposed generating capacity of 75MW, which therefore under the Act represented the construction of an onshore generating station with a generating capacity of over 50MW.

5.4.3 Subsequent to those discussions WTI decided to seek consent for the waste throughput tonnage increase for K3 alongside that increase in generating capacity, and also to seek consent for the WKN facility (having obtained a Section 35 Direction for WKN to that effect) through a single application for a single DCO.

5.4.4 In late 2018 WTI therefore again publicised and consulted on the proposed application under Sections 42, 47 and 48 of the Act. By that time the construction of K3 was significantly advanced. The application as described in the 2018 consultation was to be for the extension of an existing onshore generating station, given the resulting generating capacity of K3 would be above the 50MW threshold set out within the Act.

5.4.5 However due to the nature of the physical works needed to upgrade the K3 facility from its consented generating capacity of 49.9MW to its proposed generating capacity of 75MW, and in order for the K3 project to be properly categorised and consented under the Planning Act 2008, consent is now being sought for the construction and operation of K3 at its total generating capacity of up to 75MW (49.9MW consented + 25.1MW upgrade) together with its proposed tonnage throughput of 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase).

5.4.6 The '***K3 Proposed Development***' is therefore a generating station with a generating capacity of 75MW and an annual waste tonnage throughput of up to 657,000 tonnes. However, given K3 is substantially constructed and will be operational by the end of 2019, to its consented generating capacity of 49.9MW and its consented throughput of 657,000 tonnes, the '***practical effect***' of development consent being granted would simply be K3, as constructed and operating under its existing planning permission, being capable of generating an additional 25.1MW and processing an additional 107,000 tonnes of waste per annum.

5.5 The Environmental Effects of the K3 Proposed Development

5.5.1 The K3 Proposed Development is EIA development as set out within Schedule 1 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, as it is a waste disposal installation with a capacity exceeding 100 tonnes per day.

5.5.2 The application is therefore accompany by an Environmental Impact Assessment, in the form of the 2019 Environmental Statement [Document 3.1] and 2019 Non-Technical Summary [Document 3.2].

5.5.3 The application is also accompanied by the 2010 Environmental Statement [Document 3.3] and 2010 Non-Technical Summary [Document 3.4] which accompanied the original planning application for K3, together with any addendum ES chapters or assessments submitted pursuant to the subsequent applications to amend the original K3 consent.

5.5.4 The 2010 ES assessed the likely significant effects arising from the construction of the K3 facility and its operation to a generating capacity of up to 49.9MW and a tonnage throughput of up to 550,000 tonnes per annum. The 2010 ES is therefore used within this application to demonstrate the likely significant effects arising from the construction of the K3 facility. Any mitigation measures arising from the 2010 ES were then addressed by conditions imposed on the K3 planning permission. Any mitigation measures, and therefore conditions, which remain relevant have been transposed into the dDCO.

5.5.5 The 2019 ES then assesses the likely significant environmental effects arising from the construction of K3 for topics which were not covered in the 2010 ES, namely human health and climate change. It then undertakes a fresh assessment within each topic chapter of the likely significant environmental effects of the operation of K3 from 0 - 75MW in terms of generating capacity and with a throughput of 0 - 657,000 tonnes.

5.5.6 In addition the 2019 ES includes for each topic chapter an assessment of the likely significant environmental effects of the practical effect of the DCO application, which are the effects arising from the increase in generating capacity from 49.9MW to 75MW (25.1MW) and from the increase in tonnage throughput from 550,000 tonnes to 657,000 tonnes (107,000 tonnes).

5.6 The status of the K3 planning consent

5.6.1 The DCO, if granted, would become the operational consent for the K3 facility. Article 4 of the dDCO makes provision that K3 could not be operated to its proposed increased operational capacity and increased tonnage throughput until notice is served on the relevant planning authority that the undertaker is ceasing to operate the K3 facility under the terms of the K3 planning permission. At the point of that notice being served the operation of K3 would be controlled by the DCO as sought through this application.

5.6.2 All conditions within the K3 planning permission which relate to the construction of the K3 facility have been discharged, in order for the K3 facility to be constructed. Any planning conditions which remain relevant to the operation of the K3 facility, or to the installation of elements such as landscaping, are then being transferred to the DCO, to ensure that any operational mitigation measures identified within the original 2012 K3 planning permission (as amended) continue to be secured through the DCO. Chapter 8 of this Statement explains the status of each of the conditions attached to the K3 planning permission.

5.7 The Approach taken by this Planning Statement to K3

5.7.1 As set out the ES includes various scenarios relating to the K3 Proposed Development and the Practical Effect on K3 of development consent being granted, which reflect the fact that development consent is being sought for the construction and operation of K3 to its proposed 75MW generating capacity and 657,000 tonnes annual throughput.

5.7.2 K3 is expected to be operating to the terms of its existing planning permission by the end of 2019. K3 will therefore be operational by the conclusion of the examination by the Examining Authority of the application for the DCO proposed,

which is anticipated to be around mid-2020, and by the time that a decision is made on the application which this Statement accompanies, which is expected to be around the end of 2020. The effect of development consent being granted would be the 'practical effect' described within this Chapter, of K3 being capable of generating an additional 25.1MW and being able of processing an additional 107,000 tonnes of waste per annum.

5.7.3 On that basis, and on the basis that K3 is expected to be operational by the point at which the DCO application is examined, this Planning Statement focuses on the compliance in planning policy terms of the practical effect of the proposed DCO on K3. Nonetheless a summary of the individual elements of K3 and the operational process is provided for context at this stage.

5.8 The K3 facility and process

5.8.1 As proposed K3 would process up to 657,000 tonnes of commercial and industrial wastes each year to produce electricity for export to the distribution network and steam for export to the Kemsley Paper Mill.

5.8.2 K3 is permitted to operate twenty-four hours a day seven days a week. At present all waste would be brought to the site in heavy goods vehicles (HGVs) or in Refuse Collection Vehicles (RCV's). Operational traffic will enter the K3 Site from the A249 via Swale Way before heading north along Barge Way and then via the existing Kemsley Paper Mill northern access road.

K3 as proposed would require up to 208 HGV/RCVs per day (416 movements) associated with waste delivery, bottom ash removal and other operational requirements.

5.8.3 On arrival waste vehicles will be weighed on weighbridges at the entrance before vehicles proceed to the tipping hall. Once at the tipping hall vehicles will be directed to one of 7 unloading bays from which waste is then deposited into the fuel (waste) bunker. The bunker principally takes the form of a recessed rectangular pit and can accommodate in excess of 4 days' worth of anticipated waste processing capacity. The waste material can vary widely in moisture content and thermal value, so it is continually managed in the bunker to ensure consistency prior to the combustion process.

5.8.4 Overhead cranes transfer the waste from the waste bunker into a feed hopper to the boilers. K3 has two combustion lines and associated boilers. Inside each boiler, an inclined, reciprocating, metal grate slowly moves the waste through a controlled thermal (heating) process, at temperatures in excess of 1000°C.

5.8.5 The combustion of the waste produces hot gases which are subsequently passed through a series of boiler tubes filled with water, creating high-pressure steam. This steam is used to drive a turbine in the turbine hall which in turn produces electricity. The electricity produced will be exported to the distribution network, owned and operated by UK Power Networks.

5.8.6 Once the steam has passed through the turbine generators it is cooled by way of transfer to the air-cooled condenser units. As the steam loses heat it cools and then condenses and is fed back into the feed water tanks ready for re-use in the waste-to-energy process. An element of the low-pressure steam (up to 50MWth

per hour) is fed to the Kemsley Paper Mill in a closed loop circuit whereby once utilised in the paper making process it is conveyed back to the air-cooled condenser units of the K3 facility.

5.8.7 Once heat from the hot combustion gas is absorbed into the boiler tubes to produce steam, the gas is then transferred from the boiler into the gas treatment facility. The gas is then denitrified by a process which turns nitrogen oxides to nitrogen and steam. The reducing agent is ammonium hydroxide which reacts with the nitrogen dioxide of the flue gases.

5.8.8 The gas is then further treated by a spray absorber which injects water slaked lime into the flue gases which facilitates the separation of chloride and sulphur dioxide. Dry charcoal and lime are then injected into the flue gas which separates heavy metals, dioxin and furans by absorption. Finally, the gas is passed through a fabric filter that collects any fly ash and extracted pollutants in the flue gas. Clean exhaust gas is then transported to the stack and dispersed into the atmosphere. All collected fly ash is disposed of appropriately in accordance with contemporary waste management regulations.

5.8.9 Exhaust emissions will be monitored by a Continuous Emissions Monitoring System (CEMS).

5.8.10 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.

5.8.11 The K3 facility includes a number of ancillary facilities including mechanical and electrical workshops, a backup diesel generator (to allow for a safe shut down in the event of a loss of power), diesel stores, Flue Gas Treatment reagent stores and a demineralised water plant, lighting and on-site operative and visitor parking.

5.8.12 The steam connection to the Kemsley Paper mill is via an above ground pipe. The electricity grid connection is made to an existing substation within the Kemsley Paper Mill site, via underground cabling and ducting. A foul sewer connection for sanitary waste is made to the nearby Southern Water treatment works. Water used within the process is continually condensed and recycled. Clean surface water is collected and stored in an on site lagoon whilst runoff from any potentially contaminated areas is collected and stored in an onsite tank before being used in the process as necessary.

5.8.1 A surface water outfall has been constructed to the east of the K3 Site in the intertidal area between Mean High Water and Mean Low Water for the release of clean water into the Swale as necessary. This outfall is subject to Marine Management Licence (licence number MLA/2017/00316).

5.8.2 As documented in Chapter 9, the original S106 Agreement for K3 as consented includes the requirement to create a new reedbed at Harty Fen on the Isle of Sheppey as part of the RSPB's habitat creation scheme to return farmland to grazing marsh and associated habitats (including reedbed). This was intended to provide alternative breeding habitat, should the present close to the K3 site Marsh

Harrier choose to abandon the Kemsley reedbed, particularly during construction. The reedbed has been created and signed off as complete by the RSPB.

5.8.3 The K3 consent includes a comprehensive strategy of habitat creation and landscaping with associated monitoring and maintenance with the K3 Site.

Environmental Permitting

5.8.4 K3 has been designed to meet the requirements of the Industrial Emissions Directive (IED) and its operation is regulated and monitored by the Environment Agency (EA). The facility will operate in accordance with its Environmental Permit (permit no. EPR/JP3135DK) issued in accordance with Schedule 1 of the EPR which controls emissions to land, air and water associated with the waste-to-energy process with regard to the environment and human health. An amended Environmental Permit would be required for K3 to operate to its proposed generating capacity and tonnage throughput and an application to amend the current permit is being prepared alongside the DCO application.

6 Proposed Development - Wheelabrator Kemsley North Waste-to-Energy Plant (WKN)

6.1.1 The WKN Proposed Development would comprise a single line facility capable of processing 390,000 tonnes of waste per annum, with a generating capacity of up to 42MW, on land adjacent to K3 and which is currently being used as the laydown area for the construction of the K3 facility.

6.1.2 The 2019 Environmental Statement [Document 3.1] and the Design and Access Statement [Document 4.3] provide a more detailed description and appraisal of the waste-to-energy process to be carried out within WKN, the WKN facility and the use of parameter plans to provide flexibility for the final design of WKN.

6.2 Process

6.2.1 The waste-to-energy process undertaken within WKN would be the same as K3, with the same technology used, and is therefore as described in Chapters 4 and 5 of this Statement.

6.2.2 The application is submitted on the basis that up to 390,000 tonnes of waste, which would like the waste processed by K3 arise from commercial and industrial sources, would be delivered to site in HGV's or RCVs, with up to 125 HGV's/RCV's proposed each day of operational. Those deliveries would follow the same route to and from site as that to be used for K3.

6.2.3 The WKN facility would operate separately from K3. Waste would again be transferred into the waste bunker, managed within the bunker and then transferred to the single combustion line and associated boiler. The hot gases produced would be used to produce steam which in the case of WKN would drive a turbine capable of producing up to 42MW of electricity. That electricity would be exported to the distribution network via cabling and ducting which follows the same route and arrives at the same substation as that used for K3.

6.2.4 Steam would be cooled and condensed, with the water then reused within the system. The WKN facility would be CHP ready and therefore enabled to export steam to the DS Smith paper mill via K3 during routine maintenance or to other businesses in the local area, should a suitable customer be identified (in a similar manner to K3).

6.2.5 WKN would include the same air quality control and monitoring systems as those described for K3. Residual ash would also be exported, with any recyclable elements sent to recycling facilities.

6.3 The Proposed WKN Facility

6.3.1 WKN would comprise the same key elements of plant and ancillary plant items as those included in K3, albeit it is a single line facility compared to the two lines accommodated within K3. A full list of proposed plant items/buildings is provided below:

Main plant items:

(a) Raised tipping hall (with demineralised water treatment plant beneath above ground level);

(b) Fuel (waste) bunker;

(c) Boiler hall;

(d) Flue gas treatment building;

(e) Turbine hall housing a steam turbine and generator;

(f) Air cooled condenser;

(g) Stack and associated emissions monitoring system;

(h) Electricity substation;

(i) Stores and utilities;

(j) Admin office;

(k) Fire water tanks; and

(l) Stores (adjacent to landscaping);

Supporting infrastructure:

(m) Weighbridges and gatehouses, storage tanks, raw water tank, diesel generators and vehicle ramp to tipping hall.

6.3.2 Ancillary systems and plant would include diesel storage and a diesel generator, Flue Gas Treatment Reagent chemical storage, a demineralised water plant, parking and lighting.

6.3.3 WKN would connect into the foul sewer pipe that currently serves the K3 Site, before then running to the Southern Water treatment facility.

6.3.4 As with K3 process water would be continually recycled and reused within the waste-to-energy process in the WKN facility. The WKN development includes a new lagoon which would be used to store clean rainwater prior to its discharge into the Swale when necessary. A new outfall pipe into the Swale would be constructed from the outfall headwall already constructed to serve the K3 facility, with an variation to the existing MMO licence already approved (ref: L/2017/00482/2) to allow for that additional discharge to take place.

6.3.5 Any potentially contaminated water would be stored within a tank within the WKN site and used as process water when required.

6.4 WKN Layout, Design and Parameters

6.4.1 Whilst the final detailed design of the WKN Proposed Development will not be materially different to that described in the documents submitted as part of this application for a DCO, the detailed design, construction and commissioning of the facility will be carried out by an experienced contractor should Development Consent be granted and once contracts are placed with the equipment suppliers.

6.4.2 A series of maximum parameters have therefore been proposed for the WKN development to provide a strategic framework for the final design of the facility and to form the basis of the Environmental Impact Assessment of the WKN

Proposed Development as part of the application. The maximum parameters sets a series of 'envelopes' in which each of the major plant items are to be located. These envelopes are larger than the maximum expected dimensions to allow flexibility at the final design stage as to where exactly these plant items are required to be located. This essentially consists of a 5m buffer around each major plant item (where feasible, smaller buffers have been used). All ancillary plant items are included as a general parameter, with a height limit of 10m, so that they have the flexibility to be placed where required around the major plant items, once the final design is set. The parameter plan also demarcates an area to be used to provide a surface water attenuation pond, hard and soft landscaping and biodiversity enhancement measures.

6.4.3 The layout parameters for the WKN Proposed Development are set out in Document 5.6 (The WKN Parameter Plan) and are discussed within the Design and Access Statement [Document 4.3].

6.4.4 The maximum dimensions of the plant/buildings are provided in Table 4.2, with that table also included in the dDCO [Document 2.1]. The maximum dimensions reflect a credible "worst case" for assessment purposes. These are derived by determining the likely maximum size of a building and then adding an additional 10% buffer. It should be noted that these maximums relate to each major element of the development, but it would not be possible to build every plant item/building to the maximum dimensions shown as this would not be physically possible. The dimensions sought allow a reasonable and necessary degree of flexibility should some buildings or structures be required to be larger or taller than expected.

Building or structure	Maximum length (metres)	Maximum width (metres)	Maximum height (metres)	Minimum height (metres)
a) Tipping hall (with demineralised water treatment plant beneath)	45	36	30	-
b) Fuel (waste) bunker	35	36	44	-
c) Boiler hall	50	36	58	-
d) Flue gas treatment building	45	35	44	-
e) Turbine hall	40	25	30	-
f) ACC	45	30	40	-
g) Stack and associated emissions monitoring system	-	4	99	90
h) Electricity Substation	45	30	15	-
i) Stores and utilities	20	10	15	-
j) Admin office	30	15	30	-

k)	Fire water tanks	-	7.2	15	-
l)	Stores (adjacent to landscaping)	40	35	15	-
m)	Supporting infrastructure	-	-	10	-

Table 4.2: maximum dimensions of the proposed WKN facility.

6.4.5 A full suite of photographs from key public viewpoints illustrating the scale and mass of the WKN Proposed Development using the maximum parameters in Table 2.3 are presented as Figures 12.5-16 in Chapter 12 and form the basis of the landscape and visual impact assessment. Document 5.10 provides an illustrative CGI of how K3 and the WKN Proposed Development will look together utilising the maximum worst case parameters set out in Table 2.3.

6.4.6 It should be noted that based on the information available to date it has been determined that a minimum 90m stack is required for the WKN Proposed Development as set out in Chapter 5 - Air Quality of the ES. However, the WKN Proposed Development is not yet at the detailed design stage and an engineering, procurement and construction (EPC) contractor has not been appointed. To be consistent with the approach taken to the other building parameters and to allow a modest degree of flexibility through the permitting process a 10% buffer has been applied to allow the stack height to increase if required. Typically increasing stack height has beneficial effects on ambient air quality by benefit of increased atmospheric dispersion.

Ground Levels

6.4.7 The finished ground level of the main buildings area of the WKN Proposed Development will be 6.3m Above Ordnance Datum (AOD) to reflect the site level on which K3 is being constructed. The ground will be levelled across an area suitably sized to accommodate the structures, storage and access and parking requirements. Areas surrounding the buildings are more likely to be landscaped and undulating. They will not necessarily be levelled from existing pre-development levels as there is no technical requirement to do this.

Biodiversity Enhancements and Landscaping

6.4.8 Landscape proposals will form an integral part of the WKN Proposed Development to provide treatments for the perimeter and internal green spaces. A detailed landscape proposal scheme does not form part of the DCO application but will be secured by way of a Requirement attached to the DCO.

6.4.9 Species rich native grassland would be established over the majority of the landscape areas combined with areas of native shrub mixes. Species would include goat willow (Salix caprea), field maple (Acer campestre), hazel (Corylus avellana), hawthorn (Crataegus monogyna) and blackthorn (Prunus spinosa) and dog rose (Rosa canina) in an open mosaic habitat. The planting treatments would combine to form an intermittent visual screen of vegetation when viewed from surrounding receptors.

6.5 Site Operating hours & employment

6.5.1 Once fully commissioned during regular operation the plant will be operated / manned 24 hours a day 365 days per year. The WKN Proposed Development will generate up to 250 HGV movements per day. HGV movements would be generated throughout the day and would typically be spread fairly equally in terms of hourly movements. Although there may be occasional peaks of HGV movements at various times of the day, these would be balanced by subsequent troughs.

6.5.2 Total staff numbers are expected to be between 35 and 50. Staff arrivals and departures have been based on the K3 shift pattern. Management (8 staff) and maintenance (14 staff) teams will arrive at 07:30 and depart at 16:30; the day work team (10 staff) will arrive at 07:00 and depart at 19:00 and the operating team (17 staff) will work a two-shift pattern 07:00 – 19:00 and 19:00 – 07:00.

6.6 Construction

6.6.1 The entire site preparation and construction programme is anticipated to take approximately 40 months from commencement to take over. This will comprise the following key stages:

- Civil engineering works (month 0-38)– the physical works associated with constructing the facility
- Process works (month 12-38) – mechanical and electrical installation, fit out and commissioning of the plant
- Commissioning of the facility (month 30 – 40)

6.6.2 WKN would be constructed from materials typical to this type of facility, including concrete, concrete reinforcement, cement, bricks, bitumen, exposed structural steelwork, galvanised steel corrugated panels and galvanised steel sheets.

6.6.3 A construction laydown area for WKN is proposed to the north-east of the WKN site and would be accessed via the existing Jetty Road.

6.6.4 It is anticipated that the construction of the WKN Proposed Development will employ 482 people during its peak construction period. Construction working hours for the WKN proposed development would reflect those consented for K3; with the exception of construction using the concrete slip-forming method, construction using constant pour methods for concrete laying and internal process works relating to mechanical and/or electrical equipment installation, construction activities would only take place between 07:00 and 19:00 hours Monday to Friday inclusive and 07:00 and 16:00 hours Saturday and Sunday with no construction activities to take place on Bank or Public Holidays subject to any prior written variation as approved by the Local Planning Authority.

6.7 The Environmental Assessment of the WKN Proposed Development

6.7.1 Given the K3 facility is substantially constructed in accordance with its planning permission, there will not be a scenario where WKN would come forward in the

absence of K3. Therefore the environmental baseline, for the purposes of assessing the likely significant environmental effects of the WKN proposed development, is K3 operating to its currently consented generating capacity of 49.9MW and its consented waste throughput capacity of 657,000 tonnes. Various cumulative assessments are then documented within the ES which address WKN being developed alongside the proposed K3 development.

6.8 WKN Environmental Permit

6.8.1 The Applicant has entered into formal discussions with the EA regarding the Environmental Permit for the WKN proposed development which will control the operation of the WKN facility. The Permit application will be submitted at the same time as the DCO application.

7 The Development Consent Order

7.1.1 The approach taken by the draft Order [Document 2.1] to various issues and matters is discussed within the Explanatory Memorandum [Document 2.2].

7.2 Works

7.2.1 The K3 Works Plan (Documents 5.5a) and WKN Works Plan (Document 5.5b) shows the location of the various Works set out within Schedule 1 of the draft DCO.

K3 Proposed Development

Work No.1 – Construction and operation of an onshore generating station with a generating capacity of up to 75MW and permissible waste throughput of 657,000tpa (the K3 Proposed Development).

Work No. 1A - Installation of grid connection for Work No 1.

Work No. 1B - Installation of steam connection for Work No 1.

Work No. 1C - Alteration of existing private access road to construct, use and maintain Work No 1.

Work No. 1D - Creation of a temporary construction compound and laydown area for the construction of Work No 1.

Work No. 1E - Construction and operation of a surface water outfall for Work No 1.

7.2.2 The K3 works reflect the full scope of works necessary for the construction and operation of K3, given development consent is being sought in those terms. In reality the works described have either been completed or substantially completed at the point of the application being submitted, and are expected to be completed by the end of 2019.

WKN Proposed Development

Work No.2 - An electricity generating station (the WKN Waste-to-Energy Facility) with a gross installed generating capacity of up to 42MW.

Work No.3 – Installation of grid connection for Work No 2.

Work No. 4 - Alteration of existing private access road to construct, use and maintain Work No 2.

Work No. 5 – Temporary construction or alteration of existing private haul road for the construction of Work No 2.

Work No. 6 - Creation of a temporary construction compound and laydown area for the construction of Work No 2.

Work No. 7 - Construction and operation of a new surface water outfall for Work No 2.

7.3 Requirements

7.3.1 Paragraph 4.1.7 of EN-1 states that Requirements should only be imposed which are necessary, relevant to planning, relevant to the development to be consented, enforceable, precise and reasonable in all other respects.

7.3.2 The Requirements within the dDCO have been split into three separate sections; General Requirements, Project K3 Requirements and Project WKN Requirements.

7.3.3 **Appendix E** to this Statement contains a schedule of the conditions imposed on the K3 Planning Permission and tracks how those have altered during the subsequent variations applied for and consented, before then summarising the approach taken to each condition in respect of the DCO. The following sections summarise the three separate groups of Requirements included within the DCO, together with addressing specific matters relating to conditions and requirements where relevant.

General Requirements

7.3.4 General Requirements are proposed as follows:

- (2) Commencement of the authorised development
- (3) Notice of Commissioning
- (4) Decommissioning
- (5) Fuel Storage;
- (6) Rail and Water Transportation Strategy;
- (7) Amendments to Approved Plans, etc
- (8) Work in the vicinity of gas apparatus

7.3.5 Requirements 2, 3 and 4 are standard inclusions. Requirement 5 transposes the fuel storage control imposed on the K3 planning permission and applies it equally to the K3 and WKN developments.

7.3.6 Condition 6 of the K3 planning permission required WTI to submit and have approved a strategy to encourage the use of the railway in the vicinity of the application site as a means of transporting waste deliveries to the development. A Rail Strategy was produced and the condition was discharged.

7.3.7 Separate Rail and Water Transportation Strategies [Documents 4.8 and 4.9] have been produced to accompany this application in respect of the K3 and WKN proposed developments. Those documents are discussed in Chapter 28 of this Statement in respect of Traffic and Transportation. Requirement 6 therefore replaces Condition 6 of the K3 planning permission in requiring compliance with

the Rail and Water Transportation Strategy for K3, and then equally applies the same provisions in respect of compliance with the WKN Rail and Water Transportation Strategy to WKN.

7.3.8 Requirement 7 allows for approved plans, other plans, details, schemes or other documents to be amended so long as it can be demonstrated that any amendments would not give rise to any materially new or materially different effects in comparison with the authorised development and provides an appropriate level of flexibility, similar to that seen in other DCO's, in terms of the ability for the relevant planning authority to allow amendments to be made.

7.3.9 Southern Gas Networks have identified that they have a pipeline running under the very north end of the DCO boundary. That pipeline lies at the entrance to the K3 and WKN access road, where no specific physical works in respect of K3 or WKN are proposed. However the dDCO includes general powers for minor operations and activities which apply throughout the DCO boundary area. On that basis a protective requirement has been included which creates a 6m zone around that pipeline within which work cannot be carried out unless SGN have been notified.

K3 Requirements

7.3.10 The dDCO contains the provision, at Article 4, that on the serving of the appropriate notice the K3 facility would cease to operate under the terms of the K3 planning permission and instead would be operated under the terms of the DCO.

7.3.11 The dDCO therefore includes any conditions which remain relevant to the continued operation of K3, following the completion of the construction of the facility.

7.3.12 Any documents and plans submitted as part of the original K3 application, or subsequent applications to vary the original consent, make non-material amendments to the scheme or to discharge conditions have been submitted as part of the application which this Statement accompanies, and are as discussed in Chapter 8 of this Statement.

7.3.13 The K3 Requirements are as follows:

- (9) Approved Details;
- (10) Heavy Goods Vehicles;
- (11) Trees;
- (12) Surface Water Drainage;
- (13) Combined Heat and Power;

Conditions Transposed

7.3.14 Requirement 9 ensures that the K3 development is carried out and remains in accordance with the approved plans and documents for that scheme, which are as listed in Schedule 3 of the dDCO. It therefore transposes Condition 2 of the K3 planning permission.

7.3.15 Requirement 10 controls the numbers of HGV movements per day to and from the K3 facility. It therefore transposes Condition 3 of the K3 planning permission, which performed the same function. Condition 3 sets a limit of 348 HGV movements for the K3 facility as currently consented, with that limit established through an application to vary Condition 3 (SW/18/503317) which was granted by KCC on the 11th October 2018. The limit stated within the DCO is 416 HGV movements, which reflects the additional movements arising from the proposed tonnage throughput increase of 107,000 tonnes of waste per annum. Requirement 9 also then transposes Condition 5 of the K3 Planning permission, which excluded from the HGV limit stated in Condition 3 any movements originating from the railway depot at Ridham Dock. Condition 5 complements the Rail Strategy required to satisfy Condition 6 of the K3 planning permission, and is discussed further in Chapter 28 of this Statement.

7.3.16 The approved K3 documents listed in Schedule 3 include an approved Landscape Master Plan and tree planting details, which are submitted as part of this application. Requirement 11 transposes Condition 15 of the K3 planning permission to ensure the ongoing maintenance and retention of that planting.

7.3.17 Requirement 12 transposes Condition 17 of the K3 planning permission in respect of the ongoing management of surface water drainage and Requirement 13 transposes Condition 23 to ensure that K3 will continue to operate as a CHP plant should the supply of steam to the Kemsley Paper mill cease.

Construction Conditions

7.3.18 The Schedule at Appendix E of this Statement then identifies those conditions within the K3 planning permission which have not been transposed. Those primarily comprise conditions which controlled the construction of K3. K3 is expected to be constructed by the end of 2019, and the proposed K3 development does not require any design or layout changes and therefore no external construction works. As such it is not considered necessary to transpose the following conditions:

- 7) Construction hours
- 8) Timing of Piling
- 10) Contamination
- 12) Environmental Management Plan and Construction Method Statement
- 13) Archaeology
- 18) Work to surface water outfall

Other Conditions not transposed

7.3.19 The following K3 planning permission conditions do not relate to construction, but have not been transposed for the following reasons:

Condition 1 – Expiry of consent

7.3.20 Condition 1 is rendered obsolete by the commencement of the development of the K3 facility and Requirement 2 of the dDCO provides its own time limit for the commencement of the K3 and WKN proposed developments.

Condition 9 – Noise

7.3.21 Based on the assessments undertaken within the ES, which consider the attenuation on the noise levels arising from the operation of K3 and the ability to take the same approach within the WKN scheme, and given the industrialised context, the planning condition previously imposed in relation to noise has not been transposed. Instead, in respect of WKN, Requirement 14 requires noise mitigation measures identified in the ES to be incorporated into the detailed design of the facility.

Condition 14 – landscaping

7.3.22 A scheme of landscaping was first approved as required under Condition 14 on 27th June 2017, with the landscape scheme then amended as necessary pursuant to other variation applications submitted after. The final landscaping scheme is included within Schedule 3 of the dDCO and would be certified as an approved K3 plan, and Requirement 10 within the dDCO ensures that the planting installed in accordance with the landscape masterplan is maintained as appropriate.

Condition 16 – Drainage

7.3.23 The Flood Risk Assessment and Surface Water Management and Foul Drainage Philosophy approved in respect of Condition 16 previously have been transposed into the dDCO by being included in the list of K3 approved plans in Schedule 3, and as such the condition itself does not need to be transposed..

Condition 20 – Storage bunker details

7.3.24 The bunker storage details approved under Condition 20 have also been included within the schedule of plans provided at Schedule 3 of the dDCO, so the condition itself does not need to be transposed.

Condition 21 – External Lighting Strategy

7.3.25 The details approved under Condition 21 in respect of external lighting have been included in Schedule 3.

Condition 22 – Kent and Hinterland

7.3.26 As discussed in Chapter 15 on the Principle of development it is not considered necessary to transpose the hinterland condition given that K3 is nationally significant and is a facility which processes waste arising at a regional level.

WKN Requirements

7.3.27 The dDCO includes a typical set of Requirements relating to the construction and operation of the WKN facility, which are discussed within the Explanatory Memorandum [Document 2.2] and which reflect a combination of model provsions and in some cases, such as Requirements 26 (Construction Hours) and 29 (Employment, Skills and Training Program) the wording of conditions attached to the original K3 planning permission in respect of the K3 facility, where those are considered to also be applicable to WKN.

7.3.28 Requirement 13 (Detailed Design Approval) lists the maximum parameters proposed for individual elements of the WKN facility and provides for full written details of siting, layout, scale and the external appearance of the facility to be submitted to and approved by the relevant planning authority, with those details to accord with the maximum parameters which have been stated within the DCO, subject to the provisions of Requirement 7 which allows the relevant planning authority to amend parameters where any amendment would not give rise to any materially new or materially different environmental effects compared to those parameters presented and assessed within the application.

7.3.29 The WKN Requirements are as follows:

- (14) Detailed Design Approval;
- (15) Provision of Landscaping;
- (16) Implementation and maintenance of Landscaping;
- (17) Fencing and Other Means of Enclosure;
- (18) Surface Water Drainage;
- (19) Contaminated Land and Groundwater;
- (20) Archaeology;
- (21) Ecological Management and Enhancement Plan;
- (22) Construction Environmental Management Plan;
- (23) External Lighting;
- (24) Construction Traffic Management Plan;
- (25) Operational Traffic Routing and Management Plan;
- (26) Travel Plan – operational staff;
- (27) Construction Hours;
- (28) & (29) Piling and Penetrative Foundation Design; and

- (30) Employment, Skills and Training Program.

7.3.30 The above provisions reflect the assessments undertaken within the Environmental Statement and takes forward any mitigation measures identified.

8 K3 Consented Plans, Drawings and Documents

8.1.1 As already noted the dDCO contains the provision, at Article 4, that on the serving of the appropriate notice the K3 facility would cease to operate under the terms of the K3 planning permission and instead would be operated under the terms of the DCO.

8.1.2 Any documents and plans submitted as part of the original K3 application, or subsequent applications to vary the original consent, make non-material amendments to the scheme or to discharge conditions have been submitted as part of the application which this Statement accompanies and are listed at Schedule 3 of the dDCO.

8.1.3 The documents, plans and drawings which are listed in Schedule 3 of the dDCO are as follows:

2010 Environmental Statement (March 2010)

8.1.4 The 2010 Environmental Statement was submitted in support of the original K3 planning application in 2010. The Environmental Impact Assessment for the proposed K3 and WKN projects comprises the 2010 and 2019 Environmental Statements, as documented in the ES [Document 3.1], given development consent is being sought for the construction and operation of K3.

ES Addendum (Air Quality) (June 2013)

8.1.5 A non-material amendment to the site layout was consented on the 2nd September 2013 under reference SW/10/444/R. An ES Addendum relating to air quality was submitted as part of that application to remodel the release of emissions from the stack, given the stack location had changed. That Addendum therefore now forms part of the ES and accordingly has been included.

ES Chapter 10 – Hydrology and Flood Risk (May 2017)

8.1.6 An application was made under reference SW/17/502996 to vary Condition 16 of the original planning permission, which was approved on the 23rd August 2017. Condition 16 relates to drainage, with the application proposing an alternative drainage management regime for the K3 development. The application included an ES Addendum relating to Hydrology and Flood Risk which assessed the impacts of the change in EIA terms and included as an appendix the December 2016 version of the Surface Water Management and Foul Drainage Design Philosophy Statement, which is also separately listed within Schedule 3. As the Addendum forms part of the ES it has been included within Schedule 3.

ES – Addendum (May 2018)

8.1.7 A further variation was approved on the 11th October 2018 under reference SW/18/503317. Condition 3 of the K3 planning permission was varied to increase the number of HGV movements permitted for the K3 facility to result in the 348 movements currently consented. An ES Addendum was included with that application and includes an assessment of the transport and air quality implications

of that change. As such it forms part of the ES and is therefore listed within Schedule 3.

2010 Design and Access Statement

8.1.8 The 2010 Design and Access Statement is referred to within the 2019 Design and Access Statement submitted in support of the application for development consent but is also included in full in Schedule 3.

Surface Water Management and Foul Drainage Design Philosophy (December 2016)

8.1.9 A revised version of the Surface Water Management and Foul Drainage Design Philosophy was submitted as part of application SW/10/444/R which sought non-material amendments to the built elevations, appearance and site layout and which was approved on the 21st December 2018.

Ecological Mitigation and Management Plan (July 2013)

8.1.10 The S106 agreement signed pursuant to the original K3 planning permission contained an August 2011 version of the Ecological Mitigation and Management Plan. A further version of the Management Plan was submitted as part of application SW/10/444/R, which sought non-material amendments to the site layout and which was approved on the 2nd September 2013. The Ecological Mitigation and Management Plan is needed to put in place the provisions first agreed within the S106 and therefore has been included within Schedule 3 of the dDCO.

Flood Risk Assessment (May 2019)

8.1.11 Application SW/18/503317/RVAR was granted on the 16th July 2019 and approved details of landscaping (Condition 14) and the Flood Risk Assessment (Condition 16) pursuant to permission SW/18/503317. The Flood Risk Assessment was approved as part of that application.

K3 Employment Strategy (March 2012)

8.1.12 The original K3 Employment Strategy forms part of the S106 signed pursuant to the original K3 planning permission. It has been reproduced and included within Schedule 3 in order to transpose the provisions contained within the Strategy into the DCO.

K3 Approved Drawings

8.1.13 The drawings and plans submitted and approved through the original planning consent have been amended on a number of occasions through the various non-material amendments and variation applications which have been submitted, together with additional plans added to the set through the discharge of some conditions, such as 20, the design of storage bunkers.

8.1.14 The plans listed within the dDCO, unless individually identified below, reflect those plans approved under non-material amendment SW/18/503317/R on the 21st December 2018. Those plans were listed by KCC for the avoidance of doubt

in the last variation permission approved, SW/19/501345 on 14th June 2019, and the list of plans in Schedule 3 is consistent with that list provided by KCC.

Landscape Masterplan (Revision M)

8.1.15 Application SW/18/503317/RVAR was granted on the 16th July 2019 and approved details of landscaping (Condition 14) and the Flood Risk Assessment (Condition 16) pursuant to permission SW/18/503317. The Landscape Masterplan was approved as part of that application.

Lighting Details

8.1.16 Condition 21, which requires details of an external lighting strategy to be submitted and approved was discharged on the 14th June 2019 under reference SW/18/503317/R21. The details listed within Schedule 3 of the dDCO reflect the details approved.

Access Road – Proposed Internal Access Layout

8.1.17 The access road which provides construction and operational access to both the K3 and WKN sites was consented under a separate planning permission, as discussed in Chapter 8 and as demonstrated in Appendix E.

8.1.18 The development consent order is intended to replace the K3 planning permission. It is not proposed that the DCO would replace the access road consent. However as the access road forms a key part of the K3 and WKN sites the latest version of the road layout plan, which is as approved under application SW/13/1257/R on the 21st December 2018, which made non-material amendments to the access road.

8.2 Other K3 Plans and Documents

8.2.1 In addition to the above a number of additional plans and documents have been submitted which relate to the K3 planning permission but which are not required to be approved within the DCO, as follows:

- ***2010 Non Technical Summary*** – provided for completeness alongside the 2010 Environmental Statement;
- ***2010 Planning Supporting Statement*** - formed part of the original K3 planning application and is therefore included for completeness;
- ***2010 Carbon Assessment*** – formed part of the original K3 planning application and is therefore included for completeness;
- ***2010 Sustainability Assessment*** - formed part of the original K3 planning application and is therefore included for completeness;
- ***2010 Supplementary Biodiversity Information*** - formed part of the original K3 planning application and is therefore included for completeness;

8.2.2 Further information on the K3 planning consent is provided within the appendices to this Planning Statement.

9 Obligations

9.1.1 Section 174 of the Planning Act 2008 allows for development consent obligations to be agreed between an applicant and local authorities. In this case no obligations are proposed as none are considered necessary in order to make the proposed development acceptable in planning terms.

9.1.2 The K3 planning permission was the subject of a S106 agreement between Kent County Council, EON Energy From Waste UK Limited, DS Smith Paper Limited (including its subsidiaries SRP New Thames Limited and Grovehurst Energy Limited) and the Royal Society for the Protection of Birds, which has been submitted as part of the application for information.

9.1.3 The S106 makes provision for three owner/developer obligations; Reedbed Habitat Creation at 'Site 2', the implementation of an Employment Strategy and the Relocation of species to 'Site 3'.

Reedbed Habitat Creation

9.1.4 The S106 identifies an area of land within the Harty Marshes on the Isle of Harty, within the Isle of Sheppey which is 'Site 2', the subject of the Reedbed Habitat Creation scheme which is appended to the S106. The S106 requires the Reedbed Habitat Creation Scheme to be implemented on Site 2 prior to the commencement of development, and then includes an obligation on the RSPB to maintain Site 2 in accordance with the provisions of the Maintenance Scheme.

9.1.5 In accordance with the S106, prior to the commencement of the construction of K3 the Reedbed Habitat Creation was implemented at Site 2 and notice was served to Kent County Council. The site is now being maintained by the RSPB, in accordance with the Maintenance Scheme set out within the S106, which may be varied by the RSPB as necessary following a period of 3 years from the completion of construction activities on Site 1.

Employment Strategy

9.1.6 The Employment Strategy included within the S106 is intended to ensure that wherever possible local companies and individuals are provided with opportunities to benefit from contracts and work opportunities arising from the construction and operation of the K3 facility. As such those elements of the Strategy associated with the construction of K3 have already been implemented. As there are ongoing provisions relating to the operational stage of K3 the Employment Strategy has been reproduced and included within the application and listed in the dDCO as a K3 approved plan/document.

Relocation Scheme

9.1.7 The Relocation Scheme comprises the Ecological Mitigation and Management Plan, dated August 2011, which provides (in summary) for habitat creation and management to ensure mitigation relating to reptiles, habitat creation for a range of nesting and foraging birds, protection of bird breeding habitats, habitat creation

of open moasiac habitat for invertabrates and mitigation for the nationally scarce annual Beard Grass.

9.1.8 A revised version of the Ecological Mitigation and Management Plan, dated July 2013, was then submitted pursuant to application SW/10/444/R, which sought non-material amendments to the site layout and which was approved on 2nd September 2013. That Ecological Mitigation and Management Plan is included as an approved K3 document within Schedule 3 of the dDCO, which will ensure continued compliance with that document.

Summary

9.1.9 As demonstrated by the above WTI have discharged their responsibilities under the Reedbed Habitat Creation scheme, with the continued maintenance of Site 2 now the responsibility of the RSPB. The intention is for the DCO being sought to replace the K3 planning permission as the operational consent for the K3 facility. However that will not affect the status of the S106 signed pursuant to the original K3 planning permission, which will legally remain in place until such time as it is otherwise varied or formally discharged. The requirements of the S106 on the RSPB in terms of the ongoing maintenance of Site 2 will therefore continue.

9.1.10 The Employment Strategy and Ecological Mitigation and Management Plan have then been transposed into the dDCO by being included within the list of approved K3 documents set out within Schedule 3 of the dDCO, which will ensure continued compliance with them. As such, and given no other obligations are considered necessary in respect of the K3/WKN DCO no S106 is proposed.

10 Other Consents and Licences

10.1.1 Applications to amend the existing K3 Environmental Permit to reflect the K3 proposed development and to seek an Environmental Permit for WKN have been progressed and discussed with the Environment Agency, and will be submitted alongside the DCO application.

10.1.2 A Marine Management Organisation licence already exists for the discharge of clean surface water from the K3 lagoon into the Swale via an outfall which has already been constructed. No change is needed to that licence for the K3 proposed development. An additional outfall pipe would be added to discharge clean surface water from the proposed WKN lagoon, with an MMO licence already granted for that discharge activity.

11 Planning Policy – Legislative Context

11.1 Legislative Context

11.1.1 The Act states, at Section 14 (1)(a) and section 15 (1) that the construction or extension of an onshore generating station with a capacity of more than 50 megawatts qualifies as a Nationally Significant Infrastructure Project.

11.1.2 Development Consent is therefore required for the proposed K3 development as it comprises the construction and operation of an onshore generating station with a generating capacity of up to 75MW. Therefore under the provisions of the Act an application for a Development Consent Order has been made to the Planning Inspectorate, with a final decision on the application to be taken by the Secretary of State for Business, Energy and Industrial Strategy.

11.1.3 The proposed new Waste-to-Energy plant, WKN, would be a single 125Mwth line facility with a generating capacity of up to 42MW. WKN is not therefore an NSIP by virtue of its generating capacity.

11.1.4 Section 35 of The Act allows the Secretary of State to direct that a project be treated as a development for which development consent is required, where a development forms part of a project in a field specified within Section 35 (energy, transport, water, waste water and waste), where a project is within England (or the other specific areas stated in Section 35) and where the Secretary of State thinks that the project is of national significance, either by itself or when considered with one or more other projects or proposed projects in the same field.

11.1.5 Instead WTI made a formal application on the 1st June 2018 to the SoS under Section 35 of the Planning Act 2008 for a direction as to whether the WKN project is considered to be nationally significant. The WKN development, as described in that application, was:

> *'An EFW plant of up to 42MW total generating capacity. It will comprise of a single processing line capable of accepting circa 350,000 tonnes per annum of commercial and industrial (C&I) residual waste fuel (RWF) which will generate electricity for export to the local distribution network'*

11.1.6 The site described was the site on which WKN is now proposed.

11.1.7 The SoS issued their direction on the 27th June 2018, which is provided as **Appendix F**, confirming that WKN is to be considered and treated as a development which requires development consent, as the project is considered to be nationally significant. Accordingly the direction states that an application for consent for a development similar to that described within the Request for a Direction is to be treated as a proposed application for which development consent is required. The WKN project as now proposed remains similar to the description of the project provided within the Request and accordingly this application seeks development consent for the WKN project.

11.2 Policy Context

Section 104 of the Planning Act 2008

11.2.1 Section 104 of The Act addresses the making of a decision on an application for a development consent order where a national policy statement has effect to the development to which the application relates.

11.2.2 In those cases, where a national policy statement has effect, the Secretary of State in making their decision, must have regard to:

(a) Any national policy statement which has effect in relation to the development of the description to which the application relates (a "relevant national policy statement");

aa) the appropriate marine policy documents (if any) determined in accordance with Section 59 of the Marine and Coastal Access Act 2009;

(b) any local impact report (within the meaning given by section 60(3)) submitted to the Secretary of State before the deadline specified in a notice under section 60(2),

(c) any matters prescribed in relation to development of the description to which the application relates, and

(d) any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.

11.2.3 Part 3 of Section 104 of the Act states that the SoS must decide the application in accordance with any relevant national policy statement, except to the extent that one or more of subsections (4) to (8) applies:

(4) This subsection applies if the Secretary of State is satisfied that deciding the application in accordance with any relevant national policy statement would lead to the United Kingdom being in breach of any of its international obligations.

(5) This subsection applies if the Secretary of State is satisfied that deciding the application in accordance with any relevant national policy statement would lead to the Secretary of State being in breach of any duty imposed on the Secretary of State by or under any enactment.

(6) This subsection applies if the Secretary of State is satisfied that deciding the application in accordance with any relevant national policy statement would be unlawful by virtue of any enactment.

(7) This subsection applies if the Secretary of State is satisfied that the adverse impact of the proposed development would outweigh its benefits.

(8) This subsection applies if the Secretary of State is satisfied that any condition prescribed for deciding an application otherwise than in accordance with a national policy statement is met.

Section 105 of the Planning Act 2008

11.2.4 Section 105 of The Act then applies where a decision is being made in a case where no national policy statement has effect. In those cases the Secretary of State must have regard to:

(a) any local impact report (within the meaning given by section 60(3)) submitted to the Secretary of State before the deadline specified in a notice under section 60(2),

(b) any matters prescribed in relation to development of the description to which the application relates, and

(c) any other matters which the Secretary of State thinks are both important and relevant to the Secretary of State's decision.

11.3 National Policy Statements

11.3.1 The two National Policy Statements of relevance to the K3 and WKN projects are the Overarching National Policy Statement for Energy (EN-1) and the National Policy Statement for Renewable Energy Infrastructure (EN-3).

11.3.2 EN-1 states, at Section 1.4.2 that it, together with EN-3, will be the primary basis for decision making for onshore electricity generating stations generating more than 50MW. Section 1.8 of EN-3 confirms that it covers renewable energy infrastructure including energy from waste at 50MW or more.

11.3.3 The K3 proposed development is an NSIP, as an onshore generating station which would generate more than 50MW. It therefore falls within the scope of both the EN-1 and EN-3 National Policy Statements. As an NPS has effect the K3 proposed development element of the application will be determined by the Secretary of State under the provisions of Section 104 of the Act. The SoS must decide the application in accordance with the National Policy Statement, unless one of the stated subsections applies, together with having regard to the other matters stated in Section 104, such as local impact reports and any other matters considered to be relevant and important.

11.3.4 The WKN proposed development is not an NSIP, as its generated capacity is below 50MW. It therefore falls outside the scope of the projects addressed by EN-1 and EN-3 and will be determined by the SoS under Section 105 of The Act. Section 105 does not require the SoS to determine the WKN application in accordance with the National Policy Statements, in this case EN-1 and EN-3. However the SoS can still have regard to other matters which are considered to be both important and relevant to their decision. In the case of WKN it is submitted that EN-1 and EN-3 remain important and relevant, as WKN has been accepted through the S35 direction as being of national significance.

11.3.5 Therefore within this Planning Statement the K3 proposed development is assessed against the NPS's. WKN is still assessed against the policies within the NPS's in the first instance, but from the position that they are an important and relevant consideration in respect of the WKN proposed development.

12 National Policy Statements

12.1 EN-1 – Overarching National Policy Statement for Energy

12.1.1 EN-1 sets out national policy for energy infrastructure and is the primary basis for decisions by the SoS on applications for onshore electricity generating stations in England that generate in excess of 50 Megawatts.

12.1.2 Paragraph 4.1.2 emphasises that given the level and urgency of need for energy projects, as set out in Part 3 of EN-1, there is a presumption in favour of granting consent for energy NSIP's. This presumption applies unless there are any more specific and relevant policies set out in the relevant NPS's indicating that consent should be refused and subject to provisions made in the Planning Act 2008 (as set out above).

12.1.3 In considering any proposed development, Paragraph 4.1.3, states that the SoS should take into account the potential benefits of the proposal and weigh those against the potential adverse impacts, taking into account measures to avoid, reduce or compensate.

12.1.4 Parts 1 to 4 of EN-1 set out a number of introductory themes, the Government's general policy on energy and energy infrastructure, the need for new nationally significant infrastructure projects and assessment principles. Those parts of EN-1 are reviewed and assessed within Chapter 14, which deals with the principle of and need for the proposed development.

EN-1 – Part 5 - Generic Impacts

12.1.5 Part 5 of EN-1 provides a list of Generic Impacts which are relevant to energy infrastructure. Each generic impact has been addressed in sections 15 to 29 of this Statement, with the following generic issues considered relevant to the K3 and WKN proposed developments individually:

- Air quality and Emissions;
- Biodiversity and Geological Conservation;
- Civil and Military Aviation and Defence Interests;
- Climate Change;
- Dust, Odour, Artificial Light, Smoke, Steam and Insect Infestation;
- Flood Risk;
- Historic Environment;
- Landscape and Visual;
- Land Use;
- Noise and Vibration;

- Socio-Economic;
- Traffic and Transport;
- Waste Management; and
- Water Quality and Resources.

12.1.6 The only generic impact which is not relevant to the K3 or WKN proposed developments is Coastal Change. Elements relating to flooding are addressed within the Flood Risk chapter. Whilst the proposed developments are situated near to the Swale estuary and the coastline, none of the coastal change issues identified within Section 5.5 of EN-1, such as erosion, coastal landslip, permanent inundation and coastal accretion are considered to exist to the extent that they would have the ability to affect the proposed development, and as such were not assessed within the ES.

12.2 EN-3 – Renewable Energy Infrastructure

12.2.1 The policies set out in this NPS are in addition to those of EN-1 and thus should be considered alongside EN-1. EN-3 sets out the specific policies relating to renewable energy infrastructure including energy from waste infrastructure that exceeds 50 MW.

12.2.2 Paragraph 2.1.2 reiterates that EN-1 sets out the Government's conclusion that there is a significant need for new major energy infrastructure. On that basis 2.1.2 states that the starting point for decisions is that the need for the infrastructure covered by EN-3 has been demonstrated.

12.2.3 Paragraph 2.3.3 states energy from waste generating stations are likely to require significant water resources and should consider how the plant will be resilient to increased risk of flooding and increase risk of drought affecting river flows as part of their ability to adapt to climate change. This is addressed in Section 19 of this Statement.

12.2.4 Section 2.4 deals with good design for energy infrastructure, and is addressed in the Design and Access Statement [Document 4.3].

12.2.5 Paragraph 2.5.2 recognises that the recovery of energy from the combustion of waste will play an increasingly important role in meeting the UK's energy needs and that it will form an important element of waste management strategies in England.

12.2.6 EN-3 states that it covers generating stations that generate electricity using waste, including non-renewable sources of waste, as a fuel and that generate more than 50MW of electricity. Paragraph 2.5.9 notes that waste to energy generating stations would take fuel (waste) that would otherwise be sent or landfill and this waste can come from municipal or commercial and industrial sources.

12.2.7 EN-3 states that proportion of biodegradable waste that may classed as "renewable" is not an issue of relevance in determining the application. In addition, the type of combustion technology and throughput capacity are not factors to be considered in deciding the application. However, the associated

impacts, such as air quality and increased traffic volumes, should be considered in the decision-making process.

EN-3 – Impact Assessment Principles

12.2.8 EN-3 identifies a number of assessment principles that are specific to energy from waste generating stations, however, these overlap with the generic impacts of EN-1:

- National Designations – relating to biodiversity and geological conservation, landscape and visual and historic environment;
- Green Belts – not relevant to the proposed developments; and
- Other Locational Considerations.

EN-3 Waste Impacts

12.2.9 EN-3 also provides details on the potential impacts that are specific to energy from waste generating stations, which expand on some of the generic impacts of EN-1:

- Air Quality and Emissions;
- Landscape and Visual;
- Noise and Vibration;
- Odour, Insect and Vermin Infestation;
- Waste Management;
- Residue Management; and
- Water Quality and Resources;

12.2.10 The only impact listed in addition to those listed in EN-1 is residue management which relates to the bottom ash and flue ash that requires further management. EN-3 also introduces the potential impact of vermin infestation which will be discussed in respect of the EN-1 generic impact of Dust, Odour, Artificial Light, Smoke, Steam and Insect Infestation.

13 Other Planning Policy Context

13.1.1 Section 104 (2) and 105 (2) of the 2008 Act requires the SoS to have regard to any matters it thinks are important and relevant to its decision.

13.1.2 Paragraph 4.1.5 of EN-1 makes clear that the SoS may consider Development Plan Documents or other documents that form part of the Local Plan when assessing an application. Where a conflict arises between those documents and an NPS it confirms that it is the NPS which will prevail for the purposes of decision making under Section 104. In decisions made under Section 105, the presumption in favour of determining the application in accordance with the NPS is absent and the relevant NPS is considered to be important and relevant alongside other national and local policies.

13.2 National Planning Policy

National Planning Policy for Waste

13.2.1 The **National Planning Policy for Waste** (**NPPW**) sets out the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. The NPPW sets out detailed waste planning policies and should be read in conjunction with the National Planning Policy Framework. It seeks to deliver sustainable development and resource efficiency of waste by driving waste up the waste hierarchy.

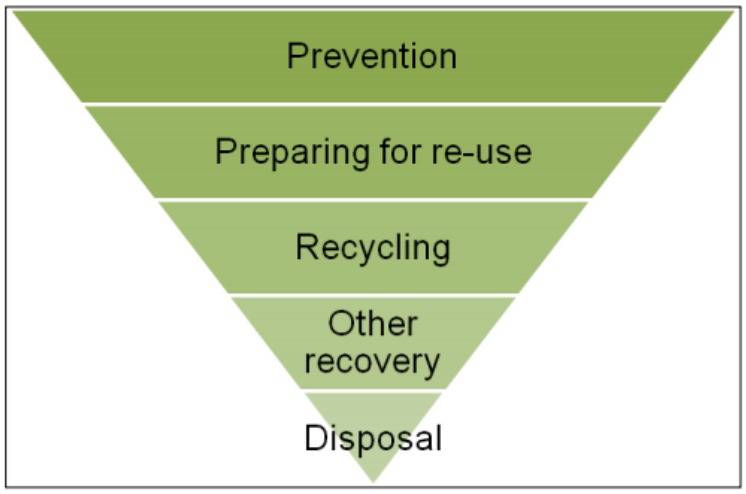

Figure 13.1 The Waste Hierarchy[1]

13.2.2 Paragraph 5 sets out the criteria for assessing the suitability of sites and/or areas for waste management facilities. Paragraph 7 provides the criteria in which local authorities should consider. This includes the demonstration of quantitative or market need where the proposal is not consistent with an up-to-date Local Plan, the recognition of the impacts on local communities and ensuring that the

[1] https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/364759/141015_National_Planning_Policy_for_Waste.pdf

proposal does not undermine the objectives of the Local Plan through prejudicing movement up the waste hierarchy.

13.2.3 Paragraph 7 also requires the consideration of the likely impact on the local environment and on amenity against the criteria set out in Appendix B of the NPPW and the locational implications. This includes:

- protection of water quality and resources and flood risk management;
- Land Instability;
- Landscape and Visual Impacts;
- Nature Conservation;
- Conserving the Historic Environment;
- Traffic and Access;
- Air Emissions, including Dust;
- Odours;
- Vermin and Birds;
- Noise, Light and Vibration;
- Litter; and
- Potential Land Use Conflict.

13.2.4 Where relevant, the NPPW is assessed in the appraisal of the potential impacts identified in NPS's EN-1 and EN-3.

National Planning Policy Framework

13.2.5 The **National Planning Policy Framework (NPPF)** sets out the national planning guidance for England and should be read in conjunction with the NPPW. Paragraph 5 makes clear that the NPPF does not contain specific policies for NSIPs. Whilst it notes that NSIPs are determined in accordance with the Planning Act 2008 and the relevant NPS's, other matters that are relevant, which may include the NPPF, can be considered when determining an application for a DCO. Therefore, the proposed developments have been assessed against the NPPF, where relevant, and the **National Planning Policy Guidance (NPPG)** which accompanies it.

13.2.6 It should be noted that the NPPF published in 2012 was revised in 2019 and the Government is currently in the process of updating the NPPG where required.

13.2.7 The NPPF states that developments should improve the economic, social and environmental conditions of an area and promote sustainable development. It provides details on a number of criteria for which developments should adhere to under different chapters. The following chapters are relevant to the proposed development:

- Chapter 2 – Achieving Sustainable Development;
- Chapter 6 – Building a Strong, Competitive Economy;
- Chapter 8 – Promoting Healthy and Safe Communities;
- Chapter 9 – Promoting Sustainable Transport;
- Chapter 11 – Making Effective use of Land;
- Chapter 12 – Achieving Well-Designed Places;
- Chapter 14 – Meeting the Challenge of Climate Change, Flooding and Coastal Change;
- Chapter 15 – Conserving and Enhancing the Natural Environment; and
- Chapter 16 – Conserving and Enhancing the Historic Environment

13.2.8 Where relevant, the NPPF is assessed in the appraisal of the potential impacts identified in NPS's EN-1 and EN-3.

13.3 Local Planning Policy Context

13.3.1 Whilst the NPS's have effect on the decision has stated in Section 104 of the Planning Act 2008 the SoS must have regard to other matters which the SoS thinks are both important and relevant to the decision. This is likely to include the Local Plans of the relevant local authorities.

13.3.2 As the proposed developments manage and dispose of waste in generating electricity and steam the Kent County Council Mineral and Waste Local Plan, which consists of a suite of documents, is the primary local planning policy. Consideration will also be given to the Swale Borough Council Local Plan where relevant.

County Level Planning Policy

13.3.3 The Kent County Council Minerals and Waste Local Plan 2013 – 31 (KMWLP) is the main policy document for mineral and waste matters in Kent. This plan provides the overarching strategy for waste management of all waste streams that arise or are managed in Kent and the spatial implications of waste development in terms of social, economic and environmental impacts.

13.3.4 The KMWLP provides detailed waste polices and generic development management policies which must be considered when determining waste applications.

13.3.5 Whilst the KMWLP was adopted in 2016, KCC are undertaking an Early Partial Review of the Kent Minerals and Waste Local Plan which is due to undergo an independent examination commencing in October 2019.

13.3.6 Part of the justification by KCC for an early partial review is to amend the capacity need for non-hazardous residual waste set out in Policy CSW 7, which did not

include original K3 application. Having factored in the progress of construction at K3 and the waste capacity that would generate KCC has concluded that no further waste capacity is required up to 2031 and no longer intends to prepare a Waste Sites Plan. This issue is discussed further in section 8 regarding the principle and need of the Development and is also addressed in the accompanying document Waste Hierarchy and Fuel Availability Assessment (Document 4.6).

13.3.7 The Early Partial Review of the KWMLP also makes amendments to a number of other policies. Where relevant the policies of the KWMLP and the Early Partial Review of the KMWLP have been addressed in this Statement.

Local Planning

13.3.8 The Swale Local Plan (Bearing Fruits 2031) was adopted on July 2016. Where appropriate the policies in the Local Plan have been considered in this Statement.

13.3.9 The Swale Landscape Character and Biodiversity Appraisal was published in 2011 as a Supplementary Planning Document and has been taken into account within the appraisal of landscape and visual impact within the ES, as documented at Chapter 23 of this Statement.

13.3.10 Swale Borough Council are at the very early stages of preparing the next Local Plan to cover the period from 2022-2038. Therefore, the emerging Local Plan has not been considered in this Statement.

14 The Issues Assessed

14.1.1 This Statement follows the generic impacts identified in EN-1 and EN-3 and assesses and appraises the compliance of the K3 and WKN developments with policies relevant to those generic impacts in each case.

14.1.2 The following generic impacts are addressed:

- Principle and need for the proposed developments;
- Air Quality and Emissions;
- Biodiversity and geological conservation;
- Civil and Military aviation and defence interests;
- Climate Change;
- Dust, odour, artificial light, smoke, steam and insect infestation;
- Flood Risk;
- Historic Environment;
- Landscape and Visual;
- Land use;
- Noise and vibration;
- Residue Management;
- Socio-economic;
- Traffic and Transport;
- Water Quality and Resources.

14.1.3 The Coastal Change impact identified in EN-1 is not relevant to the proposed developments.

14.1.4 Design policies and the compliance of the proposed developments with them is addressed within the Design and Access Statement [Document 4.3].

15 The Principle of and Need for the Development

15.1 EN-1

15.1.1 The UK has set a goal of reducing emissions by 80% by 2050 and paragraphs 2.2.6 and 3.3.13 state that to do this the UK must move away from the dependency on fossil fuels as the only source of electricity and heat generation, in order to address climate change as well as to ensure the security, availability and affordability of energy. That need is exacerbated by the fact, set out in Paragraph 2.2.16, that around a quarter of the UK's generating capacity is due to close by 2018, and given, as noted in 2.2.22, that the need to electricity large parts of the industrial and domestic heat and transport sectors could double demand for electricity over the next forty years.

15.1.2 EN-1 makes clear in Paragraphs 3.1.1 to 3.1.4 that there is an urgent need UK needs all the types of energy infrastructure covered by the NPS, which includes generating stations with a capacity of over 50MW using waste to generate electricity. EN-1 notes that a failure to decarbonise and diversify the energy sector now will mean the UK could become locked into a system of high carbon generation.

15.1.3 Section 3.4 promotes the role of renewable electricity generation in the UK and states that future large scale renewable energy generation sources includes energy from waste (EfW). EN-1 notes that only waste that cannot be re-used or recycled with less environmental impact and would otherwise go to landfill should be used for energy recovery. 3.4.4 notes that EfW can be used to generate 'dispatchable' power, providing peak load and base load electricity on demand, compared with more intermittent renewable electricity technologies such as wind, wave and tidal.

15.1.4 In order to meet the target of 15% of energy from renewable sources by 2020 and beyond EN-1 states at 3.4.5 that it is necessary to bring forward new renewable electricity generation projects as soon as possible, and that the need for new renewable electricity generation projects is therefore urgent.

15.2 EN-3

15.2.1 EN-3 takes the starting point that EN-1 has demonstrated a need for the infrastructure covered by the NPS. Paragraph 2.5.2 states that the recovery of energy from the combustion of waste, where in accordance with the waste hierarchy, will increasingly play an important role in meeting the UK's energy demands. Where the waste that is burned is deemed renewable, this can contribute to meeting the UK's renewable energy targets.

15.2.2 Paragraph 2.5.9 states that energy from waste generating stations divert waste from being sent to landfill, with waste being sourced from municipal or commercial and industrial sectors, as well as solid recovered fuel (SRF) from waste.

15.2.3 Paragraph 2.5.13 states that the throughput volume is not a factor in the final decision as there are no specific minimum or maximum fuel throughput limits or levels of electricity generation, but that associated traffic volumes, for example, are a consideration. Similarly, paragraph 2.5.17 adds that commercial issues are

not likely to be important in the final decision and provide background information only. EN-3 acknowledges the dual role of energy from waste generation in the treatment of waste and generation of electricity and this has implications on the commercial aspect of a facility.

15.2.4 Paragraphs 2.5.22 – 2.5.29 states that there are certain factors which influence the location of waste-to-energy generating stations. These are the need for a grid connection, transport infrastructure and combined heat and power (CHP). Carbon Capture Readiness is only relevant to generating stations with a generating capacity at or over 300MW.

15.2.5 The 'Waste Management' section of EN-3, at Paragraphs 2.5.64 – 2.5.70, addresses the impact of waste combustion generating stations upon waste management at a national and local scale. It states that waste combustion generating stations need not disadvantage reuse or recycling initiatives where the proposed development accords with the waste hierarchy and should not to prejudice the achievement of local or national waste management targets in England. Paragraph 2.6.65 acknowledges that national, local and municipal strategies in England and Wales provide the policy expectation for waste management at different geographical levels and that local authorities will be responsible for providing an informative network for the amount of waste capacity sought, together with the amounts of waste arising and those that are combustible.

15.2.6 Paragraphs 2.5.66 and 2.5.67 require an assessment of the conformity of proposed schemes with the waste hierarchy and the effect of the scheme on the relevant waste plan, which sets out the extent to which the generating station and capacity proposed contributes to the recovery targets set out in relevant strategies and plans, taking account of existing capacity.

15.2.7 Paragraph 2.5.70 notes, in respect of decision making, that it should be demonstrated that proposed waste combustion generating stations accord with the waste hierarchy and are of an appropriate type and scale so as not to prejudice the achievement of local or national waste management targets in England. Where concerns are raised in terms of a possible conflict, evidence should be provided as to why that is not the case or why a deviation from the relevant waste strategy or plan is nonetheless appropriate and in accordance with the waste hierarchy.

15.3 Other Planning Policy

NPPW

15.3.1 The NPPW is predicated on the Government's ambition to work towards a more sustainable and efficient approach to resource use and management. Paragraph 2 states that waste planning authorities, in preparing their Waste Plans,, should recognise the positive contribution that waste management can bring to the development of sustainable communities.

15.3.2 Paragraph 3 states, at Point 2, the need to drive waste management up the waste hierarchy, recognising the need for a mix of types and scales of facilities and that adequate provision must be made for waste disposal. Point four of Paragraph 3

requires waste planning authorities to consider the need for additional waste management capacity of more than local significance and reflect any requirement for waste management facilities identified nationally. Points four, five and six state that waste authorities should take account needs for waste management arising in more than one waste planning authority where only a limited number of facilities would be required, work collaboratively in groups with other waste planning authorities and consider the extent to which the capacity of existing operational facilities would satisfy any identified need.

15.3.3 Paragraph 4 deals with the identification of sites for waste management facilities in Local Plans, but does state that opportunities to co-locate waste management facilities together and with complementary activities should be considered.

15.3.4 In assessing the suitability of sites and/or areas for new or enhanced waste management facilities, EN-3 states that the following criteria should be considered:

- the extent to which the site or area will support the other policies set out in this document;
- physical and environmental constraints on development, including existing and proposed neighbouring land uses, and having regard to the factors in Appendix B (of EN-3) to the appropriate level of detail needed to prepare the Local Plan;
- the capacity of existing and potential transport infrastructure to support the sustainable movement of waste, and products arising from resource recovery, seeking when practicable and beneficial to use modes other than road transport; and
- the cumulative impact of existing and proposed waste disposal facilities on the well-being of the local community, including any significant adverse impacts on environmental quality, social cohesion and inclusion or economic potential.

15.3.5 The NPPW, at Paragraph 7, only expects applicants to demonstrate the quantitative or market need for new or enhanced waste management facilities where proposals are not consistent with an up to date Local Plan, and that in those cases the extent to which existing operational facilities would satisfy any identified need will be considered. Paragraph 7 also states that the NPPW recognises that applicants must demonstrate that waste management facilities which are not in line with the Local Plan will not undermine the objectives of the Local Plan through prejudicing movement of waste up the waste hierarchy. Paragraph 7 continues to state that the likely impact on the local environment and on amenity must be considered and that waste management facilities should in themselves be well-designed.

NPPF

15.3.6 The NPPF seeks to achieve sustainable development by ensuring all developments meet the economic, social and environmental objectives which are interdependent and mutually supportive of each other.

15.3.7 At the heart of the NPPF is the presumption in favour of sustainable development (paragraph 11) which states that proposed development which accords with a Local Plan should be approved without delay. Paragraph 12 makes provision for granting permission for development that departs from an up-to-date development plan if material considerations indicate the plan should not be followed.

15.3.8 Chapter 6 states that significant weight should be placed on the need to support economic growth and productivity, taking into account local business needs and wider opportunities for development.

15.3.9 Paragraph 154 states that applications for renewable and low carbon energy do not need to demonstrate the overall need for renewables or low carbon energy and that applications will be approved if the impacts are or can be made acceptable.

15.4 Kent Minerals and Waste Local Plan 2011-2031

15.4.1 Strategic Objective 11 seeks to increase the amount of Kent's waste being re-used, recycled or recovered and to promote the movement of waste up the waste hierarchy by enabling the waste industry to provide facilities that help to deliver a major reduction in the amount of Kent's waste being disposed of in landfill

15.4.2 Strategic Objective 12 promotes the management of waste close to the source of production in a sustainable manner so that net self-sufficiency is maintained through the plan period and Objective 13 seeks to use waste as a resource to provide opportunities for the generation of renewable energy. Objective 14 states that opportunities for additional waste management capacity to enable waste to be managed in a more sustainable manner will be sought.

15.4.3 **Policy CSM 5** seeks to safeguard land-won economic mineral resources. The Mineral Safeguarding Area (MSA) map for Swale shows that the proposed development is located on an MSA. However, the area is shown as being allocated in the Swale Local Plan and is thus exempt from the mineral safeguarding policies of the KMWLP.

15.4.4 **Policy CSW 1** seeks to deliver sustainable development and states that the Council will take a positive approach that reflects the presumption in favour of sustainable development. In addition, to achieve sustainable development, **Policy CSW 2** requires waste management proposals to drive waste up the waste hierarchy wherever possible. The preamble to CSW2 states that KCC will meet the ultimate need for disposal of wastes by seeking to identify sites for energy recovery, with the level of energy recovery capacity to be capped. KCC envisage energy recovery to become displaced as recycling and waste processing become more economically viable.

15.4.5 Section 6.3 of the KMWLP deals with the principle of net self-sufficiency, noting that Kent achieves net self sufficiency in waste management facilities and that continued self sufficiency remains an important objective to ensure Kent is not placing an unnecessary burden on other waste planning authorities to manage the waste arising in the county. Paragraph 6.3.2 notes that new facilities would need to be developed for individual waste streams in order for Kent to remain self sufficient through the plan period.

15.4.6 Paragraph 6.3.3. highlights that there was a considerable movement into and out of Kent for management, with 1,000,000 tonnes of waste in 2010 originating in Kent but being managed outside the County and around 750,000 tonnes of waste being brought into the county for management. The KMWLP notes that net self sufficiency is not intended to restrict the movement of waste, as to restrict waste catchment areas could have an adverse effect on the viability of the development of new waste facilities.

15.4.7 Paragraph 6.3.4 highlights the need within Kent to continue to provide for the management through landfill or EfW facilities of wastes arising from London, particularly given the intended closure of the non-hazardous waste landfill site in Havering, east London, in 2018. 6.3.5 notes that the Plan makes provision to deal with London's waste through EfW facilities rather than landfill.

15.4.8 **Policy CSW 4** establishes that the strategy for waste management capacity in Kent aims to achieve net self-sufficiency across all waste streams plus additional capacity to manage some waste from London.

15.4.9 **Policy CSW 6** sets out a set of criteria against which built waste management facilities on sites allocate within the Waste Sites Plan will be assessed. A second set of additional criteria deals with facilities which on other locations, where it is demonstrated that capacity additional to that required by CSW7 or which would move waste up the hierarchy is proposed.

15.4.10 The KMWLP makes provision, under **Policy CSW 7**, for additional capacity for managing non-hazardous waste arisings in Kent and a limited amount of non-hazardous waste arisings from London. The plan set out the need for an additional 562,500 tonnes per annum (tpa) recovery capacity to be managed across three or four energy recovery facilities. It identifies energy from waste as one form of waste management which will be provided to manage the additional capacity.

15.4.11 **Policy CSW 7** stipulates that in order for permission to be granted for a waste management facility that will assist in meeting the capacity gap that has been identified the criteria 1 – 6 must be met, where relevant, which deal with matters such as pre-sorting of wastes, recovery of by-products and residues, the maximisation of energy recovery and the disposal of residues.

15.4.12 **Policy CSW 8** specifically relates to recovery facilities for non-hazardous waste. Initially, the KMWLP seeks to grant a maximum of 437,500tpa of recovery facility capacity until such time that the annual monitoring indicates that the loss of all non-hazardous landfill capacity in the county before the end of the plan period.

15.4.13 It adds that facilities using waste as a fuel will only be permitted if they qualify as recovery operations as defined by the Revised Framework Directive. Moreover, where an application for a CHP facility has no proposals for use of the heat when electricity production is commenced, the development will only be granted planning permission if the applicant and landowner enter into a planning agreement to market the heat and to produce an annual public report on the progress being made toward finding users for the heat.

15.5 Early Partial Review of the Kent Minerals and Waste Local Plan 2011-2031

15.5.1 The Early Partial Review of the KMWLP (EPR) seeks to amend a number of policies that specifically relate to the principle and need of the development. As noted in Chapter 15 of this Statement the review is being undertaken as it is no longer considered necessary for a Waste Sites Plan to be produced based on expected waste management capacity within the county during the plan period, due to the confirmation of the provision of the capacity which would be created by the K3 facility, given its current construction progress.

15.5.2 The EPR is based on the core principle of Kent seeking to achieve net self-sufficiency.

15.5.3 The preamble to Policy CSW 4 is proposed to be reworded in the EPR and would note that 'net self sufficiency recognises that existing (and future) waste management capacity within Kent may not necessarily be for the exclusive management of Kent's waste. Proposals that would result in more waste being managed in Kent than is produced may be acceptable if it was demonstrated that these would result in waste produced in Kent being managed at a higher level of the waste hierarchy'. The provisions within the adopted KMWLP in respect of net self sufficiency not restricting the movement of waste are proposed to be retained.

15.5.4 The EPR recognises that historically Kent has managed around 35,000tpa of waste arising from London and that this may increase by around 20,000tpa once the Rainham Landfill in the London Borough of Havering closes in 2026.

15.5.5 **Policy CSW 6** still applies in the same manner but removes reference to the Waste Sites Plan and Policy CSW 7. The same criteria must be met in order for permission to be granted. An element of the preamble to CSW6, in respect of the identification of sites for EfW plants is also proposed to be removed.

15.5.6 **Policy CSW 7** has been amended to remove the need for the provision of additional capacity for waste recovery facilities. It now states that waste management facilities must assist Kent in continuing to be net self-sufficient while providing for a reducing quantity of waste from London. Permission will only be granted subject to criteria 1 – 6 being met. Criterium 1 now stipulates that the proposed waste management facility must move waste up the hierarchy.

15.5.7 **Policy CSW 8 – Other Recovery Facilities for Non-hazardous Waste** has been revised and makes no commitment to permitting a certain amount of capacity. Instead, facilities using waste as a fuel will only be permitted if they qualify as recovery operations as defined by the Revised Waste Framework Directive. The part of the policy regarding the use of heat for CHP plants still applies in that if there is no proposed use for the heat permission will only be granted if the applicant and landowner enter into a planning agreement to market the heat and to produce an annual public report on the progress being made toward finding users for the heat.

15.6 The Swale Local Plan- Bearing Fruits 2031

15.6.1 Policy ST1 seeks to deliver sustainable development within Swale by requiring all development proposals to, as appropriate, meet a number of aims including the

building of a strong competitive economy. Policy CP1 reinforces the drive towards a strong competitive economy.

15.6.2 Policy DM 20 sets out the requirements for renewable and low carbon energy developments.

15.7 Principle of and Need for the proposed developments

15.7.1 The K3 proposed development is an NSIP by definition under the Planning Act 2008 and is therefore to be determined under Section 104 of the Act, with the SoS having regard to National Policy Statements EN-1 and EN-3. Whilst development consent is sought for the construction and operation of K3 to its total proposed generating capacity and tonnage throughput the assessment in respect of the principle of K3 focuses on the practical effect of the K3 proposed development; the ability of K3 to generate an additional 25.1MW of electricity and to process up to an additional 107,000 tonnes of waste per annum.

15.7.2 WKN is not an NSIP by definition due to its generating capacity. However in directing that WKN is to be treated as a development for which development consent is required the SoS has stated that WKN is considered to be nationally significant. The WKN proposed development will therefore be determined under Section 105 of the Act, with the SoS having regard to any local impact report, any matters prescribed and any other matters considered to be important and relevant.

15.7.3 Reference is made throughout this Chapter in particular to the Waste Hierarchy and Fuel Availability Assessment [Document 4.6] which forms part of the application.

15.8 K3 Planning Permission - Context

15.8.1 Planning permission was granted by KCC for K3 in 2012. In assessing the principle of the development at that time KCC acknowledged that the primary driver for the proposed development was to meet the future energy requirements of the Kemsley Paper mill in a viable and sustainable way. The throughput proposed at that time of between 500,000 and 550,000 tonnes of waste per annum was specified to meet the expected energy demands arising from the paper mill.

15.8.2 The Committee report discusses the need of the applicant to secure the necessary funding to build K3 by demonstrating that some 80% of the incoming waste stream would need to arise from long term local authority managed waste contracts. KCC noted at that time that all such waste within the county was tied into long term contracts, meaning that waste of that nature would be imported to the K3 facility from outside the county. It was anticipated within the application that waste would be sought from London, the South East and elsewhere in the UK. The principle of net self sufficiency in respect of was encapsulated within the policies of the South East Plan at the time of the K3 application being determined, with those policies noting that a degree of flexibility was to be applied to the self sufficiency concept and that cross-border flows of waste across regional and sub-regional boundaries is not precluded. In addition the Committee Report notes that policies within the South East Plan suggest that waste planning authorities should not arbitrarily restrict the movement of waste across borders.

15.8.3 The conclusion drawn by KCC in 2012 was that the K3 facility was consistent with the waste policies in place at that time, on the basis that waste processed by K3 was to arise from treated sources and if provisions were made to maximise the potential for dealing with Kent's waste. Those considerations led to the imposition of the 'Hinterland' condition, which is condition 22 of planning permission SW/19/501345 and which states that all waste processed is to be pre-treated and that no less than 20% of the annual waste throughput shall be pre-treated waste sourced from the area defined as the K3 hinterland (which is provided as **Appendix G** of this Statement).

15.9 The Proposed K3 Generating Capacity upgrade

15.9.1 It is proposed, in practical terms, that the K3 facility be permitted to have an increased electricity generating capacity and to process more waste per annum than allowed under its original planning permission.

15.9.2 The ability to increase the generating capacity of the K3 facility is not predicated on its processing of additional waste but is instead a result of internal efficiency improvements and upgrading. EN-1 makes clear the urgent need for new renewable electricity generation projects in terms of improving the resilience of the UK's electricity supply network. In practical terms K3 has the ability to generate additional electricity without any altered environmental impacts and indeed without the delay which constructing a new facility would bring and on that basis, and given the K3 element of the application for development consent is to be determined in accordance with the NPS's the increased generating capacity sought for K3 is considered acceptable in principle.

15.10 K3 and WKN as waste processing facilities

15.10.1 The consideration of the acceptability in principle of K3 being able to process additional waste (in practical terms compared to its current consent) and of the WKN proposed development as a waste processing facility will then require an assessment of similar issues, specifically accordance with the waste hierarchy and whether K3 and/or WKN would prejudice the achievement of local or national waste management targets, as set out in the Waste Management section of EN-3. However the weight attributed to national and local policies in each case differs, given K3 is an NSIP by definition and WKN is not.

15.10.2 NPS EN-3 paragraph 2.5.68 states that an assessment of the conformity with the waste hierarchy and the effect on relevant waste plans should be presented in a separate document to accompany the application. Such an assessment has been completed and submitted in support of the DCO application as Document 4.6 – the Waste Hierarchy and Fuel Availability Assessment (WHFAA).

The Waste Hierarchy

15.10.3 The WHFAA contains a specific appraisal of the position of the K3 and WKN energy-from-waste facilities within the waste hierarchy. As a first principle it notes that feedstock for energy recovery facilities such as K3 and WKN should primarily only be drawn from residual waste which would otherwise have been disposed of to landfill and which is not, either technically or in economic terms able of being recycled. It is the Environment Agency which would enforce compliance with the

waste hierarchy for the suppliers of fuel to the K3 and WKN facilities. The WHFAA goes on to explain that the ability of a waste recovery scheme to comply with the waste hierarchy is based on the availability of waste lower in the hierarchy (which is dealt with in the next section of this Statement), together with the financial incentives which exist which means that gate fees at material recycling facilities and organic waste treatment facilities consistently remain lower than those at both energy from waste and landfill facilities. Those factors, combined with the fact that both K3 and WKN would be flexible in the wastes they could receive and therefore divert from landfill means that in specific terms, and as a technology, the K3 and WKN waste-from-energy plants would accord with the waste hierarchy. As concluded in the WHFAA, the use of waste as a source of renewable/low carbon energy plays an important role within the waste hierarchy.

15.11 Local or national waste management targets

15.11.1 The relevant waste plan is the KMWLP which makes provision, under **Policy CSW 7**, for additional capacity for managing non-hazardous waste arisings in Kent and a limited amount of non-hazardous waste arisings from London, whilst also retaining net self sufficiency as a core value. The KMWLP currently sets out the need for an additional 562,500 tonnes per annum (tpa) recovery capacity to be managed across three or four energy recovery facilities. It identifies energy from waste as one form of waste management which will be provided to manage the additional capacity.

15.11.2 However, the Early Partial Review of the KWMLP seeks to amend the need for additional capacity as the previous assessment did not take account of the consented capacity of the Kemsley Sustainable Energy Plant (K3). The consented tonnage throughput for the permitted K3 development is 555,000 tonnes per annum. The revised Policy CSW 7 does not make any provision for additional waste management capacity and seeks to ensure net self-sufficiency while providing for a reducing quantity of London's waste.

15.11.3 The Examination into the Early Partial Review of the KWMLP is taking place in early October 2019. Hendeca; the authors of the WHFAA report which supports this application have made representations to the Examining Inspector on behalf of WTI which present the arguments made within the WHFAA in terms of the amendments being proposed to the policies within the adopted KMWLP. Whilst the proposed amendments to the KMWLP are not yet adopted, regard has been had to them as emerging policy which carries some weight within the determination process.

15.11.4 Whilst K3 is an NSIP and will be determined in accordance with the EN-1 and EN-3 NPS's, EN-3 in particular still requires regard to be had as to whether waste combustion generating stations would prejudice the achievement of local or national waste management targets.

15.11.5 The WHFAA undertakes a detailed appraisal of fuel availability as well as the compliance of the proposed K3 and WKN developments with national and local policies and strategies.

15.11.6 Having demonstrated that Energy from Waste performs an important role within waste management and the waste hierarchy the WHFAA goes on to conclude that there is between 992,500 tonnes to 1.98million tonnes of fuel which are

considered to be available to the K3 and WKN proposed developments, once various sensitivities are factored in such as increased recycling rates and other future capacity coming on stream which deals with the same waste streams in the same study area. The WHFAA takes a robust approach to its assessment of the fuel availability, for example by acknowledging that not all wastes currently being landfilled would suitable for combustion. However even if all sensitivities are applied then the modelling undertaken within the document still shows fuel being available, which is currently either being landfilled or being exported overseas. In addition the WHFAA identifies there are a number of landfill sites within the study area that are reaching capacity, which indicates that further waste management capacity will be required in the future.

15.11.7 As such the K3 and WKN facilities would provide the option either for that fuel to be treated domestically, and for the subsequent benefits of electricity generation to be seen domestically, and as a method of diverting waste from landfill.

15.11.8 Whilst the concept of self sufficiency sits at the centre of national and local waste policy, the need for flexibility is recognised at all levels of policy. At the national level the NPPW establishes the concept of waste planning authorities working together to consider the need for additional waste management of more than national significance. The KMWLP acknowledges that net self sufficiency is not intended to restrict the movement of wastes and the need to deal with waste arising in areas such as London is accepted. In addition the current Early Partial Review recognises that existing and future waste management capacity within Kent may not be exclusively for Kent's waste.

15.11.9 The K3 facility is a nationally significant infrastructure project, and WKN has been confirmed to be of national significance by the SoS. As such both facilities are proposed to serve a regional need. The regional area to be served by K3 was evident from the Committee Report which accompanied the original application. As well as being regional facilities the WHFAA argues that K3 and WKN would support the local waste strategy by both reducing wastes sent to landfill but also by further enabling Kent to be self sufficient in waste terms, given the level of available fuel which is identified by the WHFAA.

15.11.10 Policy CSW 7 in the adopted KMWLP stipulates that in order for permission to be granted for a waste management facility that will assist in meeting the capacity gap that was identified in the document criteria 1 – 6 must be met, where relevant. Only criteria 1 – 4 are relevant which are assessed below for completeness:

1) ***Pre-sorting of the waste is carried out unless proven not to be technically practicable for that particular waste stream.***

   The waste streams of both K3 and WKN will only use pre-sorted waste as a fuel.

2) ***Recovery of by-products and residues is maximised***

   Residual bottom ash from the waste combustion process is to be 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.

3) Energy recovery is maximised (utilising both heat and power)

Both K3 and WKN proposed developments are CHP ready and export electricity to the national grid with K3 providing steam to an adjacent paper mill.

4) Any residues produced can be managed or disposed of in accordance with the objectives of Policy CSW 2

Residual bottom ash from the waste combustion process is to be exported from the facility in HGVs and either landfilled or used as an aggregate by the construction industry. As noted above any items which can be reused are extracted.

15.11.11 The Early Partial Review of the KMWLP amends clause 1 of Policy CSW 7 as follows:

1) It moves waste up the hierarchy

By diverting waste from landfill to recovery both K3 and WKN proposed developments move waste up the hierarchy.

15.12 Requirements

15.12.1 Condition 22 of the original K3 planning permission is a hinterland condition which requires all waste processed within K3 to be pre-treated and for no less than 20% of the annual waste throughput to be sourced from the area shown on the hinterland plan (Appendix G). That condition has not been transposed into the dDCO as it is considered that it the hinterland element introduces a control which is not necessary or appropriate for either the K3 facility, which is a nationally significant instructure project by definition, or for WKN, which has been directed as being nationally significant.

15.13 Summary

15.13.1 Overall the conclusion, as drawn by the WHFAA, is that that K3 and WKN accord with EN-3 in that they accord with the waste hierarchy and do not prejudice the achievement of local or national waste management targets.

16 Air quality and Emissions

16.1.1 This section deals with Air Quality and Emissions with reference to Section 5.2 of EN-1 and 2.5 of EN-3. CO^2 emissions and climate change are dealt with in Chapter 19.

16.2 EN-1

16.2.1 EN-1 recognises that infrastructure development can have adverse effects on air quality that impact on health, protected species and habitats or the wider countryside. EN-1 defines air emissions as including particulate matter (e.g. dust) up to ten microns as well as gases such as sulphur, carbon monoxide and nitrogen oxides (NO_x). It notes that NO_x and ammonia emissions can lead to eutrophication within ecosystems.

16.2.2 Paragraph 5.2.4 states that the EA requires exhaust stack height of waste-to-energy plants to be optimised in relation to impacts on air quality. Therefore, EN-1 is not concerned with the exhaust stack height optimisation process but will consider the landscape and visual impacts of any stacks.

16.2.3 EN-1 refers to the technology-specific NPS EN-3 with respect to air quality and emissions. However, EN-1 assumes that the relevant pollution controls will be applied for and enforced and it does not seek to duplicate those regimes. In the decision making process, impact of air quality and emissions will be given significant weight where it would lead to a deterioration in air quality, a breach in national air quality limits, or there is a substantial change in the air quality levels without any breaches.

16.2.4 If the proposed development does not comply with a statutory limit, EN-1 states that consent should be refused, although the SoS should also consider where any further mitigation measures are needed beyond those that form part of the application as this may make the development acceptable.

16.3 EN-3

16.3.1 EN-3 explicitly states that CO_2 will be assessed against the requirements of EN-1 but in the case of waste combustion the Waste Incineration Directive (WID) (subsequently replaced by the Industrial Emissions Directive) and the Large Combustion Plant Directive (LCPD) are also relevant. However, compliance with these directives is controlled through the environmental permitting regime by the Environment Agency.

16.3.2 Paragraph 2.5.43 states that where a waste combustion facility meets the requirements of the WID and will not exceed local air quality standards the SoS should not regard the proposed waste generating station as having adverse impacts on health.

16.4 Other Planning Policy

NPPF

16.4.1 Paragraph 181 requires decisions to ensure developments are compliant with relevant limit values or national objectives for pollutants, taking into account Air Quality Management Areas (AQMA), Clean Air Zones and cumulative impacts from other sites in a local area.

NPPW

16.4.2 Appendix B of the NPPW sets out the locational criteria for testing the suitability of sites and areas when determining planning applications. Point g. relates to air emissions and state considerations will include the proximity of sensitive receptors, including ecological as well as human receptors, and the extent to which adverse emissions can be controlled through the use of appropriate and well-maintained and managed equipment and vehicles.

Kent Minerals and Waste Local Plan 2011-2031

16.4.3 Policy CSW6 requires waste management facilities to avoid adverse impacts on the environment and communities, in this case by avoiding significant adverse impacts on Air Quality Management Areas.

16.4.4 Policy DM 11 requires proposed waste developments to demonstrate that they are unlikely to generate unacceptable adverse impacts relating to emissions and bioaerosols. This may require the submission of an Air Quality Assessment.

Early Partial Review of Kent Minerals and Waste Local Plan 2011-2031

16.4.5 The Early Partial Review of the KMLWP does not change Policy CSW 6 or Policy DM 11 with regard to air quality and emissions

The Swale Local Plan- Bearing Fruits 2031

16.4.6 Policy ST1 seeks to achieve sustainable development in Swale, which includes the need to meet the challenge of climate change, flooding and coasts change, with one identified measure being the management of emissions.

16.4.7 Policy DM 6 requires proposals that generate a significant amount of transport movements will be required to produce a Transport Assessment which will integrate air quality management and environmental quality into the location and design of, and access to, the development demonstrating that the proposal does not worsen the air quality to an unacceptable degree either on its own or cumulatively with other local developments.

16.4.8 Policy DM 20 relates to permission of renewable and low carbon energy. This policy requires impacts on air quality to be minimised and mitigated to acceptable levels.

16.5 Applicant's Assessment

16.5.1 Chapter 5 of the ES provides a detailed assessment of the anticipated air quality impacts arising from the proposed development.

K3 Proposed Development

16.5.2 Construction of K3 began in July 2016 and is expected to be completed with the facility operational by late 2019. The current consent allows K3 to generate up to 49.9MW of electricity and to process up to 550,000 tonnes of waste per annum.

16.5.3 The 'practical effect' of the K3 Proposed Development would simply be K3, as constructed under its existing permission, being capable of generating an additional 25.1MW and processing an additional 107,000 tonnes of waste per annum. In practical terms the granting of the DCO would not result in any additional external physical changes to K3 as consented and the layout and appearance of the facility would remain as per its consented design.

16.5.4 The assessment undertaken in Chapter 5 of the ES uses standard dispersal modelling techniques to predict any likely significant effects. Stack emissions relating to the increase in the throughput of waste for K3 has been assessed against K3 as permitted.

16.5.5 The ES demonstrated that short-term emission limits are within the thresholds of the Industrial Emissions Directive (IED) whereas for the long-term emissions two emissions, Arsenic and Nickel, are above the threshold limits. However, Arsenic and Nickel are part of group 3 emissions, which based on the assessment methodology provided by the EA, should be assessed as a total of aggregation of all nine of the group 3 metals. Therefore, on this basis, stack emissions are below the threshold limits.

16.5.6 The practical effect of the K3 Proposed Development would be an additional 68 HGV movements per day on the A259, Barge Way and part of the Swale Way above that associated with K3 as consented. The indicative criterion of 100 vehicles outside an AQMA is therefore not exceeded. Therefore, the vehicle emissions from the HGV movements are not considered significant.

WKN Proposed Development – Construction

16.5.7 Chapter 5 of the ES assessed the potential emissions of construction traffic in relation to the annual-mean NO2, PM10 and PM2.5 concentrations. It was concluded that the impacts from construction traffic is negligible.

16.5.8 The impacts arising from dust emissions have been assessed in the ES as being low. A CEMP is to be produced in which best practices, including guidance provided by IAQM, will be followed and a Dust Mitigation Plan is to be produced as part of the CEMP. Whilst the impacts of dust emissions are low without mitigation and number of mitigation measures will be included in the CEMP to ensure impacts remain low.

WKN Proposed Development – Operation

16.5.9 The WKN proposed development will be operated in accordance with the Industrial Emissions Directive (2010/75/EU) which sets limits for a range of pollutants. A Stack Height Determination (SHD) assessment was undertaken as part of the ES to determine the minimum height of the stack which balances the need to achieve acceptable environmental performance against the costs and benefits of implementing it. The SHD confirmed that a 90m stack is required to ensure that pollutant concentrations could be adequately dispersed before reaching ground level which means that the air quality impacts as a result of the WKN proposed development are not significant.

16.5.10 The dispersion modelling follows the assumption that the higher the stack the less impact there is on air quality but the stack height has to be considered against the cost of building a taller stack and other environmental issue such as landscape and visual impact. However, to enable flexibility in the DCO, a 9m buffer is proposed of between 90m and 99m. The assessments within the ES have been based upon a stack height of 90m and thus any changes in stack height would mean reassessing the environmental issues that it affects such as air quality and landscape and visual impact.

16.5.11 The exhaust emissions will be monitored by a Continuous Emissions Monitoring System (CEMS) and will be strictly controlled and regulated by the EA under an Environmental Permit. An Operations and Management Team will ensure both facilities adhere to the regulations and will establish planned preventative maintenance programme.

16.5.12 The operational traffic has been assessed having a negligible impact.

16.5.13 The dust generating activities include the delivery, sorting and handling of waste. Waste is deposited into the tipping hall where it is sorting, stored and handled within the containment of the building. The accepted best practice approach for the primary control of dust releases is containment within the building. Any potential dust would be drawn into the combustion process along with the air in the building. Dust levels in the building would be in accordance with health and safety regulations.

16.5.14 Given the nearest high sensitivity receptor are residential properties on Swale Way which are 770m to the south west of the site and upwind, the risk of dust impacts is considered low.

16.6 Draft DCO Requirement

16.6.1 Requirement 9 of dDCO ensures the details of the original K3 planning permission are carried over into the dDCO and will apply as approved.

16.6.2 For WKN, Requirement 14 secures the parameters of the stack as being between 90m and 99m until the final design is submitted for approval. Requirement 21 secures the submission of a Construction Environmental Management Plan and requirement 24 secures a Construction Traffic Management Plan.

16.7 Summary

16.7.1 Chapter 5 of the ES has robustly assessed the air quality as a result of the K3 and WKN proposed developments and concluded that there are no significant impacts arising. The IAQM guidance will be followed with regard to dust management and the dispersion modelling for the stack emissions of both K3 and WKN proposed developments demonstrate that the predicted contributions and environmental contributions of all pollutants is negligible.

16.7.2 The ES also assessed the impacts of K3 and WKN proposed development cumulatively with other developments both together and alone and concluded there would be no significant effects on air quality.

16.7.3 Therefore, both the K3 and WKN proposed developments accord with both national and local policies with regard to air quality.

17 Biodiversity and Geological Conservation

17.1 Context

17.1.1 This Chapter deals with the issue of biodiversity; geological conservation was not scoped into the ES as it is not relevant to the K3 or WKN proposal sites or the proposed K3 or WKN developments and has not therefore been addressed.

17.2 EN-1

17.2.1 Section 5.3 of EN-1 addresses impacts on biodiversity and geology. It sets out a general principle that development should avoid significant harm to biodiversity interests including through mitigation.

17.2.2 Decisions should apply appropriate weighting to designated sites of international, national and local importance; protected species; habitats and other species of principal importance for the conservation of biodiversity; and to biodiversity and geological interests within the wider environment.

17.2.3 Biodiversity is not then covered in EN-3.

17.3 Other Planning Policy

NPPF

17.3.1 Chapter 15 sets out that decisions should contribute to and enhance the natural and local environment, particularly by minimising impacts on biodiversity and providing net gains that are resilient to current and future pressures.

17.3.2 Chapter 15 also establishes a clear hierarchy within designated sites from international to national to locally designated sites to ensure protection and mitigation is appropriate to its status. If significant harm from development cannot be avoided, adequately mitigated for or, as a last resort, compensated for, then planning permission should be refused.

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17.3.3 Policy DM 1 regarding sustainable design seeks to protect and enhance biodiversity interests or mitigate and compensate, if necessary, for any predicted loss.

17.3.4 Policy DM 2 sets out the protection for sites of international, national and local importance with waste developments required to ensure that there are no unacceptable adverse impact on biodiversity interests.

17.3.5 Policy DM 3 – Ecological Impact Assessment requires proposals that are likely to have unacceptable adverse impacts upon important biodiversity assets to provide an ecological assessment of the site.

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17.3.6 Policy ST1 seeks to deliver sustainable development which includes conserving and enhancing the natural environment by avoiding significant harm to biodiversity or adequately mitigating the harm or as a last resort, by providing compensation.

17.3.7 Policy CP4 requires developments to demonstrate good design, including by conserving and enhancing biodiversity.

17.3.8 Policy CP7 seeks to conserve and enhance the natural environment by ensuring that there are no adverse effects on a SAC, SPA, or RAMSAR site either alone or cumulatively.

17.3.9 Policy DM28 sets out that development proposals will conserve, enhance and extend biodiversity, provide for net gains in biodiversity where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated.

17.4 Applicant's Assessment

17.4.1 Chapter 10 of the ES assesses the likely impacts of the K3 and WKN proposed developments on ecological receptors and is supported by a Habitats Regulation Assessment Report attached as Appendix 11.2 to the ES.

17.4.2 The HRA comprises the identification of designated sites and non-designated ecological receptors with a defined Zone of Influence. The likely significant effects resulting from construction, operation and demolition phases of the K3 and WKN proposed developments have been assessed, such as air quality

17.5 Context

17.5.1 The K3 and WKN proposed development sites are approximately 0.16km east from The Swale Special Protection Area (SPA) and Ramsar internationally designated ecological sites. There are a further seven internationally designated sites with 10km of the K3 and WKN proposed development sites as follows:

- Medway Estuary and Marshes SPA and Ramsar:
- South Thames Estuary and Marshes SPA and Ramsar:
- Outer Thames Estuary SPA and RAMSAR: and
- Queensdown Warren Special Area of Conservation.

17.5.2 There are a number of national designations in proximity to the proposed development sites; 0.02km to the south east is the Swale Marine Conservation Zone and The Swale Site of Special Scientific Interest (SSSI) is approximately 0.13km south east from the sites with the Elmley National Nature Reserve around 0.4km to the north east.

17.5.3 There are a further four internationally designated sites with 1km of the K3 and WKN proposed development sites as follows:

- Medway Estuary and Marshes SSSI:
- South Thames Estuary and Marshes SSSI:
- Sheppey Cliffs and Foreshore SSSI: and
- Queensdown Warren SSSI.

17.5.4 At a local level, there is only one non-statutory designated site within 2km of proposed development sites which is the Milton Creek Local Wildlife Site.

17.5.5 For clarity, the proposed development sites are not within any designated sites and therefore there are no direct impacts arising from the proposed developments in terms of the loss of habitat.

17.6 Phase 1 Habitat Survey

17.6.1 As part of the EIA, a Phase 1 Habitat Survey was undertaken with the result recorded in the ES. As K3 is substantially constructed and soon to be operational the constructed K3 including its consented landscaping scheme (which has yet to be implemented) is taken as the baseline for the assessment.

17.6.2 For the WKN proposed development, the site is currently occupied by the K3 laydown area, albeit in the absence of any consent for WKN that laydown area would be restored to its previous condition. Therefore, the ES is informed by previous surveys undertaken in 2007 and 2009 as part of the initial K3 application which assesses the worst-case scenario prior to the loss of habitat as part of the original site clearance for the WKN site.

17.7 K3 Proposed Development

17.7.1 In practical terms the K3 proposed development results in the K3 facility as consented being able to generate additional electricity and processing additional waste each year.

17.7.2 The increase in emissions resulting from the increased tonnage throughput and vehicle movements has been assessed as being not sufficient to result in any adverse impacts on designated sites or ecology in non-designated areas. The practical effect of the K3 proposed development will therefore not have any ecological impacts.

17.8 WKN Proposed Development – Construction

International Sites

17.8.1 The ES assesses the likely effects of the construction of WKN on international sites within a 10km radius from the WKN site. The ES concludes that, due to the distance from the WKN proposed development there would not be any likely significant effects on the Medway Estuary and Marshes SPA and Ramsar, the Thames Estuary and Marshes SPA and Ramsar and the Outer Thames Estuary SPA and Ramsar. Therefore, the ES assesses the effects arising from the construction of WKN on The Swale SPA and Ramsar site.

- **Habitat Loss -** The construction of the WKN development would not cause any direct impact on The Swale SPA and Ramsar via habitat loss, given no part of either designated site falls within the site boundary.

- **Drainage -** Once construction commences, all hardstanding areas will drain eastwards into a storage pond which would be the first part of the scheme that will be constructed. Any activities or items that may contaminate water which may enter The Swale SPA will be located more than 20m from the site boundary and a strict waste management system will be established to avoid any leachates.

  These measures ensure that no adverse impacts on the SPA in relation to drainage and surface water will arise and will be secured through the CEMP.

- **Light Spill -** A lighting scheme will be submitted as part of the Construction Environmental Management Plan (CEMP) that will follow best practices. The lighting scheme will ensure no direct lighting of any designated areas, use flood defences to prevent light spill, use relatively low directional lighting where possible and ensure the suitable location of construction compounds.

- **Disturbance from people and plant movements -** There is the potential that the movement of people and plant during the construction phase may be visible to a small part of The Swale SPA/Ramsar. However, the ES concludes that any disturbance would be limited as bird species are likely to be habituated to people due to the Knauf Jetty to the north of the site, the public footpath along the sea wall and the other industrial sites that are located in proximity to SPA/Ramsar.

  Moreover, the intertidal area will be screened by the sea wall which will obscure most views from the estuary of plant/people movement within the WKN site during construction. In addition intertidal areas on the opposite bank are separated by the River Swale and are over 500m from the proposed development site.

  The Marsh Harrier is considered to be susceptible to disturbance, especially during breeding season. However, as stated in the ES, the population of the Marsh Harrier has increased in north Kent and they are now occupying sites that would have been considered as unsuitable before, such as the reedbed to the north of the WKN site.

  Surveys in 2009 and 2016 observed that the Marsh Harrier continued using this reedbed despite the operation of the Knauf Jetty and during the construction of both K3 and the DS Smith AD Plant. The S106 agreement for the original K3 application required the creation of a new reedbed at Harty Fen on Isle of Sheppey to provide alternative habitat for the Marsh Harrier which was completed in October 2018.

  To avoid further human-related disturbances a 2.4m closed-board wooden fence will be erected around the laydown area as per the mitigation action taken in the original K3 application. Accounting for the impact-avoidance measures already in place and those being proposed the impacts from

disturbance from people and/or plant is considered to have a slight effect that is not significant.

- **Recreational Disturbance –** Whilst the Saxon Shore Way footpath lies close to the WKN site it is not anticipated that construction staff would access The Swale SPA/Ramsar for recreational purposes. Therefore, no impacts are expected from recreational disturbance during construction.

- **Noise and Vibration –** Noise generated from piling, HGV movements and other construction activities has the potential to disturb birds wintering within the SPA/Ramsar. Loud and percussive noises are likely to cause the greatest disturbance and the ES has modelled the noise impacts resulting from loudest activities (impact piling) in which would be received by birds in the SPA/Ramsar and is 61.5 dBL_{Amax}, covering an area of some 9.6 ha within the 6,514-ha designated site. This is below the max 80dBL_{Amax} threshold associated with the greatest disturbance to birds but above the screening threshold of 55 dBL_{Amax}.

  Therefore, to mitigate this impact Requirement 28 within the dDCO prevents impact piling from occurring in January, February, April and August, with no more than 10 days of impact piling to take place during November and December.

  Works to create a new outfall into the Swale (Work no. 7) will be undertaken following same methods and timing restrictions set out in the original Marine Licence to avoid disturbance impacts.

  No noise and vibration impacts are expected to arise from construction vehicles which would have a significant effect on the designated sites.

- **Overshadowing/Line of Sight -** The piling rigs and cranes on the WKN construction site would be set back by over 200m from the SPA/Ramsar. Therefore there is no potential for overshadowing/blocking of line of sight on the foreshore during construction.

- **Flight Lines –** The ES concludes that there are no expected impacts on flight lines of birds using The Swale as there are no existing flight lines over the site and given that the area immediately around the WKN proposed development site is industrial in character already.

- **Air Quality –** The are no construction impacts that would result in adverse effects on ecological receptors.

17.8.2 Overall, no likely significant effects on biodiversity in internationally designated sites are expected at the construction stage of WKN.

Marine Conservation Zones (MCZ)

17.8.3 The Swale MCZ is located approximately 15m to the east of the WKN proposed development site with the laydown area being the closest point. The impacts upon the MCZ will be the same as The Swale SPA/Ramsar discussed above due to their geographical coincidence. Therefore, as concluded above, there are no significant impacts on The Swale MCZ.

Nationally Designated Sites

17.8.4 The Swale SSSI covers the same area as The Swale SPA/ Ramsar whilst the Elmley National Nature Reserve (NNR) occupies a smaller area within The Swale SPA/Ramsar on the Isle of Sheppey. Given the conclusions made on The Swale/SPA there are no significant impacts identified on the SSSI or NNR.

Regional and Local Sites

17.8.5 The Milton Creek Local Wildlife Site (LWS) located over 400m to the south east of WKN and is the only regional or local site in proximity to the WKN proposed development site. The LWS consists of a mix of habitat types and can be considered an informal extension of The Swale SPA. The ES has concluded no likely significant impacts on that area as a result of construction.

Ancient Woodland and Protected Trees

17.8.6 The WKN proposed development does not affect any ancient woodland or protected trees.

Habitats and Other Species

Breeding Birds

17.8.7 The WKN site, prior to its use as the construction laydown area for K3, was mainly bare ground with small areas of grassland. Surveys undertaken for the original K3 application show no evidence of breeding birds on the WKN site.

17.8.8 The construction of the WKN proposed development would result in the loss of some landscaping proposed by the original K3 development that was to replace breeding bird habitat on the K3 site. In addition, some vegetation would be cleared to make way for the laydown area and construction access road although this would be temporary.

17.8.9 To the north of the WKN proposed development lies a reedbed that is not the subject of any international, national or local designations. However, the reedbed supports three schedule 1 breeding birds – Marsh Harrier, Bearded Tit and Cetti's Warbler. The following impacts have been considered upon this reedbed:

- **Drainage –** to avoid any accidental release of pollutants to the reedbed all activities/items involving refuelling and maintenance of machines, oil storage tanks, chemical or fuel storage and on site concrete batching plants would be located more than 20m from the site boundary.

- **Light Spill –** The construction lighting scheme submitted as part of the CEMP will follow best practice to minimise the lighting of the reedbed. The key reedbed is 50m from the WKN proposed development boundary at its nearest point and therefore the impact of appropriately designed lighting is expected to be low.

- **Disturbance from people and plant movements –** the disturbance to nesting birds is considered negligible given they generally nest towards the middle of the reedbed and not the edges closest to the WKN site.

- **Noise –** The loudest noise activity is caused by impact piling which is restricted to certain times of the year by Requirement 28 as set out at paragraph 11.4.17 and which therefore avoids nesting bird season. The ES modelling demonstrates that noise associated with HGV movements is below the level where Natural England suggest further investigation is required.

17.8.10 As set out, the impacts on schedule 1 breeding birds is negligible. Any mitigation proposed to address potential impacts on The Swale/Ramsar area also has similar positive benefits in terms of mitigating impacts on the reedbed to the north of the WKN proposed development site.

Reptiles

17.8.11 The WKN proposed development site originally comprised a mix of habitats that may have supported reptiles, prior to the construction of K3. This habitat was due to be restored and therefore, to mitigate the habitat loss by the WKN proposed development new habitat will be created at the eastern end of the WKN site.

17.8.12 Reptiles were cleared from the WKN proposed development site as part of the original K3 application. Reptiles would be moved from the construction laydown and access route prior to construction of WKN proposed development. Reptile-proof fencing will be erected throughout the entire construction phase until completion when the reptiles can colonise the new habitat. Therefore, it is considered that impacts on reptiles are temporary with enhanced habitat being created to replace the habitat that has been lost.

Annual Beard-Grass

17.8.13 The ES proposes to follow the same methodology set out in the original K3 application which involves the planting of beard-grass by the WKN attenuation pond created as part of the WKN proposed development to ensure that the area is colonised by that species.

17.9 WKN Proposed Development – Operational Impacts

International Sites

17.9.1 The ES assesses the likely effects on international sites within a 10km radius from the WKN proposed development. The ES concludes that due to the distance between the WKN proposed development and the designated sites there would not be any likely significant effects on the Medway Estuary and Marshes SPA and Ramsar, the Thames Estuary and Marshes SPA and Ramsar and the Outer Thames Estuary SPA and Ramsar. Therefore, the ES only assesses the WKN operational effects on The Swale SPA and Ramsar.

- **Drainage -** the WKN Proposed Development would be split into two separate drainage systems. The first drainage system would collect clean surface water runoff, such as from building roof areas, and store it in the lagoon. The second drainage system would collect 'dirty' runoff, such as from the FGT area and store it in the 'dirty' water tank. This 'dirty' water would then be used in the process as required, for example ash quenching. The clean water would be stored in the lagoon and used to top up the 'dirty' water tank. If the lagoon has reached the maximum acceptable capacity it would be discharged at a controlled rate into The Swale, as for K3.

  These measures ensure that no adverse impacts in relation to drainage and surface water would affect the SPA.

- **Light Spill –** To mitigate any impacts an operational lighting scheme would be secured via Requirement 22 and would follow best practice to ensure an ecologically sensitive lighting scheme is installed.

- **Disturbance from people and plant movements –** There are limited impacts related to the operation of WKN as bird species feeding on the intertidal areas of the SPA/Ramsar are habituated to people using the public footpath and the existing industrial activity and screened by the sea wall, buildings and topographical features.

- **Recreational Disturbance –** A maximum of 50 operational staff will be present on site at any one time and due to its industrial nature access to the Saxon Shore Way and Swale Esturary would be restricted. Therefore, it is not anticipated that there will be any major recreational pressures on the SPA/Ramsar.

- **Noise and Vibration –** Operational noise is considered to have a minimal impact on the birds in the SPA/Ramsar as operational noise levels are not expected to exceed the 55dB threshold.

- **Overshadowing/Line of Sight –** The WKN proposed development does not cause any overshadowing of the SPA/Ramsar as the buildings have been orientated in such a way to avoid this.

- **Flight Lines –** The ES concludes that there are no flight lines over the WKN site partly due to the existing industrial uses surrounding the site.

- **Air Quality –** The ES concludes that air quality will not be significantly affected by the WKN proposed development as a result of stack emissions and HGV movements. Whilst levels of nitrogen disposition are not considered significant, The Swale SPA already exceeds the critical load. However, the reedbed habitat is not considered susceptible to nitrogen deposition due is monospecific nature.

17.9.2 Overall, no likely significant effects on biodiversity in internationally designated sites are expected at the operational stage of WKN.

Marine Conservation Zones (MCZ)

17.9.3 The Swale MCZ is located approximately 25m to the east of the operational WKN proposed development site. The impacts upon the MCZ will be the same as The Swale SPA/Ramsar discussed above due to their geographical coincidence. Therefore, as concluded above, there are no significant impacts on The Swale MCZ from WKN when operational.

Nationally Designated Sites

17.9.4 The Swale SSSI covers the same area as The Swale SPA/ Ramsar whilst the Elmley National Nature Reserve (NNR) occupies a smaller area within The Swale SPA/Ramsar on the Isle of Sheppey. Given the conclusions made on The Swale/SPA there are no significant impacts on the SSSI or NNR arising from WKN when operational.

Regional and Local Sites

17.9.5 The Milton Creek Local Wildlife Site (LWS) is located over 400m to the south east of WKN and is the only regional or local site in proximity to the WKN proposed development site. The LWs consists of a mix of habitat types and can be considered an informal extension of The Swale SPA. The ES has concluded no likely significant impacts as a result of the operation of WKN.

Ancient Woodland and Protected Trees

17.9.6 The WKN proposed development would not affect any ancient woodland or protected trees.

Habitats and Other Species

Breeding Birds

17.9.7 Without mitigation the operation of the WKN proposed development has the potential to impact breeding birds due to light spillage, disturbance, operational noise and mis-management as detailed below:

- **Light Spill –** The 24 hour operating times means there is potential for light spill to impact nesting birds. A lighting scheme for the operational phase will mitigate those potential impacts by ensuring lighting on the site boundary is appropriately sensitive to ecological receptors.

- **Disturbance from people and plant movements –** the level of disturbance arising from people and plant movements is not expected to be sufficient to disturb breeding birds, given they typically nest within the centre of the reedbed.

- **Operational Noise –** the ES has concluded that the operational noise will not have a significant impact on breeding birds within the reedbed.

17.9.8 As set out, the impacts on schedule 1 breeding birds is negligible.

Reptiles

17.9.9 The main harm to reptiles is from vehicle movements. Whilst reptiles are present and may move across the site foraging and basking the low speed of the vehicles and vibrations will enable reptiles to avoid vehicles. Therefore, operational impacts on reptiles are low.

Annual Beard-Grass

17.9.10 A Management Plan has been produced as part of the ES that will ensure the operational impacts on annual beard-grass as a result of mismanagement is mitigated.

17.10 Biodiversity within developments

17.10.1 EN-1 establishes a need to consider incorporating biodiversity features as part of good design.

17.10.2 The approved landscaping plan for the K3 site includes the planting of some 5,000 trees and shrubs. In addition the S016 signed pursuant to the original K3 planning permission included provisions for the creation of new bird nesting habitat on the Isle of Sheppey, which has since been undertaken and which is now managed by the RSPB, together with the creation of reptile translocation areas adjacent to the K3 site. The WKN site is smaller than K3 but still retains the ability to provide an element of landscaping, particularly in the eastern part of the site. Requirement 20 states that a written ecological management and enhancement plan will be created and approved for the WKN site.

17.11 Relevant Draft DCO Requirements

17.11.1 Requirement 9 of dDCO ensures the details of the original K3 planning permission are carried over into the dDCO and will apply as approved, which include the K3 Ecological Mitigation and Management Plan and Landscape Masterplan. Requirement 10 provides for the ongoing maintenance of the K3 landscaping.

17.11.2 As noted above Requirement 21 states that an Ecological Management and Enhancement plan will be approved for the WKN site. Requirement 15 deals with the provision of landscaping on the WKN site and Requirement 16 with the ongoing retention and maintenance of that landscaping. Other Requirements deal with elements of WKN which could have effects on ecology such as Requirement 22, the CEMP, Requirement 23 on external lighting and Requirement 29 on the timing of piling. Requirement 5 controls the storage of fuel on both the K3 and WKN sites and Requirement 18 deals with surface water drainage.

17.12 Summary

17.12.1 The ES has not identified any significant effects on designated sites, protected species and habitats and other species considered to be of principal importance for the conservation of biodiversity as a result of the K3 or WKN proposed developments.

17.12.2 The mitigation measures that have been proposed would be secured through the requirements as set out in the dDCO. EN-1 states that development should avoid significant harm to biodiversity and any harm should be mitigated. As the ES has concluded there are no significant impacts on biodiversity following mitigation and the K3 and WKN proposed developments are fully compliant with EN-1.

18 Civil and Military Aviation and Defence Interests

18.1 EN-1

18.1.1 Section 5.4 sets how new energy infrastructure can affect civil and military aviation and defence interests. The military Low Flying system covers the whole of the UK and enables low flying activities as low as 75m, therefore, new energy infrastructure may cause obstructions in Ministry of Defence (MoD) low flying areas.

18.2 Other Planning Policy

Kent Minerals and Waste Local Plan 2011-2031

18.2.1 Policy DM 15 seeks to safeguard transport infrastructure by ensuring developments do not give rise to unacceptable impacts on aviation.

18.3 Applicant's Assessment

18.3.1 The Civil Aviation Authority (CAA) were consulted as part of the Scoping Opinion process and as part of section 42 consultation but no response was received. This was also the case for the original K3 planning application which proposed two 90m stacks. As part of the original K3 development it was proposed that an aircraft warning light will be installed on the stacks to ensure civil and military aviation safety. This is because the site is located close to the M2 motorway, the A249 and the Swale estuary, which are features which could be used as aviation routes. The practical effect of the proposed K3 development does not involve any external construction works and no other effects in respect of civil and military aviation or defence interests will occur.

18.3.2 The WKN proposed development seeks to erect a single stack of height between 90 – 99m. The CAA has not responded to any consultations undertaken thus far and the proposed development stack is above the 75m low flying system with no concerns raised by the MoD, CAA or National Air Traffic Services (NATS).

18.3.3 However it is proposed that an aircraft warning light would be installed at the top of the WKN stack as a safety measure for consistency and for the same reasons as the installation of a warning light on the K3 stacks.

18.3.4 On the basis of the above both the K3 and WKN developments are considered to comply with national policy in respect of civil and military aviation and defence interests.

19 Climate Change

19.1 Wider context

19.1.1 The Climate Change Act 2008 established a legally binding target on the UK to reduce greenhouse gas emissions by 2050 to 80% below 1990 base levels, to achieve a 50% reduction in emissions over the 2023-27 period and to source 15% of its energy from renewable sources by 2020.

19.1.2 The Carbon Plan 2011 sets out the UK's national strategy for reducing emissions towards achieving a low carbon economy. One of the approaches set out in the Carbon Plan seeks to support efficient energy recovery from residual waste rather than by disposing the waste to landfill.

19.1.3 A full summary of the wider context policy documents in respect of climate change commitments is provided in Chapter 6 of the ES.

19.2 EN-1

19.2.1 Section 2.2 of EN-1 makes clear the commitment by the Government to the legally binding target to cut greenhouse gas emissions by at least 80% by 2050, compared to 1990 levels.

19.2.2 Paragraph 2.2.4 states that the role of the planning system is to provide a framework which permits the construction of whatever Government – and players in the market responding to rules, incentives or signals from Government – have identified as the types of infrastructure needed in the places where it is acceptable in planning terms.

19.2.3 Paragraph 2.2.5 states that the UK economy is reliant on fossil fuels and paragraph 2.2.6 states that the UK needs to decrease its reliance of such a high carbon energy mix to reduce greenhouse gases and increase the diversity in energy production.

19.2.4 EN-1 sets out how the energy sector can help deliver the Government's climate change objectives through clearly setting out the need for new low carbon energy infrastructure to mitigate climate change. Paragraph 2.2.16 states that approximately a quarter of the UK's generating capacity is due to close by 2018 and new low carbon generation is required which is reliable, secure and affordable.

19.2.5 EN-1 notes that the energy NPSs do not place any barriers in the way of low carbon energy infrastructure, but that the Government is actively encouraging industry to accelerate towards a low carbon economy.

19.2.6 Section 4.8 sets out that new energy infrastructure should be resilient to climate change. New energy infrastructure is usually a long term investment and paragraph 4.8.5 requires applicants to consider the impacts of climate change on location, design, build, operation and, where appropriate, decommissioning of new energy infrastructure. These considerations are set out in chapter 6 of the ES.

19.3 EN-3

19.3.1 Section 2.3 of EN-3 reinforces the stance taken in part 2 and section 4.8 of EN-1. Paragraph 2.3.3 of EN-3 notes that energy from waste generating stations are likely to require significant water resources and the proposed development should ensure resilience against increased risk of flooding and increased risk of drought affecting river flows.

19.4 Other Planning Policy

The NPPF

19.4.1 Paragraph 150 requires new development to be planned in a way that avoids increased vulnerability to the range of impacts arising from climate change and helps reduce greenhouse gas emissions.

19.4.2 The NPPF supports the transition to a low carbon economy and paragraph 154 states that in determining applications renewable and low carbon development, the applicant should not have to demonstrate the overall need for renewable or low carbon energy is not required and applications should be approved if impact are (or can be made) acceptable.

Kent Minerals and Waste Local Plan 2011-2031

19.4.3 General objective 2 sets out that waste developments should contribute towards the minimisation of, and adaption to, the effects of climate change.

19.4.4 Policy DM 1 Sustainable Design requires waste development to demonstrate they minimis greenhouse gas emissions and other emissions and minimise energy and water consumption.

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19.4.5 Policy ST1 seeks to achieve sustainable development in Swale, which includes the need to meet the challenge of climate change, flooding and coasts change, with one identified measure being the efficient use of natural resources.

19.4.6 Policy CP1 sets out that development should be resilient to climate change or lead to an expansion of businesses in the low carbon sector. Policy DM14 sets out general development criteria, including the need to respond to the constraints and opportunities posed from climate change.

19.5 Applicant's Assessment

19.5.1 Chapter 6 of the ES addresses greenhouse gases and climate change.

19.5.2 The assumed baseline for both the K3 and WKN proposed developments is that both developments would be diverting waste from disposal to landfill and using Refused Derived Fuel which is currently being exported to Europe.

K3 Proposed Development

19.5.3 The operational impacts of K3 with an increased waste throughput would be a net carbon reduction of approximately -59.5 $ktCO_2e$/annum compared to the baseline of the consented K3 operation. The reduction in greenhouse gas (GHG) emissions is based on the increased efficiency of K3 and the reduced emissions that would been released from disposal of the waste which K3 would process to landfill. Given this the ES has concluded that the K3 proposed development has a beneficial significant effect on climate change.

19.5.4 The K3 proposed development is not required to provide carbon capture and storage (CCS) as it falls below the 300 MWe capacity threshold in NPS EN-1.

WKN Proposed Development

19.5.5 The construction effects of the WKN proposed development has been conclude in the ES that the embodied carbon of the construction materials make a minimal contribution to the process emissions. Therefore, this is a negligible impact to the overall GHG emission effects and is not considered significant.

19.5.6 However, in line with IEMA guidelines efforts will be made during the detailed design to make efficient use of materials, use material with low embodied carbon and to source materials locally.

19.5.7 The operational impacts of WKN would be a net carbon reduction of approximately -63.8 $ktCO_2e$/annum compared to the baseline of landfill disposal of that waste and alternative electricity generation. This reduction of GHG emission is based on emissions that would otherwise be generated from disposal of waste to landfill and other alternative fossil fuel electricity generation.

19.5.8 The WKN proposed development is not required to provide carbon capture and storage (CCS) as it falls below the 300 MWe capacity threshold in NPS EN-1.

K3 and WKN Proposed Development

19.5.9 The K3 and WKN proposed development in combination, result in a significant net benefit to climate change as detailed above. Combined the proposed development results in a net carbon reduction of approximately -123.3 $ktCO_2e$/annum when compared to the baseline for landfill disposal.

19.6 Summary

19.6.1 Net total GHG emissions from operation of the K3 and WKN proposed developments have been calculated based on their waste throughput, combustion processes and treatment of residues. These emissions have been compared to baseline GHG emissions from landfill disposal of waste and from conventional electricity generation in which it was concluded that both developments have a net beneficial impact.

20 Dust, Odour, Artificial Light, Smoke and Steam and Insect Infestation

20.1 EN-1

20.1.1 Section 5.6 states that there is the potential for a range of emissions from new energy infrastructure that could have a detrimental impact on amenity. It is important to mitigate these issues at the planning stage in order to avoid potential nuisance claims in the future. EN-1 accepts that for energy NSIPs some impacts on amenity for the local communities in their vicinity are likely to be unavoidable but impacts should be kept to an acceptable level.

20.2 EN-3

20.2.1 Paragraph 2.5.59 refers to section 5.6 of EN-1 but adds that the storage of fuels for EfW generating stations which contain biodegradable waste may attract insects and vermin. The storage and processing of biodegradable waste is also likely to lead to an increase in odour.

20.3 Other Planning Policy

NPPF

20.3.1 Chapter 12 of the NPPF seeks to achieve good design and Paragraph 127 point f) requires new developments to have a high standard of amenity for existing and future users.

20.3.2 Paragraph 180 states that development should be appropriate for its location and consider the likely effects of pollution on health, living conditions and the natural environment.

NPPW

20.3.3 Annex B sets out the locational criteria for new waste development in which the following are relevant to section 5.6 of EN-1:

- g) air emissions, including dust - requires developments to consider the impacts on sensitive receptors in relation to adverse emissions.
- h) odours - requires the consideration of adverse odours on sensitive receptors
- i) vermin and birds – require consideration of the potential for waste developments to attract vermin and birds due to putrescible (biodegradable) waste, which can cause adverse impacts upon sensitive receptors including aviation safety.
- j) noise, light and vibration – requires the consideration of light pollution on sensitive receptors that may result from waste management

developments. Noise and vibration impacts are dealt with under chapter 18 of this document.

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20.3.4 Policy DM11 requires waste developments to demonstrate they are unlikely to generate unacceptable adverse impacts from dust, odour, emissions, bioaerosols, illumination, exposure to health risks and associated damage to the qualities of life and wellbeing to communities.

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20.3.5 Criterion h) of Policy ST 1 delivering sustainable development in Swale states that national planning policy in relation to pollution will apply.

20.3.6 Policy DM 14 sets out the general development criteria for Swale and states that development proposals should not cause significant harm to amenity and other sensitive uses or areas.

20.4 Applicant's Assessment

20.4.1 Chapter 5 of the ES assesses air quality and impacts relating to emissions and dust.

20.4.2 In addition, a Statutory Nuisance Statement [Document 4.4] has been produced which specifically assesses the potential for statutory nuisances which may arise as a result of the K3 and WKN proposed developments. The statutory nuisances are set out in Section 79(1) of the Environmental Protection Act 1990.

Waste-to-energy facility controls

20.4.3 WTI are an experienced operator of waste-to-energy facilities, and K3 and WKN would both be operated in accordance with measures and best practices which ensure that there will be no adverse impacts arising in relation to dust, odour, artificial light, smoke and steam and insect and vermin infestation.

20.4.4 Dust generating activities as part of the operation of the K3 and WKN facilities are likely to occur in the Flue Gas Treatment Plant (FGT), tipping hall, silos for the collection of FGT residue and the collection of Incinerator Bottom Ash (IBA). Fabric filter bags, including injected reagents and activated carbon will be used in the FGT plant to reduce particulate emissions through the stack. The efficiency of the filter bags will be continuously monitored and replaced if as necessary.

20.4.5 The fugitive dust emissions are restricted in the tipping hall and silos through the enclosure of these areas and a water quenching system for the IBA restricts any dust emissions arising.

20.4.6 Chapter 5 of the ES assesses the potential impact that may arise due to odours from the delivery and storage of waste prior to combustion. The ES refers to the "Review of Environmental and Health Effects of Waste Management" (Defra, 2004) which states that waste to energy plants control odours through combustion air. This means that air is drawn into the combustion process from within the

building creating a slight negative pressure in the building. Airflow and odours are drawn into the building and the odours breakdown during combustion process and therefore odours are unlikely to be detected from the stack emissions at ground level. Odour levels around the site will be monitored to ensure the odour control measures a being effective.

20.4.7 As the K3 and WKN facilities use post-recycled waste as the fuel for the waste-to-energy process it is likely to only contain minimal putrescible waste. Moreover, the waste is delivered in covered or enclosed containers, tipped inside an enclosed reception hall and stored internally which minimise the potential for insect or vermin infestation. This is further minimised by the high turnover of fuel in the bunker which ensures that the risk of insect or vermin infestation is low.

20.4.8 As part of the waste-to-energy process, process water and high-pressure steam is continually recycled and not emitted as steam. However, there will be residual moisture within the emissions. The WKN permitted development ensures that the gas temperature will be maintained above 140°C, which is the temperature specified in EU Guidance as being above the dew point of the gas so as to minimise visible plume emissions.

20.4.9 Smoke would not be released by the either the K3 or WKN facilities. The exhaust emissions will be monitored by a Continuous Emissions Monitoring System (CEMS) and will be strictly controlled and regulated by the EA under an Environmental Permit. An Operations and Management Team will ensure both facilities adhere to the regulations and will establish planned preventative maintenance programme.

20.4.10 Given the industrial nature of the site and that the nearest residential receptors are approximately over 750m from the WKN site there will be negligible impact on amenity from dust, odour, artificial light, smoke and steam emissions and insect and vermin infestation.

The K3 proposed development

20.4.11 Construction of K3 began in July 2016 and is expected to be completed with the facility operational by late 2019. The facility would employ all the measures stated within this Chapter to avoid impacts on the amenity of surrounding areas.

20.4.12 A lighting scheme has been approved for K3 by KCC under the original planning permission and is included as an approved document within the dDCO. Compliance with the lighting scheme will prevent undue emissions of artificial light.

20.4.13 The practical effect of the K3 proposed development would be an increase in generating capacity and annual throughput of waste, neither of which will affect the current measures used to prevent impacts on amenity.

WKN Proposed Development – Construction

20.4.14 An outline Construction Environmental Management Plan (CEMP) has been submitted as Appendix 2.1 of the Environmental Statement [Document 3.1]. This ensures that best practices would be adhered to during construction to ensure

issues relating to dust, odour, artificial light, smoke and steam and insect and vermin infestation do not unacceptably affect amenity.

WKN Proposed Development – Operation

20.4.15 The WKN facility, when operational, would employ the measures detailed within this Chapter to avoid any impacts on amenity.

20.4.16 As the WKN proposed development is not at the detailed design stage a detailed lighting scheme has not been produced. However, it is proposed that a detailed lighting scheme will be prepared by a lighting specialist and implemented accordingly The detailed lighting scheme will be designed to best practice including British Standard EN12464-2:2014 Lighting - Lighting of Work Places, Outdoor works and Charted Institution Building Service Engineers (CIBSE) Lighting Guide 6 - The Exterior Environment, which minimise light spill.

20.5 Draft DCO Requirements

20.5.1 Requirement 9 of dDCO ensures the details of the original K3 planning permission are carried over into the dDCO and will apply as approved, including the approved lighting scheme.

20.5.2 For WKN, Requirement 22 requires a full CEMP to be produced and approved by the local planning authority and for that plan to accord with the outline CEMP. This ensures that the construction of the WKN proposed development is managed and minimises any effect on amenity during construction stage.

20.5.3 Requirement 22 requires the submission of a detailed lighting scheme for the construction and operation phases of the WKN proposed development.

20.6 Summary

20.6.1 As demonstrated, there are no impacts that will arise from the K3 or WKN proposed development in relation to dust, odour, artificial light, smoke and steam emissions and insect and vermin infestation at either the construction or operational stage that will have an unacceptable impact on amenity. Therefore, DCO application is in accordance with both EN-1 and EN-3 by ensuring that the necessary steps and procedures are in place to minimise the potential for detrimental impacts on amenity.

21 Flood Risk

21.1 EN-1

21.1.1 EN-1 states that inappropriate development should be avoided in areas at risk of flooding and to that development should be directed away from the areas at the highest risk. Where new energy infrastructure is necessary in such areas it should be seen as an exception and should be made safe without increasing flood risk elsewhere and if possible, by reducing flood risk overall.

21.1.2 A Flood Risk Assessment is required for energy projects of 1 hectare or greater in Flood Zone 1 and all energy projects that are located in Flood Zones 2 and 3.

21.2 Other Planning Policy

The NPPF

21.2.1 Chapter 14 of the NPPF states that planning should take full account of flood risk and coastal change. Paragraph 155 requires that inappropriate development in areas at risk of flooding should be avoided and directed away from areas at highest risk.

21.2.2 A Flood Risk Assessment is required for developments of 1 hectare or greater in Flood Zone 1 and all developments that are located in Flood Zones 2 and 3. Paragraph 165 requires major developments to incorporate sustainable drainage systems.

NPPW

21.2.3 Appendix B – Locational Criteria part a) requires the consideration of flood risk when determining a suitable location for waste management facilities.

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21.2.4 Policy CSW 6 requires the location of built waste management facilities that provide additional capacity that is required by CSW7 and which moves waste up the hierarchy to avoid locations that are within Flood Risk Zone 3b.

21.2.5 Policy DM 10 adds that waste management facilities should not exacerbate flood risk in areas prone to flooding.

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21.2.6 Policy CSW 6 requires the location of built waste management facilities that moves waste up the hierarchy to avoid locations that are within Flood Risk Zone 3b.

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21.2.7 Policy DM1 requires development proposals to avoid inappropriate development in areas at risk of flooding or where development would increase flood risk elsewhere.

21.2.8 Policy DM21 sets out the criteria for assessing flood risk and the implications on development.

21.3 Applicant's Assessment

K3 Proposed Development

21.3.1 The Committee Report for the original K3 planning application notes that the K3 site was to be reprofiled to a level of 5.8m AOD, thereby lifting it out of Flood Zones 2 and 3a into Flood Zone 1, with a 0.1% probability of flooding. That approach was considered acceptable particularly as the site does not form part of the functional floodplain.

21.3.2 The practical effect of the K3 proposed development would not involve any external construction works and the approved Flood Risk Assessment and Surface Water Management and Foul Drainage Design Philosophy relating to the K3 development are listed within Schedule 3 of the dDCO which would ensure ongoing compliance with those documents.

WKN Proposed Development

21.3.3 Chapter 10 of the ES addresses the Water Environment and assesses the potential flood risk with a separate Flood Risk Assessment provided in Appendix 10. In reviewing the EA flood map for planners and Swale Borough Council SFRA (2010), the ES has identified the WKN proposed development site as being mainly within Flood Zone 2 with a small area located in Flood Zone 3 and 1 to the east and west of the site respectively.

21.3.4 However, the WKN site has been assessed as being at 'low' risk of Tidal flooding from the Swale due to the WKN Site having been raised to a level of around 6.3m AOD which is approximately 0.30m above the worst case flood event. Therefore, this results in the land in reality being within Flood Zone 1.

WKN Proposed Development – Construction

21.3.5 Whilst the majority of the WKN site is currently hard standing the creation of an additional impermeable construction compound will potentially increase flood risk on a temporary basis given the construction access road and laydown area has been identified in the ES as being at risk of tidal flood. Construction activities have been assessed as causing a significant effect on flood risk without mitigation, and as such a Flood Management Plan is to be produced to mitigate these impacts.

21.3.6 The Flood Management Plan will include the use of settling tanks and/or ponds to remove sediment, together with temporary interceptors and hydraulic brakes. In addition the construction laydown area will comprise gravel on a permeable membrane with any excess runoff directed to an onsite settlement pond.

WKN Proposed Development – Operation

21.3.7 Due to the existing level of the WKN Site of c.6.30m AOD and the development being effectively in Flood Zone 1, tidal flooding has been assessed as having a low risk for the completed WKN facility. The WKN facility has also been assessed as being at very low risk from surface water flooding. It is not anticipated that there will be any significant increases in impermeable surfaces as a result of the operation of WKN compared to the current situation. Clean water surface water would be stored within an onsite lagoon, attenuated where necessary and discharged into The Swale at controlled rates.

21.4 Requirements

21.4.1 Requirement 9 of the dDCO ensures the details of the original K3 planning permission are carried over into the dDCO and will apply as approved, with those details including the approved Flood Risk Assessment and Surface Water Management and Foul Drainage Design Philosophy.

21.4.2 Requirement 13 of the dDCO then limits and controls the rate of all surface water drainage from the K3 development, and is consistent with the original K3 planning permission.

21.4.3 Requirement 18 stipulates that a surface water drainage strategy, drainage maintenance plan, flood management plan, emergency spillage management plan, water quality monitoring plan and flood evacuation plan must be submitted to and approved by the relevant planning authority in respect of WKN.

21.5 Summary

21.5.1 Given the above, it is submitted that the K3 and WKN proposed developments are in accordance with relevant planning policies relating to flood risk and include appropriate provisions to manage surface water drainage.

22 Historic Environment

22.1 EN-1

22.1.1 Section 5.8 of EN-1 acknowledges that all aspects of construction, operation and decommissioning of energy infrastructure has the potential to result in adverse impacts on the historic environment, which includes surviving physical remains of past human activity, whether visible, buried or submerged, landscaped and planted or managed flora.

22.1.2 EN-1 notes that there are some heritage assets that have been designated as heritage assets according to their level of significance but acknowledges that some heritage assets have not been designated but still may be of importance. Non-designated assets should be given the same weight as designated assets based on any evidence provided.

22.1.3 Paragraph 5.8.13 states that the desirability of sustaining and enhancing the significance of heritage assets, the contribution of their settings and the positive contribution they can make to sustainable communities and economic vitality should be considered. EN-1 establishes a presumption in favour of the conservation of designated assets and the more significant the designated heritage assets the greater the presumption in favour of its conservation.

22.1.4 Aside from Grade II listed buildings, parks or gardens, any substantial harm or loss of designated assets of the highest significance should be wholly exceptional with the loss of designated assets only being acceptable in exceptional circumstances. However, any harm to the significance of a designated heritage asset should be weighed against the public benefit of the development with substantial harm or total loss of significance having to be justified by substantial public benefits.

22.2 Other Planning Policy

NPPF

22.2.1 Chapter 16 of the NPPF seeks to conserve and enhance the historic environment which consists of heritage assets which are irreplaceable resources and should be conserved in a manner appropriate to their significance.

22.2.2 Paragraph 192 sets out that the desirability of sustaining and enhancing the significance of heritage assets should be considered along with the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality and the desirability of new development making a positive contribution.

22.2.3 Any harm or loss of the significance of a designated heritage asset should require clear and convincing justification; the harm to or loss of Grade II listed buildings, parks and gardens should be exceptional and the remaining designated heritage assets must be wholly exceptional.

22.2.4 The NPPF also requires the consideration of non-designated heritage assets and that a balanced judgement will need to be made on the scale of any harm or loss proposed to the non-designated heritage asset.

NPPW

22.2.5 Appendix B – Locational Criteria part e) requires the consideration of potential effects on the significance of designated and non-designated heritage assets and their settings.

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22.2.6 Policy DM 5 requires waste developments to ensure that Kent's heritage assets and their settings are conserved in a manner appropriate to their significance. It adds that proposals should not result in unacceptable impacts on Kent's historic environment.

22.2.7 Policy DM 6 states that a Historic Environment Assessment will need to be undertaken for waste developments that are likely to affect heritage assets.

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22.2.8 Policy ST1 seeks to deliver sustainable development in Swale which includes the conservation and enhancement of the historic environment. Policy CP7 seeks to conserve and enhance the natural environment and includes provisions to protect, conserve and manage historic landscapes, archaeological and built heritage assets. Policy CP8 seeks to conserve and enhance the significance of designated and non-designated heritage assets.

22.2.9 Policy DM14 requires the consideration of the desirability of sustaining and enhancing the significance of heritage assets within the general development criteria. Policy DM20 sets out that renewable and low carbon energy development should minimise or mitigate impacts on heritage assets to acceptable levels.

22.2.10 Policy DM34 states that development will not be permitted which would adversely affect a Scheduled Monument, and/or its setting.

22.3 Applicant's Assessment

K3 Proposed Development

22.3.1 Planning permission was granted for the K3 facility in 2012, with the Committee report relating to the application silent on the issue of heritage assets, which demonstrates the lack of any effects on designated or non-designated heritage assets which was considered to occur. The original K3 planning permission did however include a condition requiring a programme of archaeological work to be completed, which has since been discharged.

22.3.2 The 'practical effect' of the K3 Proposed Development would simply be K3, as constructed under its existing permission, being capable of generating an additional 25.1MW and processing an additional 107,000 tonnes of waste per

annum. In practical terms the granting of the DCO would not result in any additional external physical changes to K3 as consented and the layout and appearance of the facility would remain as per its consented design. Therefore no new or additional impacts on heritage assets would arise as a result of development consent being granted.

WKN Proposed Development

22.3.3 Chapter 13 of the ES specifically addresses cultural heritage including archaeology in respect of the WKN development.

22.3.4 The ES notes that whilst the WKN site lies within a wider landscape which has a high potential for remains dating from the prehistoric period onwards it is also within an intertidal area and is unlikely to have experienced intense activity historically. Given that the WKN site is already occupied by a construction compound for K3 and historically used for storing industrial materials any buried remains are likely to be of low significance. Nevertheless, it is proposed that a programme of archaeological field work would be used to investigate and record any surviving archaeological remains.

22.3.5 The only heritage asset within 1km of the WKN site is the Castle Rough Scheduled Ancient Monument (SAM). There are no World Heritage Sites, Protected Wrecks, Registered Battlefields or registered parks and gardens within 3km of the site, and no listed buildings or Conservation Areas within 1km of the site.

22.3.6 Between 1km and 2km of the site there is one SAM (Murston Old Church, Sittingbourne), 15 listed buildings and between 2km and 3km there is one more SAM (World War II Heavy Anti-aircraft gun site) and 57 listed buildings

22.3.7 The nearest designated heritage asset is the Castle Rough SAM which is located around 550m to the southwest of the WKN site. Therefore, any impact on this SAM would be to its setting with no physical impact to SAM itself. However, given that the SAM is low lying and surrounded by trees and vegetation, and that the existing K3 facility will largely screen any views of or from the WKN site, there would not be any significant impacts on the setting of Castle Rough.

22.3.8 With regard to any other designated Heritage Assets, the ES concludes that due to a combination of distance, the existing K3 facility and a lack of intervisibility between WKN and the heritage assets there are no significant effects arising from the construction or operation of the WKN proposed development on the heritage assets either physically or their setting.

22.3.9 The WKN proposed development lies within the Industrial Complexes and Factories historic landscape character (HLC) area with a small part falling within Small Irregular Enclosures (HLC number 2759). However, the ES has concluded these HLC's are of low significance and that given the existing development present in the area there is no impact on the HLC's.

22.4 Requirement

22.4.1 Requirement 20 makes provision for a written scheme for the investigation of areas of archaeological interest to be approved by the relevant planning authority.

This will identify areas where a watching brief and/or field work are required and specifies the measures to be taken should any significant archaeological remains be found.

22.5 Summary

22.5.1 Whilst it is considered that the potential for significant archaeological remains is low, the dDCO makes provisions in respect of WKN to mitigate any impacts should any significant archaeological remains be found.

22.5.2 The WKN proposed development has not been identified as causing harm to the significance of any designated heritage assets and therefore no need to justify the harm in relation to public benefit is required. Similarly the K3 faciity was considered to be acceptable in respect of heritage assets when planning permission was first granted and the K3 proposed development would not create any new or additional impacts on heritage assets. Therefore the K3 and WKN proposed developments comply with national and local planning policy.

23 Landscape and Visual Impacts

23.1 EN-1

23.1.1 Section 5.9 deals with Landscape and Visual effects and acknowledges that these effects will vary depending on the type of energy project, its location and the landscape setting with specific features of energy projects having the most obvious impacts, such as cooling towers, exhaust stacks and visible steam plumes. It notes that air-cooled condensers are likely to have less visible impacts as they are generally lower with no visible steam plumes.

23.1.2 EN-1 accepts that virtually all NSIPS will have effects on landscape and that careful design is required to ensure these effects have been considered to minimise the harm to the landscape by having regard to siting, operational and other relevant constraints.

23.1.3 Different tests are applied depending on whether the development is located in a nationally designated site. Outside of a nationally designated area, attention should be given to locally designated landscapes but these should not in themselves be a reason to refuse consent.

23.1.4 EN-1 notes that it is for the decision maker to determine whether the visual impact of the NSIP on sensitive receptors outweighs the benefits.

23.1.5 Reducing the scale of NSIPs can mitigate landscape and visual impact but this may restrict their operation and functions. However EN-1 notes that there may be a balance between a reduction in scale and loss of output. Other mitigation measures identified include siting, design and landscaping (off site if appropriate).

23.1.6 Section 4.5 of EN-1 deals with good design for energy infrastructure and has been assessed in detail within the Design and Access Statement.

23.2 EN-3

23.2.1 In referring to Section 5.9 of EN-1, EN-3 states that waste combustion generating stations will require a building housing fuel reception and storage facilities, the combustion chamber and abatement units, among other aspects, which is unlikely to be less than 25m in height. Cooling towers are also required and their size is dependent on the throughput.

23.2.2 EN-3 notes that good design can assist in mitigating the landscape and visual impact of NSIP projects particularly through careful consideration of the type of materials used, site layout and building design to minimise their intrusive appearance.

23.2.3 EN-3 expects WtE facilities to visually enclose the sites to conceal smaller scale features through the use of earth bunds and mounds and/or tree planting to soften the visual intrusion.

23.3 Other Planning Policy

The NPPF

23.3.1 Chapter 15 seeks to enhance the natural environment that includes protecting and enhancing valued landscapes. National Parks, the Broads and Areas of Outstanding Natural Beauty are given the highest level of protection and great weight is attributed to their conservation and enhancement.

NPPW

23.3.2 Appendix B – Locational Criteria part c) requires the consideration of design-led solutions to produce acceptable development which respects landscape character, protection of landscapes of national importance and localised height restrictions.

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23.3.3 Policy CSW6 requires waste management facilities that include prominent structures such as chimney stacks to ensure these can be accommodated within the local landscape after mitigation.

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23.3.4 Policy ST1 seeks to achieve sustainable development in Swale, which includes achieving good design, together with protecting and where possible enhancing the intrinsic character, beauty and tranquillity of the countryside.

23.3.5 Policy ST5 sets out a strategy for Sittingbourne of which point 10 seeks to improve the condition and quality of landscapes in the area and to ensure that development is appropriate to landscape character and quality.

23.3.6 Policy CP4 requires good design which is appropriate to the surroundings and includes provisions to conserve and enhance the landscape and local environments by responding to landscape character, condition, sensitivity and capacity for change. Developments should be appropriate to its context in respect of matters such as materials, scale, height, massing and the colour, pattern and durability of materials.

23.3.7 Policy DM14 provides general development criteria and states that development must be both well sited and of a scale, design, appearance and detail which is sympathetic and appropriate to the location.

23.3.8 Policy DM24 seeks to conserve and enhance the value, character, amenity and tranquillity of landscapes in the Borough. For non-designated landscapes it seeks to minimise and mitigate adverse landscape impacts and where significant adverse impacts remain, the benefits of the proposed development significantly and demonstrably outweigh the harm to the landscape character and value.

23.3.9 Policy DM24 requires all development to have regard to the Swale Borough Council's Urban Extension Landscape Capacity Study and Landscape Character and Biodiversity Appraisal SPD.

23.4 Applicant's Assessment

23.4.1 The Design and Access Statement [Document 4.3] provides a full summary of the approach taken to design and layout for the K3 and WKN developments.

K3 Proposed Development

23.4.2 In granting planning permission for K3 Kent County Council noted the presence in the immediate surrounding area of other major developments such as the Kemsley Paper Mill, the Knauf factory and the Morrisons distribution depot. The Committee report notes that more distant views of the area demonstrate the dominance created by existing large industrial buildings and acknowledge that the K3 facility would not significantly alter that industrial landscape. In closer views, such as from the Saxon Shore Way, the Committee Report notes that the visual impacts would be more severe, but that any impact needs to be considered against the similar scale and height of the Kemsley Paper mill which already dominates closer views.

23.4.3 The Committee report acknowledged the use of design, particularly graduated colour, to help mitigate the impact of K3.

23.4.4 In practical terms the K3 proposed development would not result in any change to the facility as currently consented and therefore no additional landscape or visual impacts would occur.

WKN Proposed Development – Site Context

23.4.5 The WKN site is not located within any designated landscapes. The North Kent Marshes Special Landscape Area (SPA) and Area of High Landscape Value (AHLV) extends over The Swale and nearby coastal landscape including the Chetney and Greenborough Marshes to the east and Milton Creek to the south. In addition, The Swale Level AHLV is located approximately 1.75km to the south and 2.8km to the west of the WKN site.

23.4.6 The Kent Downs Area of Outstanding Natural Beauty lies on high land around 7km to the south. There are no Scheduled Ancient Monuments (SAM) or Conservation Areas within the site, although the nearest SAM is around 550m to the southwest of the WKN site.

23.4.7 The Saxon Shore Way Long Distance Trail passes immediately to the east of the WKN site following the sea defences along Milton Creek and The Swale and extends around the coast line of Kent and is due to form part of the England Coastal Path. This trail is also defined as a Public Right of Way as ZU1 north of Milton Creek and ZU2 south of Milton Creek.

23.4.8 The WKN site lies within the National Character Area 81: Greater Thames Estuary, as defined in Natural England's National Character Area Profiles. According to the Kent Landscape Character Assessment (2004), the WKN site is within the Swale Marshes Character Area which includes the built form of Ridham Dock.

23.4.9 The ES has established a Zone of Theoretical Visibility in which a range of Local Landscape Character Areas set out in the Swale Landscape Character Assessment and Guidelines (2005) and revised in the Swale Landscape Character and

Biodiversity Appraisal SPD (2011) have been identified. The WKN site is within the Sittingbourne Industrial and Commercial area which is characterised by large scale industrial development, disused and derelict land and mainly flat topography by The Swale which is considered to be of poor condition and low value.

23.4.10 The scenic value of site is of poor quality due to the any vegetation having been cleared to construct K3 and the adjacent industrial complex. However, the site provides a transition from the industrial edge of Sittingbourne to the open expanse of The Swale, Milton Creek and Isle of Sheppey.

23.4.11 Whilst the WKN site is typical of the urban fringe on the northern industrial edge of Sittingbourne, the presence of the salt marshes and mudflats of The Swale are relatively uncommon and important to the character of the area. However, there are no features within the WKN site that require retention that would add value to the landscape.

23.4.12 This combination of industrial setting juxtaposed against the openness of the estuarine habitat of the Swale means that he tranquillity of the landscape has been compromised by the industrial activity.

WKN Proposed Development – Construction

23.4.13 The temporary effects arising from the construction stage from items such as cranes or high level plant both during the day and night times is assessed in the ES as being slight or negligible. This is due to the small change in magnitude as a result of the existing industrial character of the surrounding area. Visually, the construction stage would result in slight or negligible impacts on all viewpoints, except for (Viewpoint 1 Saxon Shore Way/Footpath ZU1, north of the WKN Site), within the surrounding area which are considered not to be significant due to the existing industrial setting and distance to the sensitive receptors.

23.4.14 Viewpoint 1 to the north of the WKN proposed development would have an open view of the construction site for WKN proposed development but this will be for a short-term period within an industrial context.

WKN Proposed Development – Operation

23.4.15 The WKN facility in operation would have longer term landscape and visual impacts. The ES concludes that the impacts on the Sittingbourne Industrial/Commercial Area would only be slight adverse and thus the impacts are not considered to be significant, given the industrial context within which the WKN proposed development is located comprising industrial development ranging from the DS Smith Paper Mill to Ridham Dock to the north. Within the wider landscape the WKN proposed development is again considered to have a slight significant impact due to the existing industrial setting.

23.4.16 Aside from one viewpoint (Viewpoint 1 Saxon Shore Way/Footpath ZU1, north of the WKN Site) the WKN proposed development has been assessed as having either a negligible or slight adverse visual impact which is not considered significant. This is due to the screening effects of the permitted K3 facility and the mounded landfill to the south and the existing industrial context.

23.4.17 Viewpoint 1 has been assessed as being moderately affected by the WKN proposed development as it would have open views of the majority of buildings and infrastructure of the WKN proposed development in front of K3. Whilst the WKN proposed development would be viewed as one entity against the backdrop of K3 it does present an intensification of the existing industrial conditions.

23.4.18 The sequential visual impact for users of the Saxon Shore Way comprises negligible, slight and moderate effects. However, the moderate effect applies to only a short section of the Saxon Shore Way and therefore, the sequential visual effects are not considered to be significantly affected by the WKN proposed development.

23.4.19 Mitigation has been proposed to reduce the landscape and visual impact of the WKN proposed development by proposed hard and soft landscaping, minimising the scale and massing of development in the design, the use of appropriate materials and colours and the use of a lighting strategy to ensure that operational lighting is appropriately sensitive to the wider context.

23.4.20 When assessing the cumulative impact, the ES has concluded that whilst there would be substantial adverse effects on landscape and visual impacts, the WKN proposed development would only make a negligible adverse contribution to this cumulative effect, which would occur through other developments in the area coming forward even in the absence of WKN, and is therefore not significant.

23.5 Draft DCO Requirements

23.5.1 Requirement 9 of dDCO ensures the details of the original K3 planning permission are carried over into the dDCO and will apply as approved, thereby controlling the current design of the facility and requiring compliance with the approved landscaping and lighting details.

23.5.2 For WKN, Requirement 14 of the DCO requires the applicant to submit details of the final design of the WKN proposed development for approval by the relevant planning authority which includes the layout, scale, colour, materials etc. prior to the commencement of the development. Requirement 14 sets out a series of maximum parameters which have been used to create a worst case scenario in terms of landscape and visual assessment, whilst providing flexibility for the final design. The final design details are required to be in accordance with the stated parameters unless it can be demonstrated that any departure from those parameters, under Requirement 9, would not give rise to any materially new or materially different environmental effects.

23.5.3 Requirement 15 makes provision for landscaping within the WKN site and requires a written detailed landscaping scheme to be approved by the relevant planning authority. This will assist in mitigating the landscape and visual impact of the WKN proposed development. Requirement 16 ensures the landscaping scheme is implemented and maintained.

23.5.4 Requirement 23 sets out the need for a written scheme for all permanent external lighting to be approved by the relevant planning authority which will help further mitigate the visual impact of the WKN proposed development, particularly at night time.

23.6 Summary

23.6.1 The practical effect of the K3 proposed development would not give rise to any new or different impacts in landscape and visual terms.

23.6.2 The ES has identified that there are no significant landscape effects as a result of the construction or operation of the WKN proposed development.

23.6.3 However, there is a moderate adverse effect upon View point 1 on the Saxon Shore Way to the north of the WKN proposed development site that is considered significant both individually and cumulatively, albeit the ES concludes that the cumulative effects are likely to arise even in the absence of WKN through further development of the surrounding area.

23.6.4 EN-1 acknowledges that it may not be possible to eliminate the visual impacts associated with the waste combustion but efforts should be made to reduce its impact as much as possible. This will be achieved in the case of WKN through appropriate design, landscaping and lighting strategies as secured through the Requirements of the DCO.

23.6.5 As EN-1 and EN-3 states that the visual impacts of the project must be weighed against the benefits of the project. In this case it is considered that the benefits of the WKN proposed development, in respect of elements such as waste management and electricity and steam generation outweigh the limited instances where a significant adverse visual impact has been identified.

24 Land use

24.1 EN-1

24.1.1 Section 5.10 of EN-1 states that an energy infrastructure project will have direct effects on the existing use of a proposed site and can have indirect effects on the use or planned use of other land in the vicinity for other types of development. It requires applicants dealing with proposals on previously developed land to have regarding to the risk posed by land contamination.

24.2 Other Planning Policy

NPPF

24.2.1 Chapter 11 of the NPPF states that planning decisions should promote an effective use of land in meeting the needs for development, whilst safeguarding and improving the environment and ensuring safe and healthy living conditions.

NPPW

24.2.2 Policy DM7 states that planning permission will only be granted for non-mineral development that is incompatible with minerals safeguarding where one of the stated exemptions applies, which includes where development is on a site allocated in the adopted development plan.

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24.2.3 Policy ST1 seeks to achieve sustainable development in Swale and seeks to apply national policy in respect of pollution, contaminated and previously developed land.

24.2.4 ST3 identifies Sittingbourne as the primary focus for growth within the Borough, with the Local plan also generally highlighting the need to achieve a strong, competitive economy within the town.

24.3 Applicant's Assessment

24.3.1 The practical effect of the K3 proposed development involves the extension of the generating and processing capacity of the K3 facility as consented, and in that case would represent the optimisation and more efficient use of an already substantially constructed facility in land use terms.

24.3.2 The WKN site is currently being used as the laydown area for the construction of K3. It is not therefore brownfield land under the NPPF as it would be restored to its former condition following the completion of K3 if development consent is not granted for WKN.

24.3.3 The WKN proposed development would not result in the loss of land being used as open space, or for sports or recreation, and is not land which has been in active agricultural use. The WKN site is within an area identified for Sub-Alluvial River

Terrace Deposits, but is then also within an area of land identified as an Swale Borough Council allocation and is within the defined Sittingbourne urban area (as shown by the KCC Minerals safeguarding plan in **Appendix I**).

24.3.4 The WKN proposed development represents an opportunity to actively use an area of land which would otherwise be returned to its previous condition to provide a renewable source of electricity for the distribution network, steam/heat to local customers and a further facility for the management of waste, within an area which is characterised by large industrial developments and which would not prejudice or affect the use of any other land within the vicinity of the development. In addition there are benefits to co-locating the K3 and WKN facilities, such as WKN being able to provide steam to the Kemsley Paper Mill via K3 during times when K3 is being maintained, for example.

24.4 Draft DCO Requirements

24.4.1 Requirement 19 states that details of capping layer and ground gas protection measures for the WKN development must be agreed prior to commencement and also provides a regime to deal with any contamination not previously identified being found on the WKN site.

24.5 Summary

24.5.1 There are no reasons in land use terms which conflict with either the proposed K3 or WKN developments. The K3 proposed development would, in a practical sense, allow the current K3 site to function more efficiently and effectively in terms of energy generation and waste processing, whilst the WKN development would allow the WKN site to be brought into beneficial use in terms of electricity and steam generation and waste processing, with benefits arising from the two facilities being located alongside each other. The dDCO makes appropriate provisions for dealing with any contamination and/or ground gas present on the WKN site.

25 Noise and Vibration

25.1 EN-1

25.1.1 Section 5.11 of EN-1 explains the issues arising from noise and vibration on human life and health, damage to buildings, or impacts on wildlife and biodiversity, and notes that factors which will determine noise impact include the operational noise from a development and its characteristics, the proximity of the development to noise sensitive premises and the proximity to quiet places and to designated sites for biodiversity.

25.1.2 Paragraph 5.11.9 states that development consent should not be granted unless the proposals can avoid significant adverse impacts on health and quality of life, can mitigate and minimise any adverse impact and contribute where possible to secure improvements to health and quality of life through the management of noise. Mitigation measures identified include engineering, layout and administrative solutions.

25.2 EN-3

25.2.1 EN-3 notes that there are further specific considerations in respect of noise which apply to EfW generating stations, such as the delivery and movement of fuel and materials, processing waste for fuel at EfW generating stations, gas and steam turbines which may operate continuously during normal operation and external noise sources such as externally sited air-cooled condensers which operate continuously during normal operation. As such EN-3 requires an assessment of the impacts on amenity and states that decisions should consider the noise and vibration impacts to ensure appropriate mitigation is proposed. EN-3 reiterates the point made in EN-1, that the primary mitigation is through good design to enclose plant and machinery and to minimise the potential for operations to create noise.

25.3 Other Planning Policy

NPPF

25.3.1 The NPPF states, at Paragraph 180, that decisions should ensure that new development is appropriate for its location when taking into account the likely effects, including those of pollution on health, living conditions and the natural environment, as well as the sensitivity of the site and the wider area. The NPPF states that developments should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development, and avoid noise giving rise to significant adverse impacts on health and quality of life, as well as identifying and protecting tranquil areas.

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25.3.2 The Local Plan does not contain any specific policies in respect of noise, but refers to the NPPF in stating that planning should contribute to conserving and enhancing the natural environment and reducing pollution.

25.4 Applicant's Assessment

25.4.1 Chapter 7 of the ES assesses the effects of noise and vibration arising from the K3 and WKN proposed developments.

25.5 K3 Proposed Development

25.5.1 It is noted that the assessment undertaken of the K3 facility when originally proposed, within the 2010 ES, did not identify any significant operational noise effects.

25.5.2 In practical terms the K3 development is now substantially constructed. It is noted that the design of K3 has been modified from that originally assessed, due to the subsequent non-material amendments, and a revised prediction of operational noise has therefore been undertaken.

25.5.3 The potential for operational noise is considered to arise primarily from external mobile and fixed plant, together with elements like exhaust stacks and air intakes, given noise arising from plant items within buildings would be attenuated by the buildings themselves. It is noted that no impulsive noise creating activities are proposed.

25.5.4 Daytime operational noise levels created by K3 are not expected to increase the ambient sound level present in the surrounding area and at night time the level of noise arising from K3 is below the baseline residual sound level. There are not considered to be any noise effects arising from off-site HGV movements. No vibration effects are expected as plant would be designed and installed to reduce vibration and given the distance between K3 and the nearest sensitive receptors.

25.5.5 The practical effect of the K3 proposed development would be K3 as constructed operating to an increase generating capacity and waste throughput. The same conclusions drawn above would continue to apply and the increased vehicle movements associated with the increased tonnage throughput would not give rise to any new noise effects.

25.6 WKN Proposed Development

25.6.1 The assessment notes that the WKN site is over 700 metres from the nearest residential properties and that on that basis construction activities are unlikely to result in significant adverse impacts due to noise. The construction activity with the greatest potential to create noise is piling, with a piling method statement to be submitted alongside a CEMP, both of which would include measures to manage construction noise. The distance between the WKN site and the nearest sensitive receptors means that no significant effects are expected to occur from vibration as a result of construction activities.

25.6.2 In a similar manner to K3, external plant and equipment would have the most potential to generate noise arising from the operation of WKN. The operational noise levels anticipated to arise from WKN are not considered to be significant, with WKN unlikely to increase the ambient sound level during daytime hours. At nighttime WKN would not contribute significantly to the ambient noise level. No

effects are predicted to arise either from operational traffic associated with WKN or from operational vibration.

25.6.3 No cumulative noise effects are expected to arise from the K3 and WKN developments cumulatively with each other and other projects in the area.

25.7 Draft DCO Requirements

25.7.1 A number of Requirements within the dDCO address the issue of noise and vibration.

25.7.2 Requirement 15 states that details of the WKN facility must be provided for approval and states that those must include the noise mitigation measures identified within Chapter 7 of the ES, namely that a CEMP would be used at the construction stage (as per Requirement 23) and that at the detailed design stage plant noise specification would ensure that neighbouring residential areas are free from distinct tones or impulsive character and silencers or other screening would be installed to control noise from emergency steam release valves. The ES proposes that noise level monitoring would be undertaken as part of completion tests to ensure the noise emissions committed to within the ES are achieved.

25.7.3 At the decommissioning stage Requirement 4 provides for a Decommissioning Management Plan which would address how potential environmental effects, including noise would be managed.

25.8 Summary

25.8.1 There are no significant noise effects expected to arise either from the practical effect of the K3 proposed development or from the construction and operation of WKN, given the requirements proposed to manage noise at both the construction and operational phases, and the K3 and WKN developments are considered to accord with national and local policy on noise on that basis.

26 Residue Management

26.1 EN-3

26.1.1 EN-3 states that there are specific considerations which apply to waste combustion generating stations since they will produce residues which require further management, comprising combustion residue and fly ash.

26.1.2 EN-3 requires applicants to give consideration to the production and disposal of residues together with the existence of accessible capacity in waste management sites for dealing with residues. EN-3 notes that positive weight would be given to proposals which can demonstrate the recovery of residues.

26.2 Applicant's Assessment

26.2.1 Chapter 3 of the ES notes that in respect of both the K3 and WKN proposed developments residues would be exported from the facility in HGV's and either landfilled or used as an aggregate by the construction industry, with any recyclable elements of bottom ash being extracted and sent to recycling facilities. WTI continue to explore options in respect of the use of residues in construction aggregates.

26.2.2 The preamble to Policy CSW 5 in the The Kent Minerals and Waste Local Plan notes that the identified landfill site at Norwood Quarry on the Isle of Sheppey accommodates the hazardous flue ash residues from the Allington EfW facility near Maidstone but has limited void space remaining. As the KMWLP identifies the need for additional EfW facilities within the plan period and as there are considered to be limited other options for disposing of such EfW residues locally, Policy CSW 5 allocates an extension to the Norwood Quarry, which would assist with the disposal of residues arising from the K3 and WKN facilities.

27 Socio- Economic

27.1 EN-1

27.1.1 Section 5.12 of EN-1 recognises that energy infrastructure can create socio-economic impacts at local and regional levels and states if that is considered to be the case those impacts should be assessed within the ES.

27.2 Applicant's Assessment

27.2.1 During the peak period some 642 people were employed in the construction of the K3 facility. When operational K3 will employ 49 staff.

27.2.2 Due to the smaller size of the WKN facility it is anticipated that up to 482 staff would be employed during the peak construction period. The number of permanent WKN operational staff will depend on the amount of staff working jointly between the two facilities, but is anticipated to be between 35 and 49.

27.2.3 The S106 signed pursuant to the original K3 planning permission included an Employment Strategy which contained various measures to ensure that local companies and individuals were provided with opportunities to benefit from the construction and operation of the K3 facility. That document has been transposed into the dDCO as an approved K3 document, to ensure ongoing compliance with the measures contained within it as K3 nears completion.

27.2.4 Requirement 30 makes provision for a similar 'Employment, Skills and Training Program' to be agreed with the planning authority to ensure similar local benefits would arise from the construction and operation of WKN.

27.2.5 Aside from the formal measures within those documents, the construction of K3 has already generated other informal economic benefits within the surrounding area for services such as hotel accommodation and taxis. WKN would provide similar local benefits.

27.2.6 In social terms WTI have set up a community benefit fund which can be applied for by local groups and organisations and used within community initiatives. The construction of WKN would see that fund extended.

27.2.7 The ES does not contain a formal assessment of the socio-economic impacts of the K3 and WKN proposed developments, as those were not scoped into the Environmental Impact Assessment. However in planning terms it is considered that some degree of weight can be given to the socio-economic benefits which have been generated by the construction of the K3 facility and which would be generated by the operation of K3 and the construction and operation of WKN.

28 Traffic and transport

28.1 EN-1

28.1.1 Section 5.13 of EN-1 sets out that the impact of the transport of materials, goods and personnel to and from a project, during all project phases, can have impacts such as congestion, leading to secondary impacts such as economic, social and environmental effects. It concludes that the consideration and mitigation of transport impacts is an essential part of the Government's wider policy objectives for sustainable transport.

28.1.2 The test applied by EN-1 is that any substantial impacts on the surrounding transport infrastructure should be mitigated, including during construction. Mitigation measures identified in EN-1 include planning obligations and requirements and management measures such as seeking more sustainable forms of transport and controlling the number of HGV movements. EN-1 states that providing an applicant is prepared to enter into obligations or requirements to mitigate transport impacts then consent should not be withheld and appropriately limited weight applied to any residual effects on the surrounding transport infrastructure.

28.2 EN-3

28.2.1 EN-3 notes at Paragraph 2.5.24 that EfW generating stations are likely to generate considerable transport movements, such as through HGV's to import the fuel and then export residues off site. Whilst it states that throughput volumes are not a factor in decision making, increases in traffic volumes and other impacts resulting from throughput volumes will be considered and balanced against the net benefits of the combustion of waste. EN-3 then notes that Government policy encourages multi-modal transport and that fuels and residues should be transported by water or rail routes where possible, albeit it is acknowledged that the viability of such methods, notwithstanding their environmental advantages, is likely to be determined by the economics of the scheme. EN-3 notes that applicants should locate waste combustion stations in the vicinity of existing transport routes wherever possible.

28.3 Other Planning Policy

NPPF

28.3.1 The key elements of the NPPF in respect of highways are Paragraph 108, which noes that appropriate opportunities to promote sustainable transport modes should be pursued, that decisions should ensure that safe and suitable access to sites can be achieved for all users and that any significant impacts from development on the transport network or on highway safety can be cost effectively mitigated to an acceptable degree.

28.3.2 Paragraph 109 states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 111 notes that all developments which would generate a significant

amount of movement should provide a travel plan and should be supported by a transport statement or transport assessment.

Kent Minerals and Waste Local Plan 2011-2031

28.3.3 Policy DM13 requires waste development to demonstrate that emissions associated with road transport movements are minimised as far as practicable, with preference given to non-road modes of transport. Where development does require road transport, DM13 requires proposals to demonstrate that proposed access arrangements are safe and appropriate to the scale and nature of movements, so that the impact of traffic generated is not detrimental to road safety, that the highway network is able to accommodate the traffic flows which would be generated and that emission control and reduction measures will be employed.

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28.3.4 Policy CP2 promotes sustainable transport and requires developers to contribute to transport network improvements if capacity is to be exceeded or safety standards would be unacceptably compromised. Policy DM6 seeks to manage transport demand and impact and requires a Transport Assessment to be prepared if development proposals would generate a significant amount of transport movements.

28.4 Applicant's Assessment

28.4.1 Chapter 4 of the ES assesses the impacts arising from traffic and transport and the application is also supported by a Transport Assessment.

Context

28.4.2 The K3 facility, once operational at the end of 2019, has consent for up to 174 HGV/RCV deliveries each day (348 movements). Whilst consent is being sought for the construction and operation of K3 to its proposed increased generating capacity and tonnage throughput, the practical effect of the K3 proposed development would be K3 as constructed being capable of generating an additional 25.1MW and processing up to an additional 107,000 tonnes of waste per annum. The practical effect of the K3 proposed development would result in up to 208 HGV/RCV deliveries each day (416 movements).

28.4.3 WKN would be capable of processing up to 390,000 tonnes of waste per annum, which equates to 125 HGV/RCV deliveries each day (250 movements).

28.4.4 K3 is permitted to operate 24 hours a day, seven days a week.

28.4.5 The K3 facility will employ up to 49 staff when operational. WKN would employ between 35 and 49 staff.

28.4.6 Both the K3 and WKN facilities benefit from easy access to the primary road network via the A249 which lies to the east of the sites. Vehicles leaving the A249 would travel along Swale Way before turning onto Barge Way and then accessing the sites via an access road running along the eastern edge of the Kemsley paper

mill site. Within each facility a circulatory internal access road arrangement would allow waste deliveries to deposit waste in the tipping hall before then exiting the site.

28.4.7 The Design and Access Statement [Document 4.3] includes an assessment of the access arrangements present and the site and along with Chapter 4 highlights that the K3 and WKN sites can be reached by a range of methods including public transport, cycling and walking.

28.5 Assessment of Transport Effects

28.5.1 Chapter 4 of the ES assesses a number of scenarios, including the construction and operation of the K3 proposed development, the practical effect of the K3 proposed development, the construction and operation of the WKN development and the two developments in a range of cumulative scenarios.

K3

28.5.2 Consistent with the approach taken throughout this Statement, the K3 practical effect has been considered given K3 as consented is expected to be operational by the end of 2019.

28.5.3 It is expected that HGV delivery movements arising from the practical effect of the K3 proposed development would be generated throughout the day and would be fairly evenly spread. The assessment of the results of the practical effect of the K3 proposed development on the surrounding road network indicates that operational traffic flows would result in imperceptible effects, and the impact of the K3 proposed development, in practical terms, would be negligible and not significant.

WKN

28.5.4 It is estimated that there would be some 482 staff on the WKN site at the peak level of construction, with a maximum of 45 HGV deliveries (90 movements) expected per day at the peak of construction. The sharing of cars and use of alternative methods is anticipated to result in some reduction in the number of construction workers travelling in their own car to the WKN site. The vehicle movements associated with the construction of WKN are not considered to give rise to any significant effects in terms of traffic noise and vibration, driver delay, increased risk of accidents, severance, pedestrian amenity, pedestrian delay and visual effects on the routes in the vicinity of the WKN development site. Some effects, such as an element of driver delay, would occur from the movement of abnormal loads but would be managed where possible by, for example, careful timing of those movements.

28.5.5 In operational terms the vehicle movements associated with WKN largely fall below the level of impact where further consideration is required. In those cases where the HGV/total vehicle percentage impact is above the stated threshold then no impacts are assessed to arise in terms of traffic noise and vibration, driver delay, increased risk of accidents, severance, pedestrian amenity and delay, dust and dirt or in visual terms.

28.5.6 The ES notes that despite the low level of staffing at the WKN facility a Travel Plan is proposed to be provided and will seek to introduce measures to avoid HGV movements during weekday peak hours in particular.

28.5.7 No significant negative effects are identified as arising from the cumulative scenarios assessed within the ES Chapter.

28.6 Rail and Water Transportation Strategies

28.6.1 Rail and Water Transportation Strategies for K3 and WKN respectively have been prepared and accompany the application.

28.6.2 Condition 6 of the K3 original planning permission required a Rail Strategy to be completed. Originally the intention was for waste arising from the North London Waste Authority contract to be brought to K3 by rail, using a redundant rail head and spur to provide access into the Ridham Docks to the north of the K3 facility. Condition 5 of the original K3 planning permission stated that any deliveries originating from the railway depot at the Ridham Docks would not be subject to the limit on HGV movements imposed through Condition 3 of the planning permission.

28.6.3 The cancelling of the North London Waste Authority contract has meant that it is not currently feasible or viable to bring waste to the K3 site by rail. The Rail Strategy approved under Condition 6 was proposed to be reviewed at regular intervals to identify any potential for rail transport to be used.

28.6.4 The Rail and Water Transportation Strategies submitted as part of the application take a similar approach and propose a five year review period for reassessing the ability to bring waste to either the K3 or WKN facilities via rail or water.

28.7 Draft DCO Requirements

28.7.1 Requirement 6 of the dDCO requires the K3 and WKN Rail and Water Transportation Strategies to be adhered to. Requirement 10 controls the amount of HGV deliveries to the K3 facility. Requirement 24 provides for a Construction Traffic Management Plan to be put in place for the construction of the WKN facility and Requirement 25 requires an Operation Traffic routing and management plan to be put in place. Requirement 26 provides for a WKN Travel Plan to be produced to promote the use of sustainable transport for operational staff.

28.8 Summary

28.8.1 The detailed assessments undertaken in the ES and Transport Assessment conclude that the practical effect of the K3 proposed development and the construction and operation of the K3 facility would not give rise to significant or severe impacts on the surrounding road network. In accordance with both national and local policies appropriate endeavours are being made to seek to deliver waste to site by alternative methods, and the impact of operational traffic associated with WKN would be reduced through the use of a Travel Plan. On that basis the K3 and WKN proposed developments are considered to accord with national and local policies in respect of highways impacts.

29 Water quality and resources

29.1 EN-1

29.1.1 Section 5.15 of EN-1 discusses potential adverse impacts on groundwater, inland surface water, transitional waters and coastal waters at the construction, operation and decommissioning stages due to increased water demand and discharges to water.

29.1.2 EN-1 recognises that water discharge and abstraction activities are addressed by separate permitting and licensing regimes and notes therefore that it is any adverse impact on the objectives of the Water Framework Directive which will be considered within the decision making process on a DCO.

29.1.3 The flood risk elements of EN-1 are dealt with in Chapter 21 of this Statement.

29.2 Other Planning Policy

NPPF

29.2.1 Paragraph 165 notes that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would inappropriate.

29.3 Applicant's Assessment

29.3.1 The drainage for the K3 and WKN sites would operate in the same way and would be split in each case into two separate drainage systems. Clean surface water run-off would be collected and stored in the onsite lagoon in the case of both K3 and WKN, each of which would be provided with a separate lagoon. A headwall and discharge point has already been constructed on the Swale estuary to serve K3 and an additional outfall would be added to that to serve WKN.

29.3.2 Any potentially contaminated water would be stored within a dirty water tank and used within the waste-to-energy process. Clean water will be used to top up the dirty water tank as necessary or would be discharged into the Swale depending on the levels of water within the lagoon.

29.3.3 Process water within both the K3 and WKN facilities would be continually reused, as once turned to steam it would then condense and be passed back through the system.

29.3.4 A drainage strategy has been approved for the WKN site and is included within Schedule 3 of the dDCO. It includes the use of appropriate SUD's techniques and interceptors and separators as necessary. A similar drainage strategy would be produced for the WKN site.

29.4 Draft DCO Requirements

29.4.1 Requirement 5 applies to both the K3 and WKN sites and ensures the bunding of storage areas for potentially contaminative materials. Requirement 12 controls the rate of surface water drainage from the K3 site and Requirement 18 provides for

written details of the surface and foul water drainage systems serving the WKN facility to be approved.

29.5 Summary

29.5.1 Appropriate drainage management regimes would be installed at both the K3 and WKN sites which both protect the quality of water within the Swale but also provide for the recycling of water where necessary. The EfW process allows for the constant reuse of water within the system, helping reduce the water consumption of the facilities.

30 Summary and Conclusions

30.1 Context

30.1.1 Development consent is sought for the construction and operation of the K3 generating station and the WKN waste-to-energy facility.

30.1.2 The K3 generating station would be an onshore generating station in England with a generating capacity of over 50MW, and is therefore a Nationally Significant Infrastructure Project under the Planning Act 2008. K3 was consented under the Town and Country Planning Act in 2012; construction began in July 2016 and the facility is now substantially complete and expected to be operational to its consented generating capacity of 49.9MW by the end of 2019. The practical effect of the K3 proposed development would therefore be the facility as constructed generating an additional 25.1MW, as well as processing an additional 107,000 tonnes of waste per annum. K3 falls within the scope of National Policy Statements EN-1: Energy, and EN-2: Renewable Energy Infrastructure and Section 104(3) of the Planning Act states that the SoS must decide an application for development consent in accordance with the relevant National Policy Statement, except to the extent that one of more of the specific circumstances set out within that section apply. Section 104(2) of the Planning Act states that the SoS must also have regard to any local impact report, any matters prescribed in relation to the development in question and any other matters which are considered both important and relevant to the decision.

30.1.3 WKN is an onshore generating station in England but due to its generating capacity of up to 42MW is not a Nationally Significant Infrastructure Project under the Planning Act 2008. However the Secretary of State issued a Direction under S35 of the Planning Act confirming that WKN was considered to be nationally significant and therefore that it required development consent. WKN does not fall within the scope of the NPS's, given its generating capacity. In that respect Section 105 of the Planning Act applies and states that the WKN element of the application will be determined with regard to any local impact report, any matters prescribed and any other matters which are considered by the SoS to be both important and relevant. It is submitted, at the outset, that whilst WKN would not be determined in accordance with the NPS's, they remain an important and relevant consideration in the assessment of the WKN proposed development.

30.2 The Planning Balance

30.2.1 The Environmental Impact Assessment submitted with the application demonstrates that the K3 and WKN proposed developments, both when assessed individually and cumulatively with other projects, are environmentally benign. Mitigation measures relating to elements such as landscape and visual impact and noise are embedded into the design of the facilities themselves, and a range of Requirements are then proposed within the draft DCO which implement further mitigation measures identified in the EIA. The result is a very limited amount of residual significant adverse effects, primarily a cumulative adverse effect in visual terms on users of the Saxon Shore Way to the east of the site, with that impact expected to occur in any event due to the wider developments coming forward in

what is a heavily industrialised area, with the K3 and WKN developments only expected to make a small contribution to that overall impact.

30.2.2 On that basis there are no conflicts identified in planning policy terms with the environmental issues set out within EN-1 and EN-3.

30.2.3 EN-1 and EN-3 make clear the urgent need for all types of energy infrastructure within the UK, due to factors such as existing generation capacity closing and the transition being made by the UK to a renewable based supply. The practical effect of the K3 development would be the existing facility, as currently consented, having an increased generating capacity, and the ability of K3 to quickly be able to export additional capacity to the national grid following only internal upgrading works is considered to be a key benefit in policy terms of the K3 element of the application. Whilst WKN does not fall within the scope of the NPS's, it has been directed as being nationally significant and the NPS's are therefore considered to form an important and relevant consideration under Section 105 of the Act. The generating capacity which would be created through the development of the WKN facility is therefore also considered to be a key benefit of the WKN proposal in planning policy terms.

30.2.4 The K3 and WKN facilities combined would be capable of processing just over 1 million tonnes of pretreated waste each year. At the national and local policy levels the importance of energy-from-waste is recognised as a means of dealing with waste which cannot viably or economically be moved further up the waste hierarchy, and as a means of being able to put waste to use by generating electricity.

30.2.5 Whilst K3 is covered by the scope of the National Policy Statements, EN-3 makes clear that Nationally Significant Infrastructure projects should accord with the waste hierarchy and should not prejudice the achievement of local or national waste management targets, and that evidence should be provided as to why a conflict would not occur or to justify a deviation from the relevant waste strategy or plan. In that respect the National Policy Statement does not override the consideration of local and national waste management targets and compliance with waste management targets is equally applicable to both the K3 and WKN developments.

30.2.6 The case presented within this application is that energy-from-waste continues to play an important role within the waste hierarchy, and that in the specific case of K3 and WKN that sufficient waste is available within the surrounding region to serve both facilities which would otherwise be directed to landfill or exported overseas. As such K3 and WKN are submitted to be beneficial to the management of waste within the region. Whilst self sufficiency remains a key concept in terms of waste management in Kent, that concept still provides flexibility for waste to move between counties and recognises that facilities in one particular county will most likely deal with waste arising from outside that county, as is the case currently in Kent. It is submitted, therefore, that the proposed K3 and WKN developments would be in accordance with the waste hierarchy and would not prejudice the achievement of local or national waste management targets, and moreover would allow waste to be directed away from landfill and treated domestically rather than being exported.

30.2.7 The overall planning balance of both the K3 and WKN projects is therefore considered to be positive. Both K3 and WKN would generate electricity for export to the national grid, as well as providing local CHP benefits. They would accord with the waste hierarchy and would not prejudice waste management strategies, and would not create significant environmental effects which would need to be outweighed by those benefits. The public consultation undertaken prior to the submission of the application demonstrates that the proposals are not locally controversial. That positive planning balance applies both to K3, when being determined in accordance with EN-1 and EN-3, but also when determining WKN in the context that EN-1 and EN-3 are important and relevant to the decision.

30.3 The National Policy Statements

30.3.1 There is not considered to be anything which would prevent the SoS determining the K3 element of the application in accordance with the relevant NPS's. Nothing has been identified which indicates that to do so would lead to the UK breaching its international obligations, being in breach of any statutory law, be unlawful or be contrary to any other regulations.

30.4 Other matters

30.4.1 In respect of K3, Section 104 states that the SoS must have regard to any local impact report, any matters prescribed in relation to the development and any other matters which are considered both important and relevant to the decision. Section 105 makes similar provision in terms of local impact reports, any matters prescribed and any other matters which the Secretary of State thinks are both important and relevant.

30.4.2 The proposed development does not conflict or create any significant adverse impacts in respect of the prescribed matters set out within the Infrastructure Planning (Decisions) Regulations 2010. The assessment in respect of listed buildings, conservation areas and scheduled monuments is set out in Chapter 12 of the ES and summarised within this Statement. The prescribed matters in respect of the Coast Protection Act 1949, the Food and Environment Act 1985 or in respect of hazardous substances or biological diversity are not affected.

30.5 Conclusion

30.5.1 The planning balance is in favour of the proposed K3 and WKN developments, given the benefits they are able to bring in terms of electricity generation and waste management, and their ability to do so without creating significant environmental impacts. It is therefore submitted that development consent should be granted by the order being made as proposed.

APPENDIX A

Summary of Planning History

Table 3.1: Planning history for the K3 proposed development site.

Reference	Site	Development	Status
KCC/SW/10/444	Land at Kemsley Paper Mill	Development of a Sustainable Energy Plant to serve Kemsley Paper Mill, comprising waste fuel reception, moving grate technology, power generation and export facility, air cooled condensers, transformer, bottom ash handling facility, office accommodation, vehicle parking, landscaping, drainage and access'	Granted by KCC on 6th March 2012
SW/10/444/R (KCC/SW/0266/2013)	Land at Kemsley Paper Mill	Application for a non-material amendment to the site layout	Granted by KCC on 2nd Sept 2013
SW/10/444/RVAR (KCC/SW/0263/2013)	Land at Kemsley Paper Mill	Details pursuant to conditions 6 (Rail Strategy), 10 (Contamination Risk), 11 (Buffer Management Zone), 12 (Environmental Management Plan), 13 (Archaeology), 14 (Landscaping) and 20 (Details of the Waste Bunker) of planning permission SW/10/444	Granted by KCC on 23rd Sept 2013
KCC/SW/14/50668 (KCC/SW/0393/2014)	Land at Kemsley Paper Mill	Section 73 application to vary conditions 2 & 4 of planning permission SW/10/444 to allow a variation to the permitted hours of delivery to allow for 24 hours 7 days per week operation	Granted by KCC on 21st April 2015
SW/10/444/RA (KCC/SW/0384/2015)	Land North East of Kemsley Paper Mill	Non material amendment to building footprint and elevation and site layout as shown on amended plans	Granted by KCC on 18th December 2015
16/500608/COUNTY	Ridham Docks Kemsley Fields Business Park Ridham Dock Road Sittingbourne Kent ME9 8SR	Request for a Screening Opinion to determine whether a new steam pipeline connecting the Ridham Biomass Plant to the DS Smith Paper Mill requires an EIA.	Not EIA – determined by KCC on 3rd February 2016
SW/10/444/RB (KCC/SW/0086/2017)	Kemsley Paper Mill	Non-material amendments to site layout, building footprints, elevations and appearance of planning permission SW/10/444	Granted by KCC on 27th March 2017
SW/10/444/RVAR (KCC/SW/0107/2017)	Land to the East of Kemsley Paper Mill	Details of Rail Strategy (Condition 6), Buffer Zone alongside the Western Ditch (Condition 11), Environmental Monitoring & Mitigation Plan (Condition 12), Landscaping Scheme (Condition 14) and details of Storage Bunkers (Condition 20) pursuant to planning permission SW/10/444	Granted by KCC on 27th June 2017

KCC/SW/17/502996	Land North East of Kemsley Paper Mill	Section 73 application to vary the wording of condition 16 of planning permission SW/10/444 (as amended by SW/10/506680) to allow an amended surface water management scheme at the Sustainable Energy Plant to serve Kemsley Paper Mill	Granted by KCC on 23rd August 2017
KCC/SW/18/503317	Land North East of Kemsley Paper Mill	Section 73 application to vary the wording of condition 3 of planning permission SW/17/502996 to increase the permitted number of HGV movements per day (from 258 to 348) in order to allow waste to be transported directly from local collection points to the Sustainable Energy Plant	Granted by KCC on 11th October 2018
18/506191/COUNTY	Land North East of Kemsley Paper Mill	Application for Non-Material Amendments Relating to Built Elevations, Appearance and Site Layout.	Granted by KCC on 3rd December 2018
18/506291/COUNTY	Land North East of Kemsley Paper Mill	Application for non-material amendment relating to access road layout to serve Kemsley Sustainable Energy Plant.	Granted by KCC on 14th December 2018
18/503317/R21 (KCC/SW/0036/2019)	Kemsley Paper Mill	Details of an external lighting scheme pursuant to Condition 21 of planning permission SW/18/503317	Granted by KCC on 14th June 2019
19/501345	Land to the East of Kemsley Paper Mill	Section 73 application for the removal of Condition 11 (Western Ditch Buffer Zone) from approved planning application SW/18/503317	Granted by KCC on 14th June 2019
18/503317/RVAR	Kemsley Paper Mill	Details of Landscaping (Condition 14) and Flood Risk Assessment (Condition 16) pursuant to planning permission SW/18/503317	Granted by KCC on 16th July 2019

Table 3.2: Planning history for the WKN proposed development site.

Reference	Site	Development	Status
KCC/SW/16/507687	Kemsley IBA Recycling Facility, Ridham Avenue, Sittingbourne, Kent, ME10 2TD	The construction and operation of an Incinerator Bottom Ash (IBA) Recycling Facility on land adjacent to the Kemsley Sustainable Energy Plant	Granted by KCC on 9th February 2017

Table 3.3: other planning history relating to the surrounding area.

Reference	Site	Development	Status

SW/11/1291/COUNTY	Land To The North Of the WKN Site	Anaerobic digester and associated ground profiling and landscaping.	Granted by KCC 16th July 2012
SW/12/1001	Land At Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD	Formation of improved access road and associated development to serve Kemsley SEP	Granted by SBC on 14th August 2012
SW/12/1011	Northern Access Road, Kemsley Paper Mill, Off Barge Way, Kemsley, Sittingbourne, Kent, ME10 2TD	Formation of new rear access road and extension to trailer park to serve the Kemsley Paper Mill, together with security cabin and drainage pond	Granted by SBC on 18th October 2012
SW/13/1257	Northern Access Road, Kemsley Paper Mill, Off Barge Way, Kemsley, Sittingbourne, Kent, ME10 2TD	Variation of condition for formation of improved access road and associated development to serve Kemsley sustainable Energy Plant (SW/12/1001)	Granted by KCC on 31st October 2013
15/504458/FULL	Northern Access Road Kemsley Paper Mill Ridham Avenue Sittingbourne Kent ME10 2TD	Formation of new rear access road and extension to trailer park to serve Kemsley Paper Mill and ancillary development including attenuation pond, security kiosk and weightbringers.	Granted by SBC on 4th September 2015
18/502489/FULL	Kemsley Paper Mill Ridham Avenue	Construction of a 7.2m wide internal access road and pedestrian footpath, together with the associated removal of existing water holding lagoon, chemical building and works yard. Erection of a new chemical store, works yard and engine store, breaking out and crushing of existing concrete hardstanding, lighting and landscape planting.	Granted by SBC on 18th September 2018
18/501923/ADJ (PINS: EN010090)	Kemsley Paper Mill Ridham Avenue	Development Consent Order for the construction and operation of a replacement Combined Heat and Power (CHP) Plant, 'K4	Granted by SoS on 5th July 2019
19/500722/DEMREQ	Kemsley Paper Mill Ridham Avenue	Request as to whether the proposed demolition of the K2 steam generator at Kemsley Paper Mill, Kemsley, ME10 2TD requires prior approval.	Prior approval not required 14th March 2019

APPENDIX B

SW/10/444 – Decision Notice and S106

St Regis Paper Co Ltd & E.ON Energy from
Waste UK Ltd
C/o RPS Planning and Development Ltd
3rd Floor
34 Lisbon Street
Leeds
West Yorkshire
LS1 4LX

FAO Mr J Standen

Planning Applications Group
First Floor, Invicta House
County Hall
Maidstone
Kent ME14 1XX
Fax: 01622 221072
Tel: 08458 247303
Website: www.kent.gov.uk/planning
DirectDial/Ext: 01622 221054
Minicom: 08458 247905 (hearing impaired)
Ask for: Mr M Clifton
Your ref:
Our ref: PAG/MC/SW/10/444
Date: 6 March 2012

Dear Sir/Madam

PROPOSAL: SW/10/444 – DEVELOPMENT OF A SUSTAINABLE ENERGY PLANT TO SERVE KEMSLEY PAPER MILL, COMPRISING WASTE FUEL RECEPTION, MOVING GRATE TECHNOLOGY, POWER GENERATION AND EXPORT FACILITY, AIR COOLED CONDENSERS, TRANSFORMER, BOTTOM ASH HANDLING FACILITY, OFFICE ACCOMMODATION, VEHICLE PARKING, LANDSCAPING, DRAINAGE AND ACCESS. LAND TO THE NORTH EAST OF KEMSLEY PAPER MILL, KEMSLEY, SITTINGBOURNE, KENT.

The County Council's Planning Applications Committee considered the above application at its meeting on 12 April 2011 whereby it resolved that subject to the satisfactory completion of a legal agreement to secure offsite mitigation for the purposes of nature conservation, permission be granted.

Following the recent completion of the legal agreement on 5th March 2012, I hereby enclose a copy of the permission; please note the conditions imposed and the informatives as described.

Yours faithfully

[redacted]

Head of Planning Applications Group [redacted]

[redacted]

CC1 (Detailed)

Reference Code
of Application: SW/10/444

KENT COUNTY COUNCIL

TOWN & COUNTRY PLANNING ACTS
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE)
(ENGLAND) ORDER 2010

Notification of Grant of Permission to Develop Land

To: St Regis Paper Co Ltd & E.ON Energy from Waste UK Ltd
C/o RPS Planning and Development Ltd
3rd Floor
34 Lisbon Street
Leeds
West Yorkshire
LS1 4LX

TAKE NOTICE that the KENT COUNTY COUNCIL, the County Planning Authority under the Town and Country Planning Acts, having taken environmental information submitted in support of the proposal into consideration, **HAS GRANTED PERMISSION** for development of land situated to the North East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent and being development of a sustainable energy plant to serve Kemsley Paper Mill, comprising waste fuel reception, moving grate technology, power generation and export facility, air cooled condensers, transformer, bottom ash handling facility, office accommodation, vehicle parking, landscaping, drainage and access referred to in your application for permission for development dated the twenty third day of March 2010, as amplified in the letters from RPS dated 5 October 2010 enclosing further supplementary reports in respect of biodiversity information and information to inform an appropriate assessment together with a separate report in response to observations made by the Environment Agency, 15 October 2010, 26 November 2010 and 17 March 2011 enclosing a plan entitled Kent & Hinterland, SUBJECT TO THE CONDITIONS SPECIFIED hereunder:-

(1) The development to which this permission relates shall be begun not later than the expiration of 5 years commencing with the date of this permission.

Reason; To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

(2) The Development to which this permission relates shall be carried out strictly in accordance with the details submitted with the application together with those further details to be submitted for approval.

Reason; For the avoidance of doubt and to maintain control over the application site.

(3) The maximum number of Heavy Goods Vehicle movements to and from the Application Site shall not exceed a combined total of 258 movements per day save for movements in accordance with Condition (5) subject to any prior written variation as approved by the Waste Planning Authority.

Reason; In the interest of highway safety pursuant to Policy W22 of the Kent Waste Local Plan.

(4) Waste deliveries shall only take place between 07:00 and 18:00 hours Monday to Friday inclusive and 07:00 and 13:00 hours on Saturdays, no waste deliveries shall take place on Saturday afternoon, Sunday or Bank/Public Holidays save for those deliveries in accordance with condition (5) and subject to any prior written variation as approved by the Waste Planning Authority.

Reason; In order to avoid nuisance from noise pursuant to Policy W18 of the Kent Waste Local Plan.

(5) Waste deliveries originating from and returning to the railway depot at Ridham Docks accessing and egressing the Application Site by the use of Ridham Dock Road shall not be subject to conditions (3) and (4) of the permission.

Reason; In order to encourage the reduction in the number of HGV movements generated by the Development on the local public road network.

(6) Prior to the Commencement of Development a strategy to encourage the use of the railway in the vicinity of the Application Site as a means of transporting waste deliveries to the Development hereby permitted shall be submitted to and approved in writing by the Waste Planning Authority and thereafter implemented in accordance with the approved strategy.

Reason; In order to encourage the reduction in the number of HGV movements generated by the Development on the local public road network.

(7) With the exception of construction using the concrete slip-forming method, construction using constant pore methods for concrete laying and internal process works relating to mechanical and/or electrical equipment installation, construction activities shall only take place between 07:00 and 19:00 hours Monday to Friday inclusive and 07:00 and 16:00 hours Saturday and Sunday with no construction activities to take place on Bank or Public Holidays subject to any prior written variation as approved by the Waste Planning Authority.

Reason; In order to avoid any adverse disturbance to breeding birds pursuant to policies W18 and W21 of the Kent Waste Local Plan and Policy SP2 of the Swale Borough Local Plan.

(8) All piling shall be by way of Auger other than where an alternative method is required for structural reasons. In such circumstances the prior written consent of the Waste Planning Authority shall be required which shall only be given if it has been demonstrated that there is no resultant unacceptable risk to groundwater and that impact piling will not take place between 1 April and 31 August in any given year, subject to any prior written variation as approved by the Waste Planning Authority.

Reason; In order to avoid any risks to groundwater pursuant to Policy W19 of the Kent Waste Local Plan and in order to avoid any disturbance to breeding birds pursuant to the requirements of PPS9 and policies W18 and W21 of the Kent Waste Local Plan.

(9) Noise levels as measured at the residential locations as set out in Figure 12.1 of Chapter 12 (Noise and Vibration) of the Environmental Statement (March 2010) attributable directly to the Development hereby permitted shall not exceed the background levels as set out in Appendix 12.5 of the Environmental Statement (March 2010) (Operational Noise Assessment) dated 24 November 2009.

Reason; In order to avoid any adverse impact from noise pursuant to Policy W18 of the Kent Waste Local Plan.

(10) Prior to the commencement of development the following components of a scheme to deal with the risks associated with contamination of the Application Site shall each be submitted to and approved in writing by the Waste Planning Authority and thereafter implemented in accordance with the approved scheme:-

1.1 A preliminary Risk Assessment which has identified:-

(a) All previous uses; and

(b) Potential contaminants associated with those uses; and

(c) A conceptual model of the Application Site indicating sources, pathways and receptors; and

(d) Potentially unacceptable risks arising from contamination at the Application Site.

1.2 A site Investigation Scheme based on the Preliminary Risk Assessment under 1.1 above shall identify those receptors which are most likely to be affected by contamination.

1.3 A Detailed Risk Assessment shall be undertaken of those receptors identified in the Site Investigation Scheme.

1.4 A Detailed Risk Assessment shall inform an Options Appraisal and Remediation Strategy for those receptors identified in the Site Investigation Scheme and shown by the detailed Risk Assessment to require remediation. Details of the required remediation measures recommended for implementation shall be included in the Detailed Risk Assessment.

1.5 The recommendations of the Detailed Risk Assessment shall be undertaken in accordance with the provisions therein.

1.6 A Verification Plan shall present data and evidence to show that the recommendations in the Detailed Risk Assessment have been undertaken. The Verification Plan shall set out details of any long term monitoring of pollutant linkages that is required and shall provide mechanisms for ongoing maintenance arrangements and contingency actions.

Following the commencement of Development any long term monitoring or maintenance arrangements and contingency actions identified shall be undertaken as provided for subject to any prior written variation as approved by the Waste Planning Authority.

Reason; To ensure the Development is consistent with the requirements of PPS23 (Planning and Pollution Control) and to ensure any risks to groundwater and surface waters are appropriately mitigated pursuant to Policy W19 of the Kent Waste Local Plan.

(11) Prior to the Commencement of Development a scheme for the provision and management of a buffer zone alongside and including the ditch within the west of the application area as shown on Figure 4.2 of the Planning Application Supporting Statement shall be submitted to and approved in writing by the Waste Planning Authority. Thereafter the Development shall be carried out in accordance with the approved scheme subject to any written variation as approved by the Waste Planning Authority. The Scheme shall include the following:

(a) Plans showing the extent and layout of the buffer zone; and

(b) Details demonstrating how the buffer zone will be protected during construction of the Development and managed/maintained over the longer term.

Reason; In order to protect the ecological value of the ditch pursuant to the objectives in PPS9 (Biodiversity and Geological Conservation) and Policy NRM5 of the South East Plan.

(12) Prior to the Commencement of Development a detailed Environmental Management Plan including Construction Method Statement to incorporate the proposed migration as outlined in the document entitled 'Appendix 9.6 Information for an Appropriate Assessment' for suppression of dust, construction noise, lighting and visual disturbance shall be submitted to and approved in writing by the Waste Planning Authority and thereafter be implemented as approved.

Reason; In order to protect the bio-diversity and geological interests for the Application Site and surrounding area consistent with the principles set out in PPS9 (Biodiversity and Geological Conservation) and Policy W21 of the Kent Waste Local Plan.

(13) Prior to the Commencement of Development a programme of archaeological work shall be submitted to the Waste Planning Authority for approval which shall include details of specification and timetables. The programme shall thereafter be implemented as approved.

Reason; To ensure that features of archaeological interest are properly examined and recorded to be consistent with the principles as set out in PPS5 (Planning and Historic Environment).

(14) Prior to the Commencement of Development details of a scheme of landscaping and tree planting shall be submitted to the Waste Planning Authority for approval and shall thereafter be implemented as approved.

Reason; In order to help reduce the visual impact of the Development.

(15) All trees and shrubs planted under the scheme as approved under condition (14) above shall be maintained for a period of 5 years. Any trees or shrubs that either die, are lost, damaged or become diseased during this 5 year period shall be replaced with a tree or shrub of the same species within the next available planting season.

Reason; In order to help reduce the visual impact of the Development.

(16) The Development hereby permitted shall be carried out strictly in accordance with the Flood Risk Assessment (FRA) submitted in support of the application and which includes the following detailed mitigation measures:-

1.1 The surface water management scheme outlined within Appendix 4 of the FRA (Surface Water Management and Foul Drainage Philosophy Statement) and the storage areas shown on drawings 16315 AO 0600 and 16315 AO 0301 within Appendix B shall be constructed and operational prior to the acceptance of waste by the Development.

1.2 A safe route into and out of the Application Site to an appropriate safe haven shall be identified and provided.

1.3 Finished floor levels are to be set in accordance with the FRA.

Reason; In order to reduce the risk of flooding and to ensure the safe access and egress from and to the Application Site pursuant to the requirements of PPS25 (Development and Flood Risk).

(17) All surface water drainage from the Application Site discharging to a local water course shall be attenuated for a 1:100 year return storm with a limited discharge of 7 litres per second per hectare or the equivalent run off from a Greenfield site for a 1:2 year storm.

Reason; In order to reduce the risk of flooding and ensure the safe access and egress from the Application Site pursuant to the requirements of PPS25 (Development and Flood Risk).

(18) Work on the proposed drainage outfall to the Swale (as shown on Figure 4.25 Proposed Drainage Layout of the Planning Application Site Supporting Statement) shall only take place between 1 April and 31 September in any given year.

Reason; In order to protect over-wintering birds on the Application Site and surrounding area consistent with the principles set out in PPS9 (Biodiversity and Geological Conservation).

(19) All fuels, oils and other liquids with the potential to contaminate the Application Site shall be stored in a secure bunded area in order to prevent any accidental or unauthorized discharge to the ground. The area for storage shall not drain to any surface water system. Where it is proposed to store more than 200 litres of any type of oil on the Application Site it must be stored in accordance with the provisions of the Control of Pollution (Oil Storage) (England) Regulations 2001. Where a drum or barrel has a capacity of less than 200 litres a drip tray capable of retaining 25% of the maximum capacity of the drum or barrel may be used in lieu of storing the drum or barrel in the secure bunded area.

Reason; In order to prevent any unacceptable risk to the environment pursuant to Policy W19 of the Kent Waste Local Plan.

(20) Prior to their installation/construction on the Application Site details of the storage bunkers (as shown on Figure 4.2 of the Planning Application Supporting Statement) into which waste would initially be tipped shall be submitted to the Waste Planning Authority for approval and then subsequently installed/constructed in accordance with such approved details.

Reason; To ensure that in the event of the plant shutting down that any waste stored in the storage bunkers can be readily removed or contained in a manner so as to prevent the creation of any unacceptable and unpleasant odours in the interests of residential amenity.

(21) Details of an external lighting strategy which follows best practice to reduce the impact of light spillage on the adjacent SPA and Ramsar site shall be submitted to the Waste Planning Authority for approval prior to the installation of external lighting on the Application Site. External lighting shall only be installed on the Application Site in accordance with the approved lighting strategy.

Reason; In order to protect the bio-diversity and geological interests of the Application Site and surrounding area consistent with the principles set out in PPS9 (Biodiversity and Geological Conservation) and Policy W21 of the Kent Waste Local Plan.

(22) Other than waste arising from within Kent all waste used as a fuel in the Sustainable Energy Plant hereby permitted shall be pre-treated. Unless otherwise agreed in writing by the Waste Planning Authority no less than 20% of the annual waste throughput shall be pre-treated waste sourced from within the area defined as Hinterland shown on the plan attached to the letter from RPS dated 17 March 2011 entitled KENT & HINTERLAND and which includes Kent, Tandridge, Thurrock and Medway.

Reason; To ensure that waste processed at the plant is sourced consistent with the principles set out under policies W3 and W4 of the South East Plan and PPS10 (Planning for Sustainable Waste Management) which seek to secure waste management capacity sufficient to achieve net regional and sub-regional self sufficiency having regard to the proximity principle.

(23) In the event that Kemsley Paper Mill no longer requires heat and/or power from the Sustainable Energy Plant hereby permitted, the operator of the plant shall submit a scheme to the Waste Planning Authority for approval setting out details of the steps that will be taken to identify alternative users of the heat and/or power generated.

Reason; To ensure that the plant continues to operate as a means of providing a sustainable supply of energy consistent with the objectives set out in PPS10 (Planning for Sustainable Waste Management).

Town and Country Planning (Development Management Procedure) (England) Order 2010

This application has been determined in accordance with the Town and Country Planning Acts, and in the context of the Government's current planning policy guidance and the relevant Circulars, together with the relevant Development Plan policies.

The summary of reasons for granting approval is as follows:-

The County Council is of the opinion that the proposed development gives rise to no material harm, is in accordance with the development plan and that there are no material considerations that indicate that the decision should be made otherwise. The County Council also considers that any harm as a result of the proposed development would reasonably be mitigated by the imposition of the attached conditions.

In addition please be advised of the following informative:

Please note the expiry date on your decision notice, along with all other conditions imposed. You are advised any conditions which require you to formally submit further details to the County Planning Authority for approval may be required to be formally discharged **prior** to commencement of operations on site, or within a specified time. It is your responsibility to ensure that such details are submitted. **Failure to do so may mean that any development carried out is unlawful** and which may ultimately result in the permission becoming incapable of being legally implemented. It is therefore strongly recommended that the required details be submitted to this Authority in good time so that they can be considered and approved at the appropriate time. **Note that from 6th May 2008 each submission of details pursuant to conditions attracts an application fee of £85.**

Dated this sixth day of March 2012

(Signed) [redacted]
Head of Planning Applications Group

INVICTA HOUSE
COUNTY HALL
MAIDSTONE
KENT ME14 1XX

TOWN AND COUNTRY PLANNING ACT 1990

NOTIFICATION TO BE SENT TO AN APPLICANT WHEN THE COUNTY COUNCIL REFUSES PLANNING PERMISSION OR GRANTS IT SUBJECT TO CONDITIONS

- This permission is confined to permission under the Town and Country Planning Act 1990, the Town and Country Planning (Development Management Procedure) (England) Order 2010, and the Town and Country Planning (Applications) Regulations 1988 and does not obviate the necessity of compliance with any other enactment, by-law, or other provision whatsoever or of obtaining from the appropriate authority or authorities any permission, consent, approval or authorisation which may be requisite.

- Section 53 of the County of Kent Act 1981 (access for Fire Fighting Purposes) will apply to this permission if it relates to building works, and will be considered when plans are deposited with the appropriate authority for approvals under the Buildings Regulations 1995.

- If the applicant is aggrieved by the decision of the County Planning Authority to refuse permission for the proposed development or to grant permission or approval subject to conditions, he may appeal to the Secretary of State for the Environment, in accordance with Section 78(1) of the Town and Country Planning Act 1990. If he wants to appeal then he must do so within six months of the date of this notice using a form which is obtainable from the Secretary of State at The Planning Inspectorate, Room 315A, Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN – Tel: 0117 372 6372; or online at www.planningportal.gov.uk/pcs The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to exercise this power unless there are special circumstances which excuse the delay in giving notice of appeal.

- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the County Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

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

- If permission to develop land is refused or granted subject to conditions, whether by the County Planning Authority or by the Secretary of State for the Environment, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted. In these circumstances he may serve on the Council of the county district in which the land is situated, a purchase notice requiring that Council to purchase his interest in the land in accordance with the provisions of Chapter 1 of Part VI of the Town and Country Planning Act 1990.

- In certain circumstances, compensation may be claimed from the County Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him. The circumstances in which such compensation is payable are set out in Section 114 and related provisions of the Town and Country Planning Act 1990.

- Where this decision relates to development which has been the subject of Environmental Impact Assessment the validity of the Council's decision may be challenged by making an application to the High Court within three months from the date of this decision. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor, or contact the Crown Office at the following address: Administrative Court at the Royal Courts of Justice, Queen's Bench Division, Strand, London, WC2 2LL – Tel: 020 7947 6655; or online at www.courtservice.gov.uk

DATED 5th March 2012

The Kent County Council	(1)
E.ON Energy from Waste UK Limited	(2)
DS Smith Paper Limited & SRP New Thames Limited & Grovehurst Energy Limited	(3)
The Royal Society for the Protection of Birds	(4)

DEED OF PLANNING OBLIGATIONS
made under section 106 of the Town and Country Planning Act 1990 in respect of land at Kemsley Mill Sittingbourne ME10 2TD

KCC Legal Ref: 17060/18

CONTENTS

THIS DEED is made the 5th day of March, 2012

BETWEEN

(1) **The Kent County Council** of County Hall Maidstone Kent ME14 1XX

("Council")

and

(2) **E.ON Energy from Waste UK Limited** (Co Reg No 6467251) whose registered office is at Westwood Business Park Westwood Way Coventry CV4 8LG

("Developer")

and

(3) **DS Smith Paper Limited** (Co Reg No 58614) whose registered office is at Beech House Whitebrook Park 68 Lower Cookham Road Maidenhead SL6 8XY and **SRP New Thames Limited** (Co Reg No 543506) of Beech House Whitebrook Park 68 Lower Cookham Road Maidenhead SL6 8XY and **Grovehurst Energy Limited** (Co Reg No 2197516) whose registered office is at Beech House Whitebrook Park 68 Lower Cookham Road Maidenhead SL6 8XY

("Owner")

and

(4) **The Royal Society for the Protection of Birds** (Registered Charity Number No 207076) whose registered office is at The Lodge Potton Road Sandy Bedfordshire SG19 2DL

("RSPB")

RECITALS

A This Deed is entered into by the parties to secure the grant of Planning Permission for the Development.

B The Council is the waste planning authority for the purposes of the Act for the area in which Site 1, Site 2 and Site 3 are situated. '

IT IS AGREED THAT:

1 DEFINITIONS

Unless the context states otherwise, in this Agreement the following terms shall have the defined meanings:

1.1	"1990 Act"	means the Town and Country Planning Act 1990 (as amended)
1.2	"Application"	means the full application made to the Council for planning permission for the Development and given the reference number SW/10/444
1.3	"Commencement Notice"	means the written notice upon the Council by the Owner/Developer notifying it of the date of the Commencement of the Development.

1.4	"Commencement of the Development"	means the date that a material operation, as defined in Section 56(4) of the 1990 Act, is undertaken on the Site 1 but for the purpose of this Deed and the Planning Permission does not include any operations relating to demolition, Site Preparation Works, Site Investigation, surveys, erection of fencing and hoardings, diversion of any services or archaeological investigations.
1.5	"Development"	means the development of a sustainable energy plant on Site 1 as more particularly set out in the Application.
1.6	"Employment Strategy"	means the strategy as annexed at Schedule 5 setting out provisions for the maximising of local employment opportunities.
1.7	"Maintenance Scheme"	means the scheme as annexed at Schedule 4 for the ongoing maintenance of Site 2 as reedbed habitat to ensure its continued suitability for Marsh Harrier following implementation of the Scheme.
1.8	"Planning Obligations"	means the obligations created by Clause 6 and set out in Schedule 1, Schedule 2, Schedule 5 and Schedule 6.
1.9	"Planning Permission"	means a planning permission to be issued by the Council for the Development and includes any approval of reserved matters and any variation or modification to the Planning Permission that occurs after the Council has issued the Planning Permission.
1.10	"Relocation Scheme"	means the Scheme as set out in Schedule 6 for the maintenance of Site 3.
1.11	"Scheme"	means the scheme as annexed at Schedule 3 containing provisions for the establishment of a reedbed habitat on Site 2 suitable for Marsh Harriers.
1.12	"Site 1"	means the land the subject of the Application and coloured red on the plan annexed hereto bearing reference number "Plan of Site 1" (Drawing Ref No Figure NK016692_SK016 Rev B) and registered at the Land Registry under Title Number K643868 and K643867 and K926322.
1.13	"Site 2"	means the land shown on the plan annexed hereto coloured red bearing reference number "Plan of Site 2" (Drawing Ref No NK016692_SK018 Rev B) which is to be established as a reedbed habitat in accordance with the provisions of Schedule 3 and

		maintained in accordance with Schedule 4 and registered at the Land Registry under Title Number K953908.
1.14	"Site 3"	means the land shown on the plan annexed hereto and coloured red bearing reference number "Plan of Site 3" (Drawing Ref No NK016692_SK020) registered at the Land Registry under Title Number K526814 and K643863 and K643866 which is set aside and managed in accordance with the provisions of Schedule 6 for species relocated from Site 1.
1.15	"Site Investigations"	means site surveying, habitat clearance, excavation of trial pits, cone penetration testing, cable percussive boreholes, soil sampling and measurement with associated excavation, sample boreholes for ground gas and ground water monitoring and permeability testing and other similar activities.
1.16	"Site Preparation Works"	means further site investigations, ecological work such as habitat enhancement/creation, reptile translocation, annual beard grass translocation, habitat clearance (including strimming), site clearance (including removal/relocation of overhead/underground cables/pipes/utilities), temporary service provisions (water, low voltage power supply), fencing and site lighting, temporary gate house/security provision, preparation of access road, drainage provision, provision of laydown area (including porta-cabins, welfare facilities), provision of temporary lay-by area and car parking area for site preparation work and other similar activities.

2 INTERPRETATION

In this Deed:

2.1 Words in the singular include the plural and vice versa;

2.2 A reference to a gender includes a reference to all other genders;

2.3 A reference to a person includes companies and all other legal entities;

2.4 Unless stated otherwise, a reference to a clause, schedule or paragraph in a schedule are references to the clauses, schedules and paragraphs of this Deed;

2.5 The headings and table of contents in this Deed are for convenience only and shall not affect its interpretation.

2.6 Unless this Deed states otherwise, any reference to a statute, statutory instrument or other legislative provision includes any amendment, extension or re-enactment of it for the time being in force.

2.7 Unless this Deed states otherwise, references to any party shall include that party's successors in title.

3 LAND OWNERSHIP

3.1 The Owner owns the freehold interest in Site 1 and Site 3.

3.2 The Owner and Developer have jointly submitted the Application in respect of Site 1 and the Developer has an interest in Site 2 by virtue of a licence to occupy in order to fully implement the Scheme on Site 2 in accordance with the provisions of this Deed.

3.3 The RSPB owns the freehold interest in Site 2.

4 ENABLING POWERS

4.1 This Deed is made under section 106 of the 1990 Act, section 111 of the Local Government Act 1972 and all other enabling powers.

4.2 The obligations of the Owner and the Developer in Schedules 1, 5 and 6 and the obligations of the RSPB in Schedule 2 are planning obligations for the purpose of section 106 of the 1990 Act and are enforceable by the Council as a local planning authority for the part of the district in which Site 1, Site 2 and Site 3 are situated.

5 GRANT OF PLANNING PERMISSION AND COMMENCEMENT OF DEVELOPMENT

5.1 The obligations in Schedules 1, 5 and 6 of this Deed shall not come into effect unless and until the Council grants the Planning Permission for the Development pursuant to the Application.

5.2 The obligations in Schedule 2 shall not come into effect until the Council grants the Planning Permission and the Scheme is fully and properly implemented in accordance with the provisions set out in the Scheme and the obligation in paragraphs 1.1 of Schedule 1.

5.3 The parties to this Deed acknowledge that as at the date hereof this Deed meets the requirements of the Community Infrastructure Levy Regulations 2010 and one or more of the tests in paragraph B5 of Circular 5/2005.

6 OBLIGATIONS

6.1 The Owner/Developer jointly and severally agree with the Council to observe and perform the obligations or activities specified in Schedule 1, Schedule 5 and Schedule 6.

6.2 The RSPB agrees with the Council to observe and perform the obligations or activities specified in Schedule 2.

7 PAYMENT OF COUNCIL'S COSTS

7.1 The Owner/Developer shall pay the Council's reasonable and properly incurred legal and planning costs for entering into this Deed.

8 THIRD PARTY RIGHTS

8.1 The Owner, the Developer, the Council and the RSPB agree that a person who is not a party to this Deed has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Deed.

9 RELEASE FROM LIABILITY

9.1 Except for any breach that occurs before a person parts with their interest in Site 1 or Site 2 or Site 3, no person shall be liable for a breach of any covenant, agreement or obligation created by this Deed after he shall have parted with all interest in Site 1 or Site 2 or Site 3 or the part of Site 1 or Site 2 or Site 3 as the case may be in respect of which a breach occurs.

10 SATISFACTION OF THE OBLIGATIONS

10.1 The Planning Obligations created by Clause 6 and Schedules 1, 2, 5 and 6 shall be registered by the Council as a Local Land Charge but the Council shall cancel the charge if either:

(a) all parties to this Deed comply with the Planning Obligations set out in this Deed; or

(b) this Deed ceases to have effect under the provisions of Clause 12.

10.2 Upon the written request of any person with an interest in Site 1 or Site 2 or Site 3 the Council shall, after any of the Planning Obligations have been performed or otherwise discharged, issue written confirmation of that fact and shall enter a note on the Local Land Charges Register confirming the performance or discharge.

10.3 The Council shall upon the written request of any person with an interest in Site 1 or Site 2 or Site 3 after any of the Planning Obligations have been performed or otherwise discharged execute a Deed of Release (or partial release) from the relevant provisions of this Deed and procure that a note of the Deed of Release shall be entered on the Local Land Charges Register.

10.4 The reasonable and properly incurred costs of the Council shall be paid by the Owner/Developer or the RSPB as the case may be in respect of any request made pursuant to Clause 10.2 or 10.3 above.

11 DISPUTE RESOLUTION

11.1 Any dispute or difference arising between the Council and/or the Owner/Developer and/or the RSPB with regard to their respective rights and obligations arising out of or connected with this Deed shall be referred by the Council or the Owner or the Developer or the RSPB to the decision of a single arbitrator to be agreed by the parties.

11.2 If the parties are unable to agree to an arbitrator under Clause 11.1 then any party may apply to the President for the time being of the Royal Institute of Chartered Surveyors and the President shall appoint an arbitrator.

11.3 A reference under Clause 11.1 or 11.2 shall be deemed to be a submission to arbitration within the meaning of the Arbitration Act 1996 or any subsequent amending or replacing legislation.

12 TERMINATION OF THE DEED

12.1 If the Planning Permission granted by the Council in respect of the Application expires, is revoked or is quashed in any legal proceedings, then this Deed shall terminate immediately and cease to have effect and the Council shall immediately remove any entry relating to this Deed from the register of Local Land Charges.

12.2 If either this Deed or the Planning Permission are the subject of any judicial review proceedings (including application for permission to apply for judicial review) then from the date that the Council is aware of such proceedings:

(a) The Council shall forthwith notify the Owner/Developer/RSPB (and any other person it has reasonable grounds to believe may have an interest in any part of Site 1 or Site 2 or Site 3) of such proceedings; and

(b) The requirement to comply or to comply further with the Planning Obligations shall be suspended temporarily until the final disposal of the legal proceedings at which time, if the Planning Permission or this Deed has not been quashed, the requirement to comply or to comply further with the Planning Obligations (as may be varied by order of the Court) shall recommence and any time-limits for compliance with the Planning Obligations set out in this Deed shall be extended by the period of the suspension under this Clause.

13 NOTICE

13.1 Any notice given under this Deed shall be in writing and shall be delivered personally or sent by pre-paid first class recorded delivery post.

13.2 The address for service of any such notice shall be as set out at the start of this Deed and in the case of the Council any such notice shall be marked for the attention of The Head of Planning Applications with a copy of the same marked for the attention of the Director of Governance and Law.

13.3 Any Notice under this Deed shall be deemed to have been served as follows:

(a) If personally delivered at the time of delivery;

(b) If by post at the expiration of 48 hours after the envelope containing the same was delivered into the custody of the postal authority within the United Kingdom.

13.4 In proving service it shall be sufficient to prove that personal delivery was made and a receipt obtained or that the envelope containing the notice was properly addressed and delivered into the custody of the postal authority in a pre-paid first class recorded delivery envelope and a receipt was obtained.

14 REASONABLENESS

14.1 Where the Council (acting by its officers or otherwise) is requested to give its approval, agreement, confirmation or consent under this Deed it shall not unreasonably refuse or withhold that approval, agreement, confirmation or consent and the Council will use all reasonable endeavours to give its approval agreement confirmation or consent within 28 days of receiving a written request.

15 ALTERNATIVE PLANNING PERMISSIONS

15.1 Nothing in this Deed shall prohibit or limit the right to develop any part of Site 1 or Site 3 in accordance with a planning permission, excluding the Planning Permission, granted, whether or not on an appeal, after the date of this Deed.

16 INDEMNITY

16.1 The Developer will fully indemnify the Owner from and against all actions, claims, losses, demands, proceedings, costs and liability arising from any breach or non-observance of the terms of this Deed and in particular the terms of this Deed in respect of which the Owner is liable save to the extent that such breach or non observance was caused by the Owner.

16.2 The Developer shall fully indemnify RSPB from and against all actions, claims, losses, demands, proceedings, costs and liability arising from any breach or non-performance of the obligation in respect of Site 2 at paragraph 1.1 of Schedule 1 save to the extent that such breach or non observance was caused by the RSPB.

IN WITNESS the parties have sealed and signed this deed and delivered it on date set out above.

notes :

1. If this drawing has been received electronically it is the recipients responsibility to print the document to the correct scale.
2. All dimensions are in millimetres unless stated otherwise. It is recommended that information is not scaled off this drawing.
3. This drawing should be read in conjunction with all other relevant drawings and specifications.

Key:

1. Denotes Application Boundary
2. Denotes Off site mitigation areas (Harty Fen - See drawing 16692 SK018)
3. Denotes On Site Mitigation Boundary (Outside of Planning Permission Area - See drawing 16692 SK020)

Denotes Boundary Areas

Kemsley Location Plan
Scale 1:2500

Site A & B Location Plan

THE COMMON SEAL OF THE KENT COUNTY COUNCIL WAS HEREUNTO AFFIXED IN THE PRESENCE OF:-

[redacted]
Authorised Signatory

[redacted]

rev	amendments	by	ckd	date
B	Removal of boundary outside planning permission area.	JAT	RS	15.11.11
A	Harty Fen site relocated on drawing 16692 SK018. Drawing viewports amended to suit.	SJLH	RS	10.10.11

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E rpsnewark@rpsgroup.com

Client: eon Wheelabrator Technologies Inc.

PLAN 1

Project: North London Waste Authority Fuel Use Contract

Title: Section 106 Agreement Areas

Drawing Status	Date Created	Drawing Scale
Preliminary	04.10.11	1:2500 @ A0
Project Leader	Drawn By	Initial Review
RS	SG	SJLH

Drawing Number: NK016692_SK016
Rev: B

rpsgroup.com

50m SCALE 1:2500

notes :

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3. This drawing should be read in conjunction with all other relevant drawings and specifications.

Key:

1. Denotes Application Boundary (See drawing 16692 SK016)
2. Denotes Off site mitigation areas (Harty Fen)
3. Denotes On Site Mitigation Boundary (Outside of Planning Permission Area - See drawing 16692 SK020)

Denotes Boundary Areas

Harty Fen Location Plan
Scale 1:2500

Site A & B Location Plan

THE COMMON SEAL OF THE KENT COUNTY COUNCIL WAS HEREUNTO AFFIXED IN THE PRESENCE OF:-

[redacted]

Authorised Signatory

[redacted]

rev	amendments	by	ckd	date
B	Minor text amendment.	JAT	RS	15.11.11
A	Harty Fen Boundary line updated to suit data received from GCP Development.	SJLH	RS	14.11.10

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PLAN 2

Project: North London Waste Authority Fuel Use Contract

Title: Section 106 Agreement Areas

Drawing Status	Date Created	Drawing Scale
Preliminary	04.10.11	1:2500 @ A0
Project Leader	Drawn By	Initial Review
RS	SG	SJLH

Drawing Number: NK016692_SK018

Rev: B

rpsgroup.com

50m SCALE 1:2500

notes :

1. If this drawing has been received electronically it is the recipients responsibility to print the document to the correct scale.
2. All dimensions are in millimetres unless stated otherwise. It is recommended that information is not scaled off this drawing.
3. This drawing should be read in conjunction with all other relevant drawings and specifications.

Key:

1. Denotes Application Boundary (See drawing 16692 SK016)
2. Denotes Off site mitigation areas (Harty Fen - See drawing 16692 SK018)
3. Denotes On Site Mitigation Boundary (Outside of Planning Permission Area)

Denotes Boundary Areas

Kemsley Location Plan
Scale 1:2500

Site A & B Location Plan

THE COMMON SEAL OF THE KENT COUNTY COUNCIL WAS HEREUNTO AFFIXED IN THE PRESENCE OF:-

[redacted]
Authorised Signatory

[redacted]

rev	amendments	by	ckd	date

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W www.rpsgroup.com
E rpsnewark@rpsgroup.com

PLAN 3

Project: North London Waste Authority Fuel Use Contract

Title: Section 106 Agreement Areas

Drawing Status	Date Created	Drawing Scale
Preliminary	15.11.11	1:2500 @ A0
Project Leader	Drawn By	Initial Review
RS	JAT	RS

Drawing Number: NK016692 _ SK020

Rev: -

rpsgroup.com

50m SCALE 1:2500

SCHEDULE 1

The Owner's/Developer's Obligations

Reedbed Habitat Creation – Site 2

1.1 Prior to the Commencement of Development the Owner and or the Developer shall fully implement the Scheme on Site 2 in accordance with the provisions therein.

1.2 Evidence of satisfactory implementation of the Scheme will be the receipt by the Council of the notice referred to in Schedule 2, Paragraph 1.2.

Employment Strategy

1.3 The Owner and or the Developer shall use reasonable endeavours to fully implement the Employment Strategy prior to the Commencement of Development in respect of the Development in accordance with the provisions therein unless agreed otherwise in writing with the Council.

Commencement Notice

1.4 The Owner and or the Developer shall serve on the Council the Commencement Notice not less than 7 days prior to the date proposed for the Commencement of Development.

Relocation of Species

1.5 Prior to the Commencement of Development the Owner and or the Developer shall fully implement the Relocation Scheme on Site 3 in accordance with the provisions therein and shall maintain Site 3 in perpetuity in accordance with the Relocation Scheme unless agreed otherwise in writing with the Council.

1.6 The Owner and or the Developer covenant not to allow the Commencement of Development until it has received written confirmation from the Council that the Relocation Scheme has been satisfactorily implemented.

SCHEDULE 2

The RSPB's Obligations

1.1 The RSPB shall maintain Site 2 in accordance with the provisions of the Maintenance Scheme.

1.2 The RSPB shall serve written notice on the Council confirming that the Scheme has been fully implemented to its satisfaction.

1.3 The RSPB may agree with the Council in writing an alternative to the Maintenance Scheme following the expiration of three years from the date on which completion of construction activities occurs on Site 1.

1.4 In the event of an alternative scheme being agreed with the Council in accordance with paragraph 1.3 above, the RSPB shall maintain Site 2 in accordance with the provisions of the new scheme in perpetuity in lieu of those provisions as contained in the Maintenance Scheme.

SCHEDULE 3

The Scheme

SCHEDULE 3
THE SCHEME

gc partnership

architecture
concept
masterplanning
design
development planning
interiors
landscape
space planning
building consultancy
project management
building surveying
cost management
m&e services
health and safety
planning supervision
facility management
civil engineering
rail
structural engineering
infrastructure
geo-environmental
remediation
transportation
marine

E.ON Habitat Creation – Harty Marshes, Leysdown
Specification

Harty Marshes Kemsley
Marsh Harrier – Habitat Creation

Client

RPS Planning & Development,
Leeds

Ref no: 1288-002/D01/ Construction Works Specification

42 Tabard Street
London
SE1 4JU

t 020 7407 3067
f 020 7357 9949
www.gcpartnership.co.uk

Construction Works Specification

gc partnership

Status	Details of Amendment	Date	Author	Checked	Approved
REV 00	For Comments	August 11	HS(GCP)		
REV 01	Issued – Tender	3rd Oct 2011	EF (GCP)		

1. Introduction

This document provides an Outline Construction Specification for the Physical Works that form the Kemsley Environmental Works.
The land purchase boundary is shown on drawing 1288-002-3/C/100 marked in red as plot A1.
The elements of works detailed in this document should be read in conjunction with GC Partnership Ltd. Drawings series No. 1288-002-3/C/100 & 300 & 500 & 600.

2. Parties and Roles

RPS is the **Client** and **Environmental Consultant** working on behalf of E.ON. GC- Partnership Ltd **(GCP)** is the Civil Engineering Consultant and RPS' representative. The **Contractor** is the term used to describe the works constructor.

3. Overview and Scope of works

The "works" comprise the following construction works:

- Excavation and planting of reedbed
- Excavation of perimeter ditch to the specified profiles
- Excavation of rills (shallow scrapes)
- Excavation of lateral ditches (connection ditch network between perimeter ditch and reed beds)
- Construction of trackway for access for maintenance and management
- Construction of one water control structure over existing ditch (simple earth compacted dam infill and elbow pipes weirs both end) and associated post and rail fencing (refer to detail drawing HCD / H3)
- Erection of 2no. vehicle access single steel field gates (refer to detail drawing HCD / H17 – steel single field gate) and associated post and rail fencing
- Earthwork Surplus material excavation, storage, movement and placement to adjacent plot to construct boundary lip (distance approx. 500m)

4. Drawings

Drawings 1288-002-3/C/105 (GCP) show the overall nature of the works as described in Point 3 above. For details see Drawings Series 300 & 500 & 600.

5. **Ditch Excavation**

A new perimeter ditch to be constructed up to a maximum depth of 2.7m as agreed with GCP, RPS's representative. The ditch cross-sectional profile is shown on drawing 1288-002-3/C/501, Detail 3. The side slopes of the ditch are 1 horizontal step and 1 vertical step (1 in 1 = 45° to horizontal) or greater.

Excavated material will, where appropriate, be used to raise the boundaries of the existing rill network located on an adjacent site approx. 0.5miles south. Material to be relocated and placed as per detail 1288-002-3/C/RSPB 01.

6. **Excavation of Lateral Ditches**

A network of lateral ditches is to be constructed to provide connection between perimeter ditch and bottom of reed bed area. The lateral ditches are to be excavated to a bed level of +0.150m AOD and topped-up with 150mm site won topsoil to a final level +0.3m AOD. The side slope profile of ditches is to be 2.5 horizontal step and 1 vertical step (slope 1 in 2.5) or greater.

7. **Excavation of Rills**

210m of shallow (0.5m deep) sinuous (curving) rills are required to be constructed in the locations shown on Drawing 1288-002-3/C/500 & 501. The exact location and shape may be subject to variation during the excavation process. The contractor is required to excavate the shallow rills in the presence of RPS or RPS's Representative.

The excavated material will be broken up and spread on the surrounded area.

8. **Excavation of Reedbed**

The base of the reedbed will be excavated on a gradual decline between the new trackway and the new perimeter ditch to level +0.05m AOD (+0.2m AOD incl. topsoil). General slope varies between 1in 8 to 1in20. For details see Drawings Series 500 and 600.
The topsoil will be stripped separately from subsoil and temporarily stored for re-use in the creation of new habitats. Topsoil should be store on site in piles not greater that 1m.

The topsoil excavated from this area along with the topsoil excavated from the new perimeter ditch will be used to surface the substrate of the new reedbed, rills and lateral ditches. The surplus material to be used on adjacent area to in-filled the connection between the main existing ditch and network of rills.

9. **Preparation and Planting of Reedbed**

The area of the site subject to reedbed establishment will be disc-harrowed to a depth of 150mm to encourage a quicker establishment of reed. The ground will be created with an uneven surface with a vertical variation of 100mm.

Locally sourced reed material will be collected from the existing Capel Fleet under the supervision of a qualified ecologist (RPS' representative) and the direction of an NE representative with their consent.

The reed transplants will be planted at a density of 8 stems per square metre into the disc harrowed soils in selected areas (Refer to Series 500&600 GCP) of the reedbed as directed by RPS' representative.

10. **Construction of Vehicle Crossing Point with Weir Structure**

Vehicle crossing point with weir structure to be constructed at locations shown on drawing 1288-002-3/C/500 and 501 (GCP).

The crossing comprises an earth dam infilling an existing ditch and horizontally connecting existing track with new proposed track and weir structure.

Earth dam to be constructed within the ditch min. 4m wide with sides battered to a 1in1 gradient. The U-PVC pipe of diameter 225mm to be surrounded with 200mm ST4 concrete mix and topped up with compacted site won clay. Tensioning rope 1.5m long to be securely attached to the end of the pipe with a wooden stake tied to the end of the rope.

The trafficked section comprises (from bottom) as follow: 1 layer of TENSAR 1000 followed by 200mm HardCore (clean crushed bricks only acceptable - no debris) and 100 mm Road chipping.

Both the ditch in-fill (site won clay) and the track construction are to be placed and compacted in the following manner:

- A maximum 8 passes over 110mm thick layer using a smooth wheeled roller > 5400kg under supervision of Engineer

Concrete designation GEN3 or a standardised prescribed concrete ST4 is to be used for the culvert.

11. Vehicle Access Gate and Fencing

The type of fencing required to be constructed is shown on drawing 1288-002-3/C/300 (GCP).
For Gate (2no) details refer to drawing HCD / H17
For Timber post and rail types for the foundation details refer to drawing HCD / H3

12. Construction of Access Trackway

New access tracks are to be constructed in compliance with Detail 5 on drawing 1288-002-3/C/501 (GCP).
The topsoil to be removed and store on site for later use, and surface to be smoothed. The layer of Tensar 1000 to be placed and covered with 200mm of hardcore material (crushed bricks only strictly not debris). The hardcore to be topped with 100mm Road chippings. For compaction details refer to Section 10.

Excavated material including topsoil is to be deposited over the adjacent plot locate approx. 0.5mile south to provide infill to existing rills. Refer to 1288-002-3/C/RSPB 01.

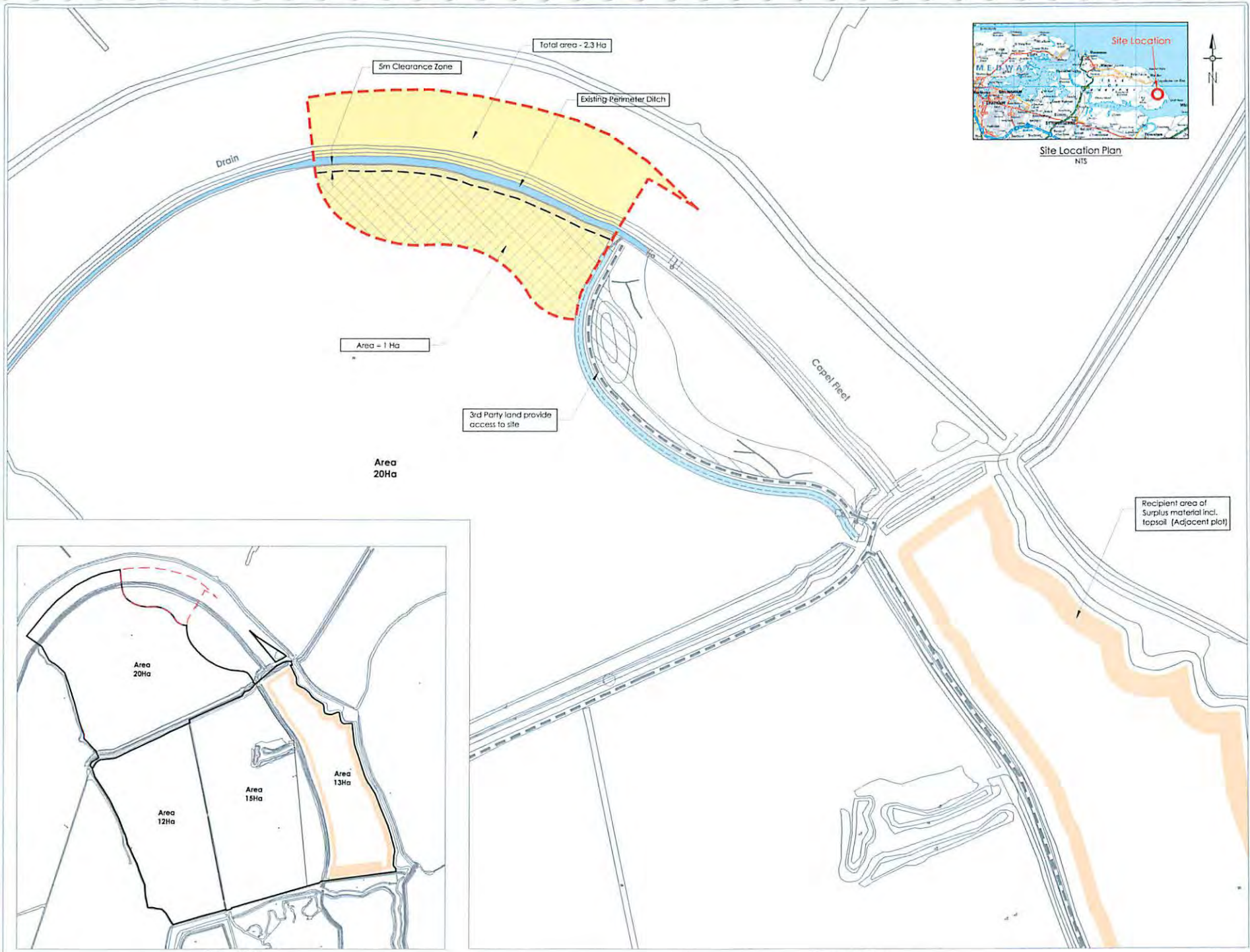
13. Surplus excavated material

Following site excavation works surplus material to be relocated to site located approx. 0.5miles from south entrance.
Adjacent plot to be prepare to receive surplus material from original site. The 5 m corridor along perimeter ditch to be stripped from topsoil. Topsoil to be placed with care on site and store for re-used. The surplus material to be placed as per drawing 1288-002-3/C/RSPB 01 to construct boundary lip.

Surplus material including topsoil is to be deposited over the adjacent plot locate approx. 0.5mile south to provide infill to existing rills and construct boundary lip - Refer to drawing 1288-002-3/C/RSPB 01.

14. **Informatives**

- The drawings and specification are subject to the formal approval and requirements by RPS, RSPB, Natural England and the Lower Medway Internal Drainage Board (when applicable).
- Existing northern ditch – water voles sensitive area. Proposed 3.5m clearance zone to any works is required.
- Compaction work to new trackway along existing ditch (water voles) to be monitored with RPS Environmental representative.
- The earth dam pipe weir (no.1) connects the ditches within the 3rd Party land.
- Further discussion to be held with Natural England and their management organisation.
- Consent will be required from Natural England for works that overlap the Capel Fleet principally the collection of reed plants.
- Locations and measurements to be confirmed on site in agreement with GCP RPS's representative. Initial establishment of vegetation will be undertaken by a nominated contractor on behalf of RPS.
- Following establishment the maintenance and development of the habitats will be undertaken by the new landowner's management organisation.



Site Location Plan
NTS

General Plan
Scale 1:5000

Site Location Plan
Scale 1:1250

general notes

Do not scale from this drawing.

All dimensions are to be checked on site prior to work commencing or preparation of shop working drawings any discrepancies should be notified immediately.

This drawing is to be read in conjunction with all relevant specifications.

Site boundary shown on this drawing takes precedence.

key

- Total Area 60Ha ownership by SEEDA, (shown for information only)
- Site Boundary
- Existing Site Access Route
- Total Area: A = 2.3 Ha
- New Replacement land (Area = 1Ha)
- 5m Clearance Zone
- Recipient area of Surplus material incl. topsoil (Adjacent plot)

revision

03	Site boundary updated base on Land registry layout	EF	11.11.11	
02	Tender issue.	LS	22.09.11	EF
01	Issued for Comments.	TL	02.09.11	EF
01	Site boundary revised & North point added.	TL	25.07.11	EF
00	Issued for Comments.	TL	11.07.11	MS
n°	revision	by	date	chkd

contact

GCP Development Ltd

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London SE1 4JU
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www.gcpartnership.co.uk

gc partnership

drawing status

TENDER

project

client
RPS Planning and Development

project title
Kemsley

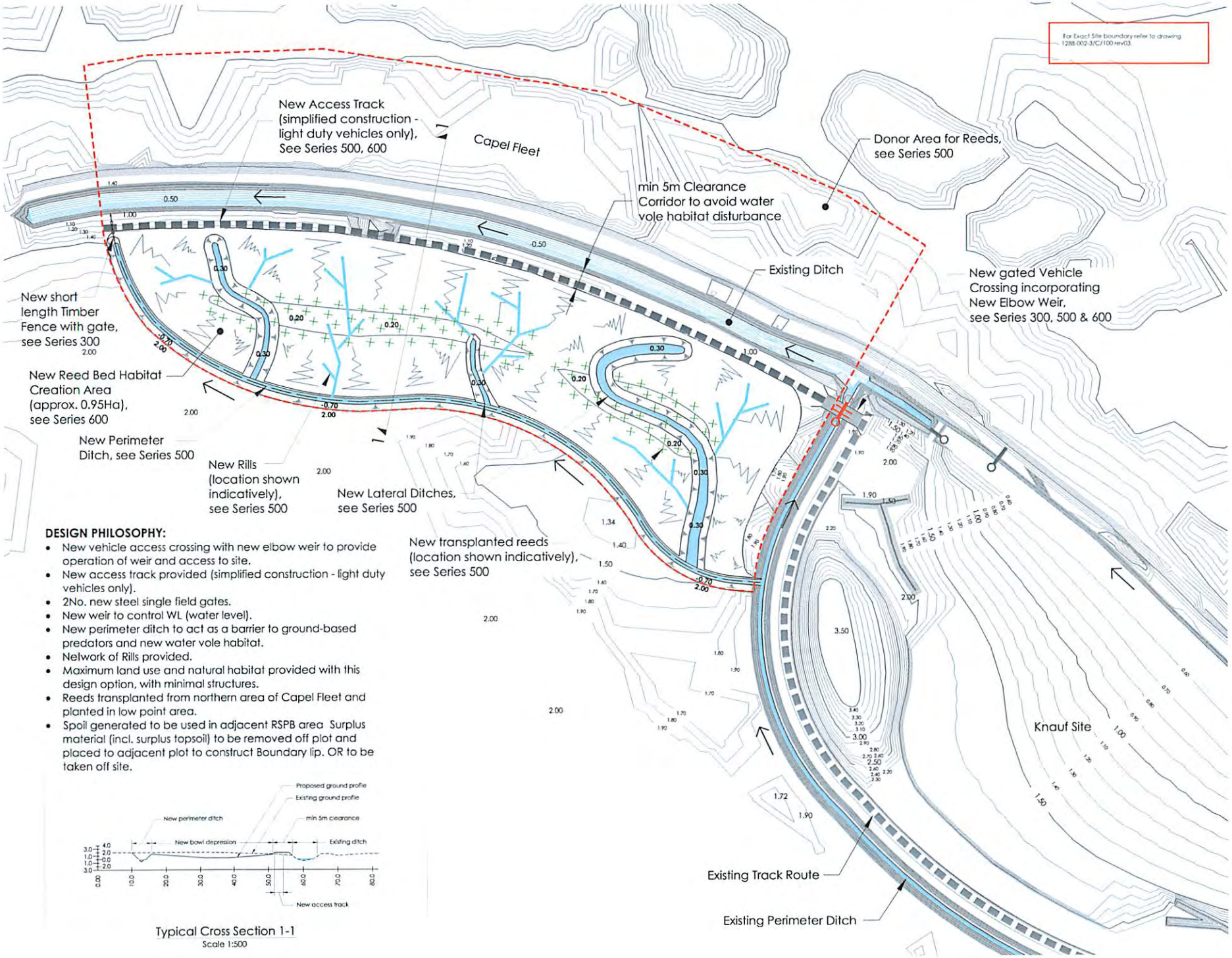
drawing

drawing title
Site Location Plan

scale (A1)	date	drawn	checked
as shown	11.07.11	TL	EF

reference

project no.	discipline	drawing no.	revision
1288 - 002 - 3	/ C /	100	03



DESIGN PHILOSOPHY:

- New vehicle access crossing with new elbow weir to provide operation of weir and access to site.
- New access track provided (simplified construction - light duty vehicles only).
- 2No. new steel single field gates.
- New weir to control WL (water level).
- New perimeter ditch to act as a barrier to ground-based predators and new water vole habitat.
- Nelwork of Rills provided.
- Maximum land use and natural habitat provided with this design option, with minimal structures.
- Reeds transplanted from northern area of Capel Fleet and planted in low point area.
- Spoil generated to be used in adjacent RSPB area Surplus material (incl. surplus topsoil) to be removed off plot and placed to adjacent plot to construct Boundary lip. OR to be taken off site.

Typical Cross Section 1-1
Scale 1:500

For Exact Site boundary refer to drawing 1288-002-3/C/100 rev03.

general notes

Do not scale from this drawing.

All dimensions are to be checked on site prior to work commencing or preparation of shop working drawings - any discrepancies should be notified immediately.

This drawing is to be read in conjunction with all relevant specifications.

Drawing based on: 0123198_1_RI
1288.002 3/C/010 rev02

Contours and levels shown indicatively subject to final survey.

RII and lateral ditch locations subject to final review.

key

- Site boundary
- New perimeter ditch bed level
- New rills (shown indicatively)
- New reed bed
- Weir with elbows on both ends
- Direction of water flow
- New transplanted reeds (shown indicatively)

Note:

General site proposal layout shown indicatively. For exact internal layout and for Construction details refer to drawing Series 300, 500 & 600.

revision

N°	Revision	By	Date	Chkd
01	Tender issue	LS	22.08.11	LS
00	Issued for Comments	TL	18.08.11	HS

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drawing status

TENDER

project

client
RPS Planning and Development

project title
Kemsley

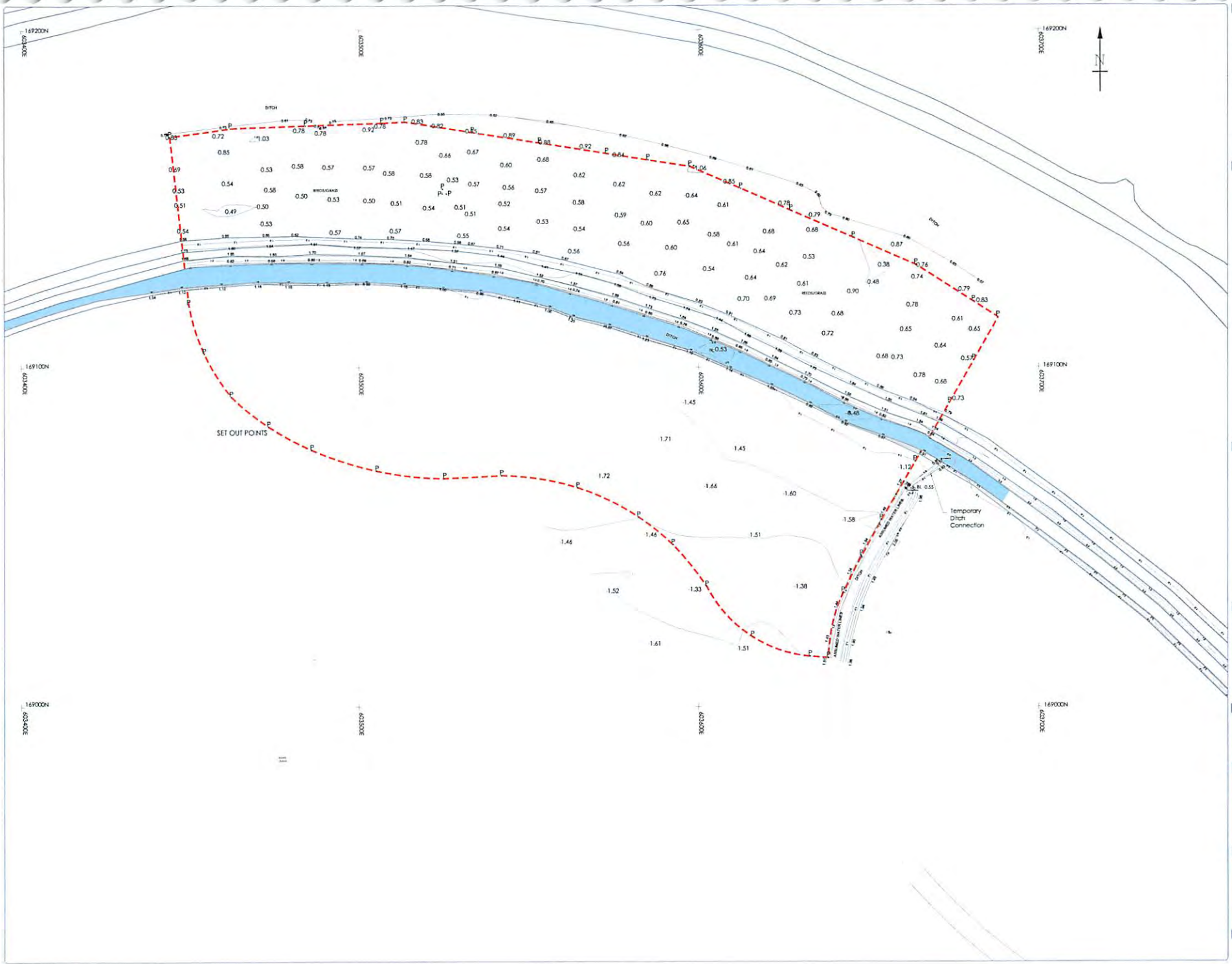
drawing

drawing title
Scope of Works
Habitat Creation - Marsh Harrier

scale (A1)	date	drawn	checked
1:500	22.08.11	TL	EF

reference

project no.	discipline	drawing no.	revision
1288 - 002 - 3	/ C /	105	01



general notes

Do not scale from this drawing.

All dimensions are to be checked on site prior to work commencing or preparation of shop working drawings any discrepancies should be notified immediately.

This drawing is to be read in conjunction with all relevant specifications.

Drawing based on: JKK6578_2A

This drawing to be read in conjunction with 1288 002 3/C/601.

For Exact Site boundary refer to drawing 1288-002-3/C/100 rev03 based on Land Register.

key

- Site boundary
- P — Pecks position. Set up Boundary line
- 0.16 — Existing Ground level +0.16mAOD

revision

N°	revision	By	Date	Chkd
00	Tender Issue	LS	22.09.11	EF
00	Issued for Comment.	TL	02.09.11	EF

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drawing status

TENDER

project

client
RPS Planning and Development

project title
Kemsley

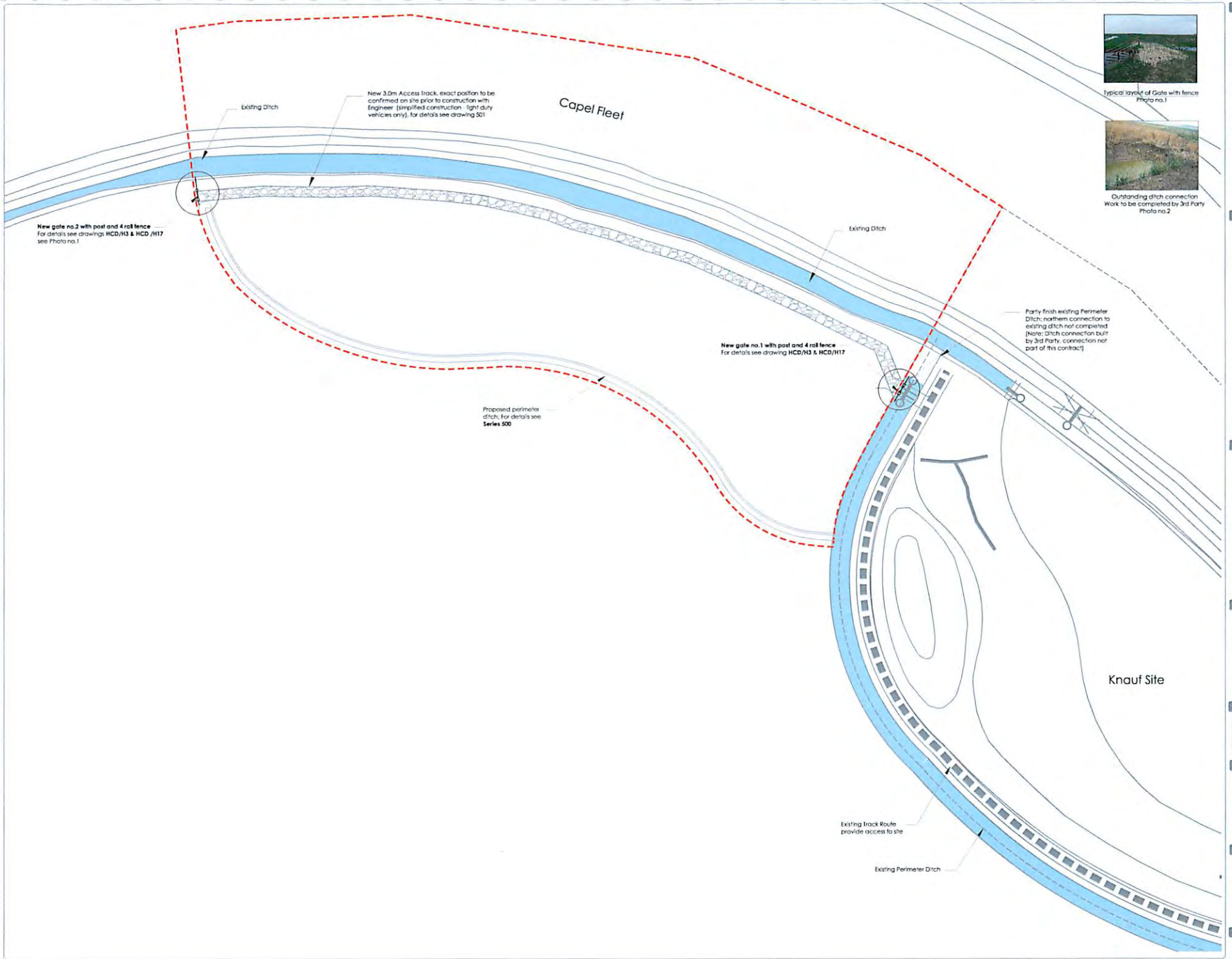
drawing

drawing title
Topographical Survey

scale (A1)	date	drawn	checked
1:500	22.08.11	TL	EF

reference

project no.	discipline	drawing no.	revision
1288 - 002 - 3	/ C /	120	00



Typical layout of Gate with fence
Photo no.1

Outstanding ditch connection
Work to be completed by 3rd Party
Photo no.2

general notes

Do not scale from this drawing.

All dimensions are to be checked on site prior to work commencing or preparation of shop working drawings any discrepancies should be notified immediately.

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This drawing is to be read in conjunction with all relevant specifications.

Drawing based on: D123198_1_R1
1288 002 3/C/010 rev02

1. **New Steel Single Field Gate no.1** (3.6m wide) with post and 4 rail fence (approx. total length 11m).
For details refer to drawing **HCD/H3 & HCD/H17.**
Fence to be constricted from gate to embankment of Perimeter ditches.

2. **New Steel Single Field Gate no.2** (3.6m wide) with post and 4 rail fence (approx. total length 8m).
For details refer to drawing **HCD/H3 & HCD/H17.**
Fence to be constricted from bank of existing ditch to bank of proposed perimeter ditch.

key

- Site boundary
- Proposed Vehicle crossing with culvert Ø225mm U PVC pipe elbow (weir)
- Proposed Steel Single Field Gate with post and 4 rail fence

For Exact Site boundary refer to drawing 1288-002-3/C/100 rev03.

revision

N°	Revision	By	Date	Ch'd
01	Tender issue.	LS	22.09.11	EF
00	Issued for Comment	TL	02.09.11	EF

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TENDER

project

client
RPS Planning and Development

project title
Kemsley

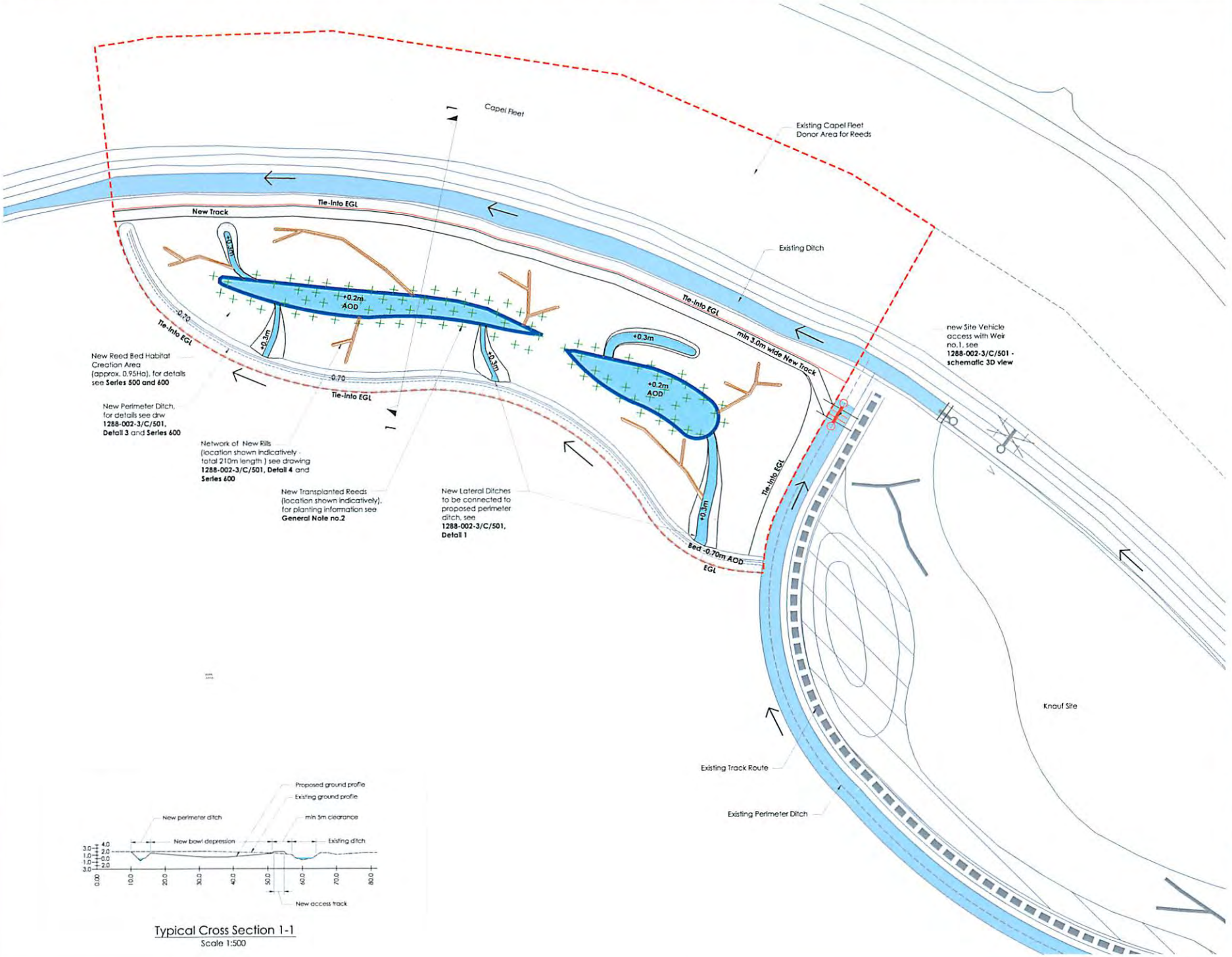
drawing

drawing title
Fencing

scale (A1)	date	drawn	checked
1:500	22.08.11	TL	EF

reference

project no.		discipline	drawing no.		revision
1288	- 002 - 3 /	C	/ 300		01



Typical Cross Section 1-1
Scale 1:500

general notes

Do not scale from this drawing.

All dimensions are to be checked on site prior to work commencing or preparation of shop working drawings - any discrepancies should be notified immediately.

This drawing is to be read in conjunction with all relevant specifications.

Drawing based on: 0123198_1_R1
1288-002-3/C/010 rev02

1. Rill and lateral ditch locations subject to final review.

2. Reed transplants will be planted at a density of 8 stems per square metre into the disc harrowed soils in selected areas. Exact positions to be confirmed with RPS Environmental Representative.

key

- Site boundary
- New perimeter ditch bed level
- New reed bed habitat creation area
- Existing Capel Fleet donor area for reeds
- 2no. of Reed beds bottom permanent wet areas (+0.2m AOD incl. topsoil and reed plans)
- New rills generally 500mm deeper that surround islands with surplus material on the site (shown indicatively), total length approx. 210m
- New Weir with elbow Ø225 U PVC pipe with bedding 200mm ST4 concrete surround
- Direction of water flow
- New transplanted reeds (shown indicatively)

NOTE:
For Exact Site boundary refer to drawing 1288-002-3/C/100 rev03

revision

01	Tender issue	LS	22.09.11	EF	
00	Issued for Comment	TL	02.09.11	EF	
No	Revision	By	Date	Chkd	

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drawing status

TENDER

project

client
RPS Planning and Development

project title
Kemsley

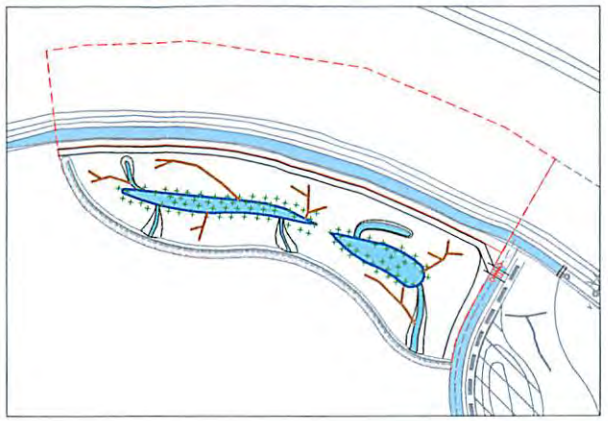
drawing

drawing title
Drainage
General Plan

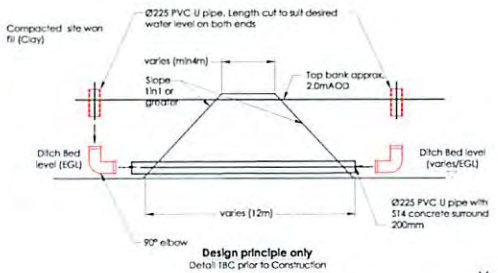
scale (A1)	date	drawn	checked
1:500	22.08.11	TL	EF

reference

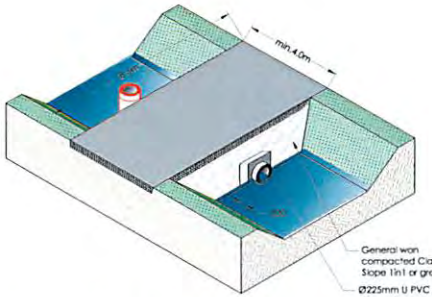
project no.		discipline	drawing no.		revision
1288	- 002 - 3 /	C	/ 500		01



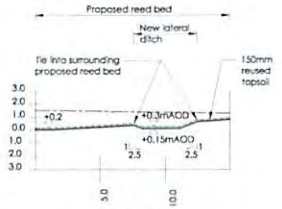
Site General Plan
Scale 1:1250



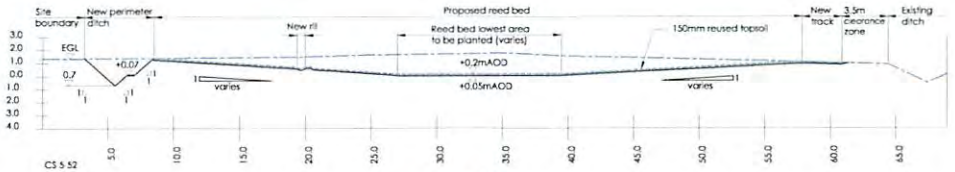
Design principle only
Detail TBC prior to Construction



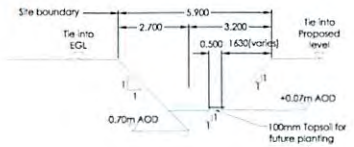
Vehicle crossover with pipe weir (pipe elbow)
3D schematic view



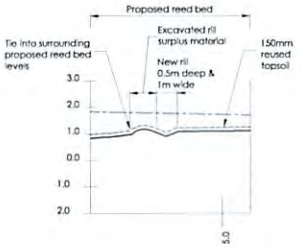
Detail 1
New Lateral Ditch - Typical CS
Scale 1:200



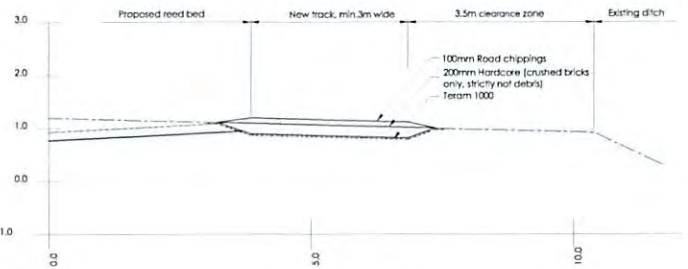
Detail 2
New Reed Bed - Typical CS
Scale 1:200



Detail 3
New Perimeter Ditch - Typical CS
Scale 1:100



Detail 4
New Rill - Typical CS
Scale 1:100



Detail 5
New Track- Typical CS
Scale 1:50

general notes

Do not scale from this drawing.

All dimensions are to be checked on site prior to work commencing or preparation of shop working drawings any discrepancies should be notified immediately.

This drawing is to be read in conjunction with all relevant specifications.

Drawing should be read in conjunction with drw 1288 002 3/C/500

Rill and lateral ditch locations subject to final review.

key

- Site boundary
- New reed bed
- Weir with elbows on both ends
- New transplanted reeds (shown indicatively)
- Existing ground profile
- Proposed ground profile excl. Topsoil or construction (track)
- Proposed Topsoil profile

revision

N°	Revision	By	Date	Ch'd
01	Tender issue.	LS	22.09.11	EF
00	Issued for Comment	TL	02.09.11	EF

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drawing status

TENDER

project

client
RPS Planning and Development

project title
Kemsley

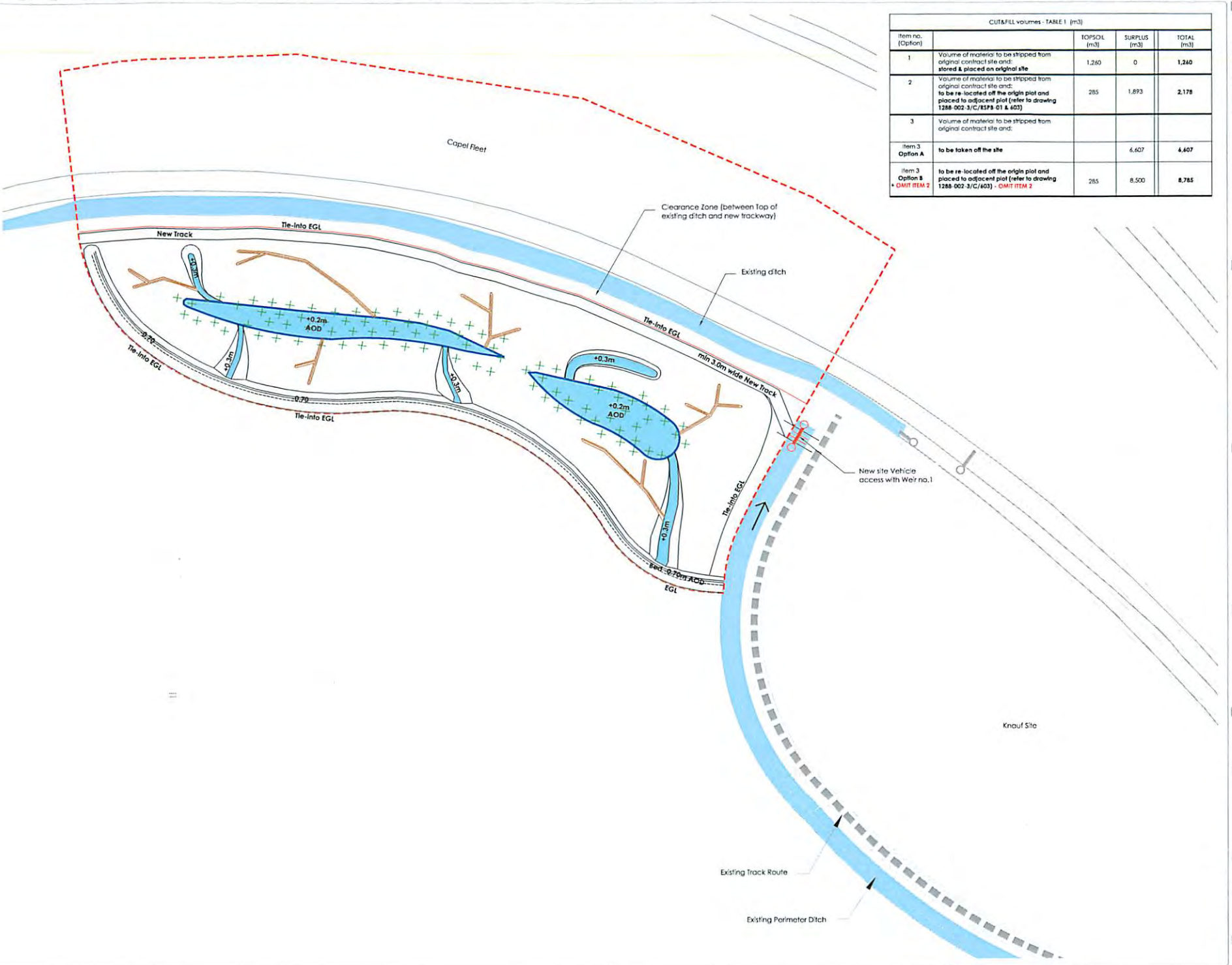
drawing

drawing title
Drainage
Construction Details

scale (A1)	date	drawn	checked
as shown	22.08.11	TL	EF

reference

project no.	discipline	drawing no.	revision
1288 - 002 - 3	/ C /	501	01



CUT&FILL volumes - TABLE 1 (m3)

Item no. (Option)		TOPSOIL (m3)	SURPLUS (m3)	TOTAL (m3)
1	Volume of material to be stripped from original contract site and: **stored & placed on original site**	1,260	0	**1,260**
2	Volume of material to be stripped from original contract site and: **to be re-located off the origin plot and placed to adjacent plot (refer to drawing 1288-002-3/C/RSPB-01 & 603)**	285	1,893	**2,178**
3	Volume of material to be stripped from original contract site and:			
Item 3 **Option A**	**to be taken off the site**		6,607	**6,607**
Item 3 **Option B** * OMIT ITEM 2	**to be re-located off the origin plot and placed to adjacent plot (refer to drawing 1288-002-3/C/603) - OMIT ITEM 2**	285	8,500	**8,785**

general notes

Do not scale from this drawing.

All dimensions are to be checked on site prior to work commencing or preparation of shop working drawings - any discrepancies should be notified immediately.

This drawing is to be read in conjunction with all relevant specifications.

This drawing must be read in conjunction with drawings: **1288-002-3/C/RSPB 01** - Surplus Material, Boundary Lip, Section **1288-002-3/C/603, 605 & Series 500**

1. Rill and lateral ditch locations subject to final review.
2. Surplus material movement strategy:
- **Preparation of Recipient Area -**
  - 5.0m strip along perimeter ditch to be stripped from topsoil (depth approx. 150mm)
  - topsoil to be stored on site up to height not greater than 1.0m and re-used
- **Movement operation -**
  - for construction movement note there is restriction at ditch crossing points where max. vehicle width to be 3.5m.
  - Total Volume of 8,785 m3 (8,500+285 m3) to be removed off the original plot and placed to recipient adjacent plot or off the site; for volume refer to Table 1 and for Typical cross section of Boundary lip refer to drawing 1288-002-3/C/RSPB 01

key

- Site boundary
- Existing trackway
- New trackway
- Site of Origin of Surplus material
- Recipient area of Surplus material incl. topsoil (Adjacent plot)
- Surplus material boundary lip
- New reed bed habitat creation area
- 2no. of Reed beds bottom permanent wet areas (+0.2m AOD incl. topsoil and reed plans)
- New rills generally 500mm deeper that surround levels with surplus material on the site (shown indicatively), total length approx. 210m
- New Weir with elbows on both ends
- New transplanted reeds (shown indicatively)

revision

01	Table 1 added, issue for Tender.	LS	22.09.11	EF
00	Tender Issue for Comments.	TL	02.09.11	EF

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drawing status

TENDER

project

client: RPS Planning and Development

project title: Kemsley

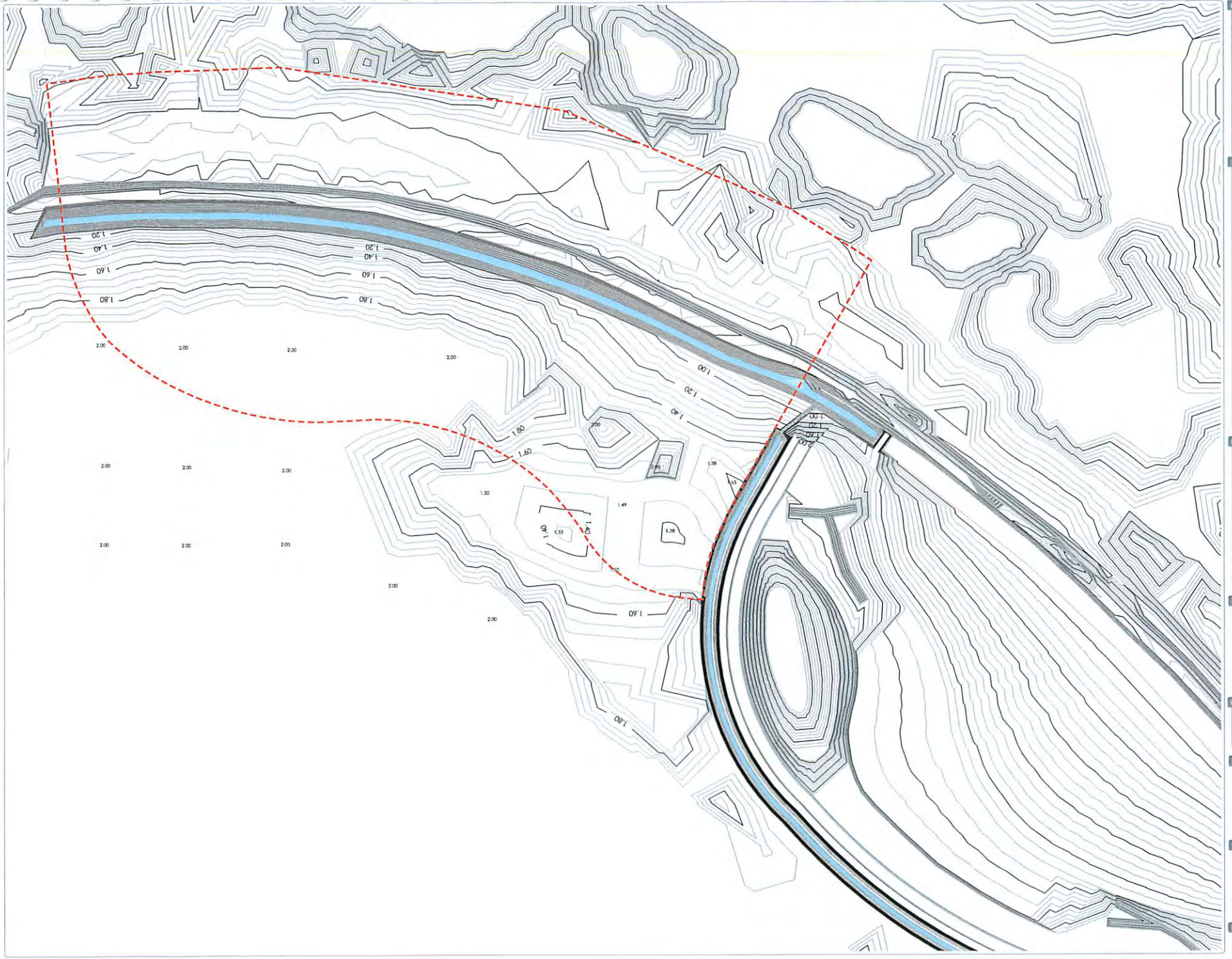
drawing

drawing title: Earthworks Cut&Fill

scale (A1)	date	drawn	checked
1:500	22.08.11	TL	EF

reference

project no.	discipline	drawing no.	revision
1288 - 002 - 3	/ C /	600	01



general notes

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Drawing based on: D123198_1_R1

NOTE:
For Exact Site boundary refer to drawing 1288-002-3/C/100 rev03.

key

Site boundary

0.16 Existing Ground level +0.16mAOD

revision

01	Tender issue	LS	22.09.11	LS
01	New Survey data, issued for comment	EF	02.09.11	EF
00	Issued for information.	TL	29.07.11	HS
N°	Revision	By	Date	Chkd

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drawing status

TENDER

project

client
RPS Planning and Development

project title
Kemsley

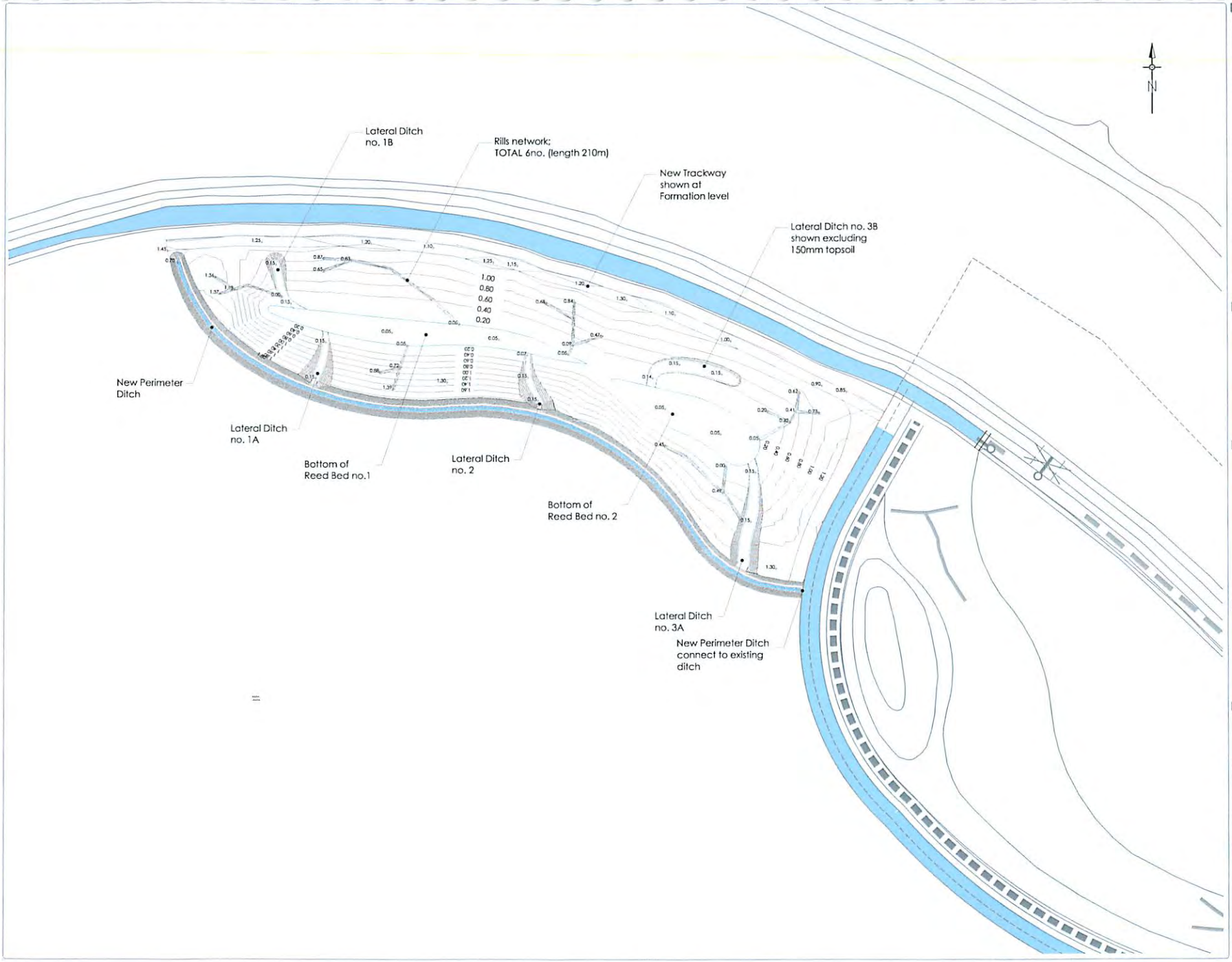
drawing

drawing title
Existing Contours

scale (A1)	date	drawn	checked
1:500	20.07.11	TL	HS

reference

project no.		discipline	drawing no.		revision
1288	- 002 - 3 /	C	/ 601		01



general notes

Do not scale from this drawing.

All dimensions are to be checked on site prior to work commencing or preparation of shop working drawings any discrepancies should be notified immediately.

This drawing is to be read in conjunction with all relevant specifications.

Drawing based on: In general all proposed levels exclude 150mm Topsoil

This drawing must be read in conjunction with drawing: 1288 002 3/C/605 and Series 500.

Proposed shown levels should be read as follow:
1. for **perimeter ditch** (Bed Level = 0.7 mAOD) shown levels exclude topsoil

2. for **reed bed** (*Final Bed level = +0.2m AOD incl. topsoil*) shown levels (+0.05m AOD) exclude 150mm topsoil

3. for **rills (bed levels varies)** shown levels exclude150mm topsoil,
Note: Exact Rills position (TOTAL LENGTH approx. 210m) to be agreed with Engineer and RSPB Representative on site

4. for **lateral ditches** (*Final bed level = +0.3mAOD incl. topsoil*) : shown levels +0.15 m AOD exclude 150mm topsoil

5. for **track way** shown levels are **formation** levels

6. Prior to construction finish proposed site contours to be provided by engineers.

key

0.16 Proposed Ground level +0.16mAOD, excl. topsoil

revision

N°	Revision	By	Date	Ckd
00	Tender Issue.	LS	22.09.11	EF
00	Issued for Comment.	EF	02.08.11	

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TENDER

project

client
RPS Planning and Development

project title
Kemsley

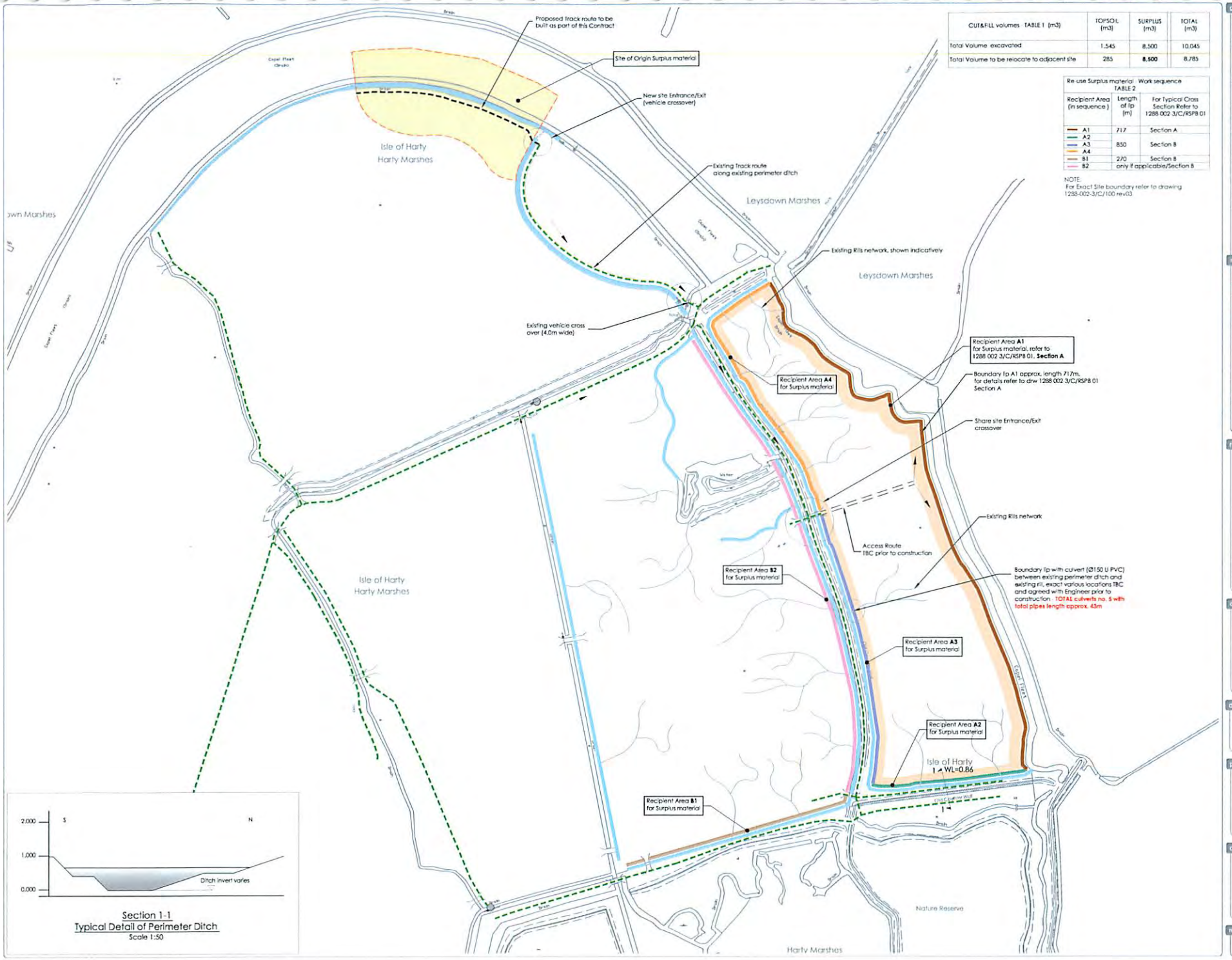
drawing

drawing title
Proposed Site Contours Excluding Topsoil

scale (A1)	date	drawn	checked
1:500	30.08.11	EF	

reference

project no.	discipline	drawing no.	revision
1288 - 002 - 3 / C / 602			00



Section 1-1
Typical Detail of Perimeter Ditch
Scale 1:50

CUT&FILL volumes TABLE 1 (m3)	TOPSOIL (m3)	SURPLUS (m3)	TOTAL (m3)
Total Volume excavated	1,545	8,500	10,045
Total Volume to be relocate to adjacent site	285	**8,500**	8,785

Re use Surplus material Work sequence TABLE 2

Recipient Area (in sequence)	Length of lip (m)	For Typical Cross Section Refer to 1288 002 3/C/RSP8 01
A1	717	Section A
A2	850	Section B
A3		
A4		
B1	270	Section B
B2	only if applicable/Section B	

NOTE:
For Exact Site boundary refer to drawing 1288-002-3/C/100 rev03.

general notes

Do not scale from this drawing.

All dimensions are to be checked on site prior to work commencing or preparation of shop working drawings any discrepancies should be notified immediately.

This drawing is to be read in conjunction with all relevant specifications.

This drawing must be read in conjunction with drawings:
1288-002-3/C/RSP8 01 rev01 - Surplus Material,
Boundary Lip, Section A & Section B
1288-002-3/C/600 and TABLE 1(for Cut/Fill quantities)
1288-002-3/C/605

1. Rill and lateral ditch locations subject to final review.
2. Surplus material movement strategy:
- **Preparation of Recipient Area**
  - 10.0m strip along perimeter ditch to be stripped from topsoil (depth approx. 150mm) topsoil to be stored on site up to height not greater than 1.0m and re used
- **Movement operation -**
  - for construction movement note there is restriction at ditch crossing points where max. vehicle width to be 3.5m.
  - Total Volume of 8,785 m3 (8,500+285 m3) to be removed off the original plot and placed to recipient adjacent plot or removed off site

key

- Site boundary
- Existing trackway
- New trackway
- Existing track
- Existing Ditch
- Existing Ditch crossing / reference number
- Indicative location of proposed rills
- Site of Origin of Surplus material
- Recipient area of Surplus material incl. topsoil (Adjacent plot)
- Surplus material boundary lip A1, A2, A3, A4 and B1,B2(if Applicable), refer to Table 2

revision

N°	revision	by	Date	Ckd
D1	Added detail layout of surplus material at Recipient area with 5no. culvert connection. Tender (TA 3).	EF	07.10.11	
00	Tender issue	LS	22.09.11	EF

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drawing status

TENDER

project

client
RPS Planning and Development

project title
Kemsley

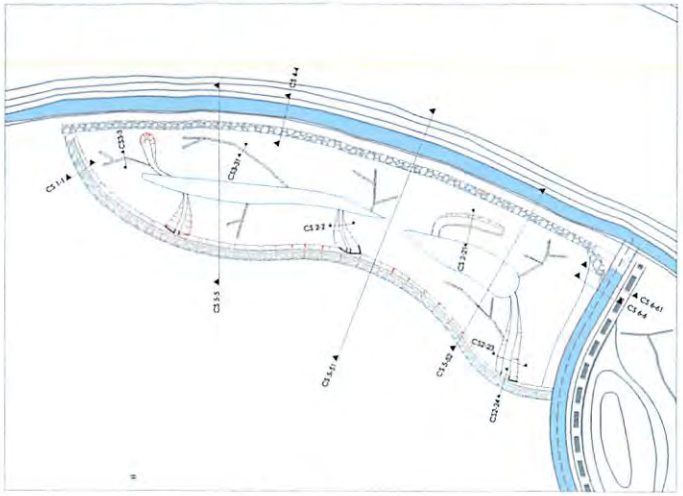
drawing

drawing title
Earthworks
Surplus Material
Movement & Placement

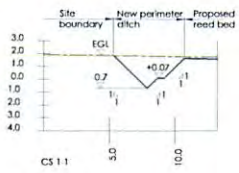
scale (A1)	date	drawn	checked
1:2000	20.09.11	LS	EF

reference

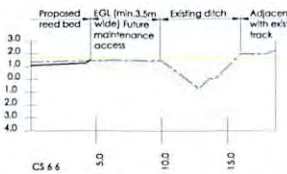
project no.	discipline	drawing no.	revision
1288 - 002 - 3	/ C /	603	01



Site General Plan
Scale 1:1000

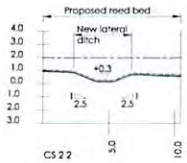


New Perimeter Ditch
Typical CS 1-1

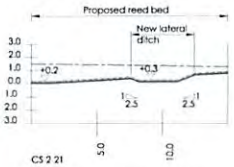


East Site Boundary
Typical CS 6-6

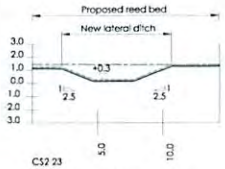
New Vehicle Crossing
Typical CS 6-61



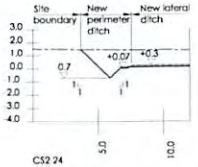
Lateral Ditch no. 2
Typical CS 2-2



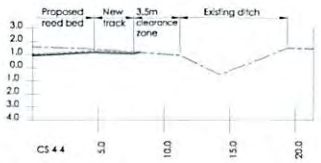
Lateral Ditch no. 3B
Typical CS 2-21



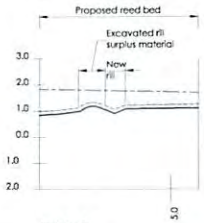
Lateral Ditch no. 3A
Typical CS 2-23

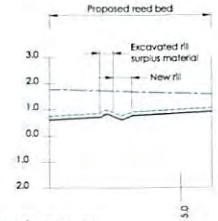


Interface between Lateral ditch and Perimeter ditch
Typical CS 2-24

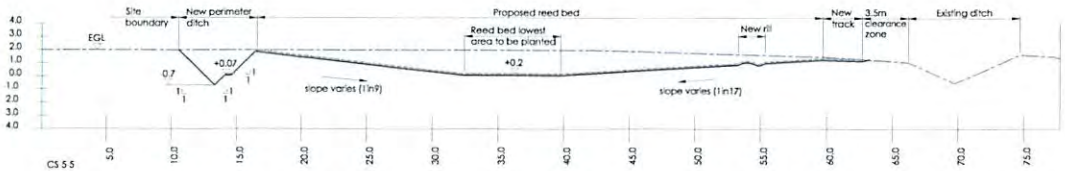


New Track
Typical CS 4-4

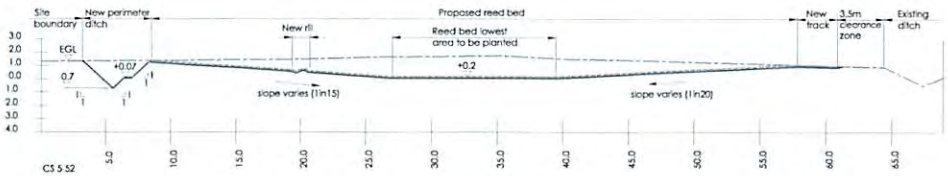




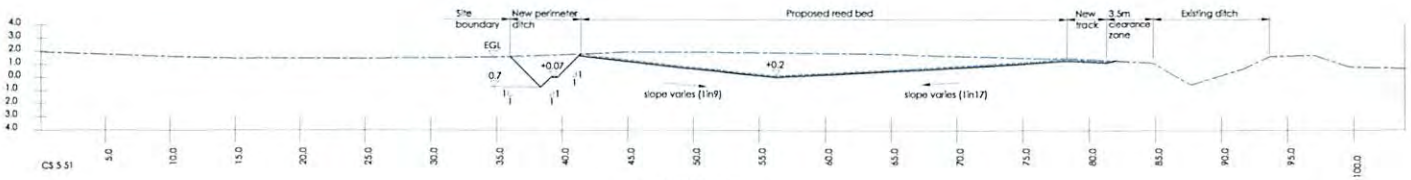
Rills Network CS3-31
Typical CS 3-3 & 3-31
Scale 1:100



Typical CS 5-5



Typical CS 5-52



Typical CS 5-51

Scale 1:200

general notes

Do not scale from this drawing.

All dimensions are to be checked on site prior to work commencing or preparation of shop working drawings any discrepancies should be notified immediately.

This drawing is the copyright of gcpartnership and should not be reproduced without prior written approval. This drawing is to be read in conjunction with all relevant specifications.

Drawing based on: In general all proposed levels exclude 150mm Topsoil

Proposed shown levels should be read as follow:
1. for **perimeter ditch** (Bed Level = -0.7 mAOD) shown levels exclude topsoil. See Detail1
2. for **reed bed** (Final Bed level = +0.2m AOD incl. topsoil) shown levels (+0.05m AOD) exclude 150mm topsoil
3. for **rills (bed levels varies)** shown levels exclude150mm topsoil
4. for **lateral ditches** (Final bed level = +0.3mAOD incl. topsoil) shown levels +0.15 m AOD exclude 150mm topsoil
5. for **track access** shown levels are **formation** levels
6. All levels are in mAOD

key

- Existing ground profile
- Proposed ground profile excl. Topsoil or construction (track)
- Proposed Topsoil profile

revision

00	Tender issue.	LS	22.09.11	EF
00	Issued for Comment.	JL	02.09.11	EF
N°	Revision	By	Date	Chkd

contact

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gc partnership

drawing status

TENDER

project

client
RPS Planning and Development

project title
Kemsley

drawing

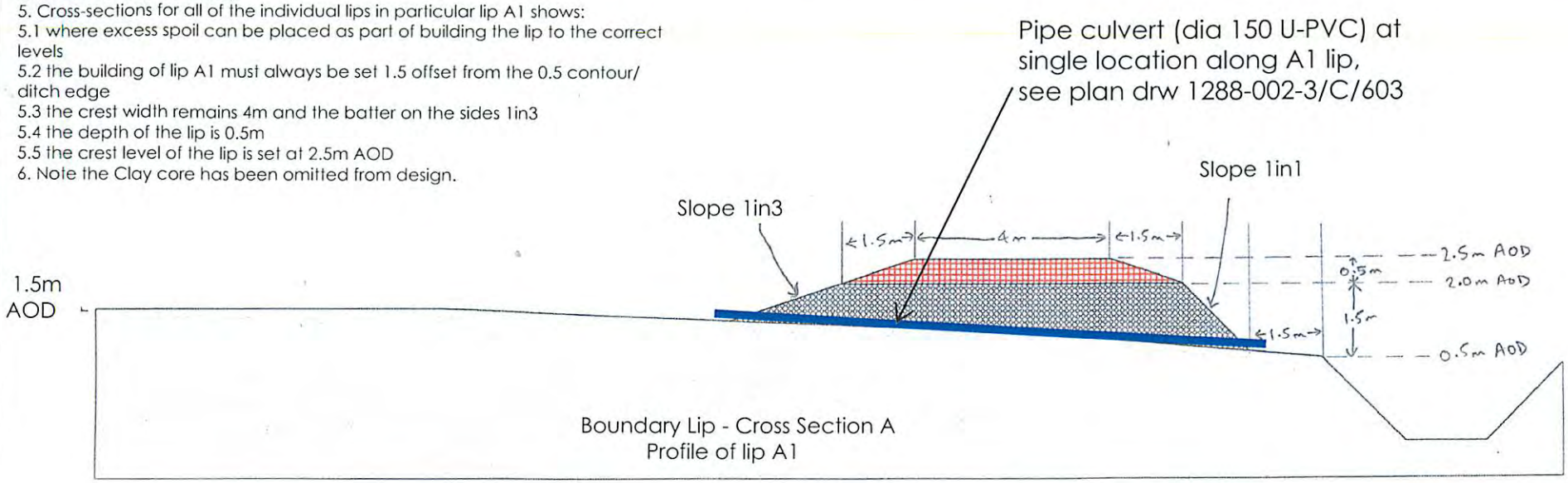
drawing title
Proposed Site
Typical Cross Sections

scale (A1)	date	drawn	checked
as shown	30.08.11	EF	

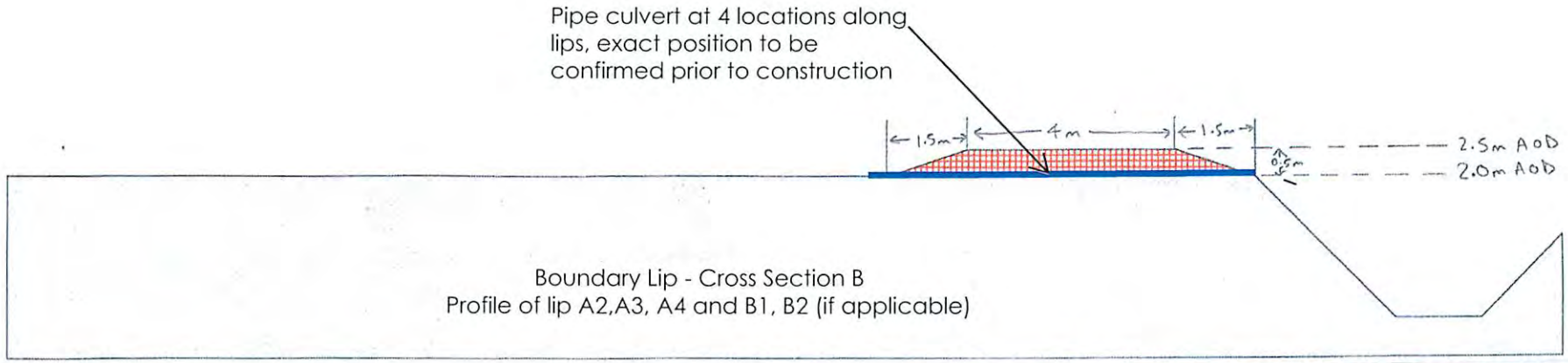
reference

project no.	discipline	drawing no.	revision
1288 - 002 - 3	/ C /	605	00

General Notes (continues):
5. Cross-sections for all of the individual lips in particular lip A1 shows:
5.1 where excess spoil can be placed as part of building the lip to the correct levels
5.2 the building of lip A1 must always be set 1.5 offset from the 0.5 contour/ ditch edge
5.3 the crest width remains 4m and the batter on the sides 1in3
5.4 the depth of the lip is 0.5m
5.5 the crest level of the lip is set at 2.5m AOD
6. Note the Clay core has been omitted from design.



Boundary Lip - Cross Section A
Profile of lip A1



Boundary Lip - Cross Section B
Profile of lip A2,A3, A4 and B1, B2 (if applicable)

1. All Dimension to be checked on site and no measurements to be scaled off this drawing.
2. In case of any discrepancy The Engineers are to be notified immediately.
3. This drawing to be read in conjunction with all relevant Engineers details, drw and specification.
4. This detail drawing must be read in conjunction with 1288-002-3/C/600 & 603

REV	Amendment	CHK	DATE
01	Original CS omitted and modified.	EF	07.10.11

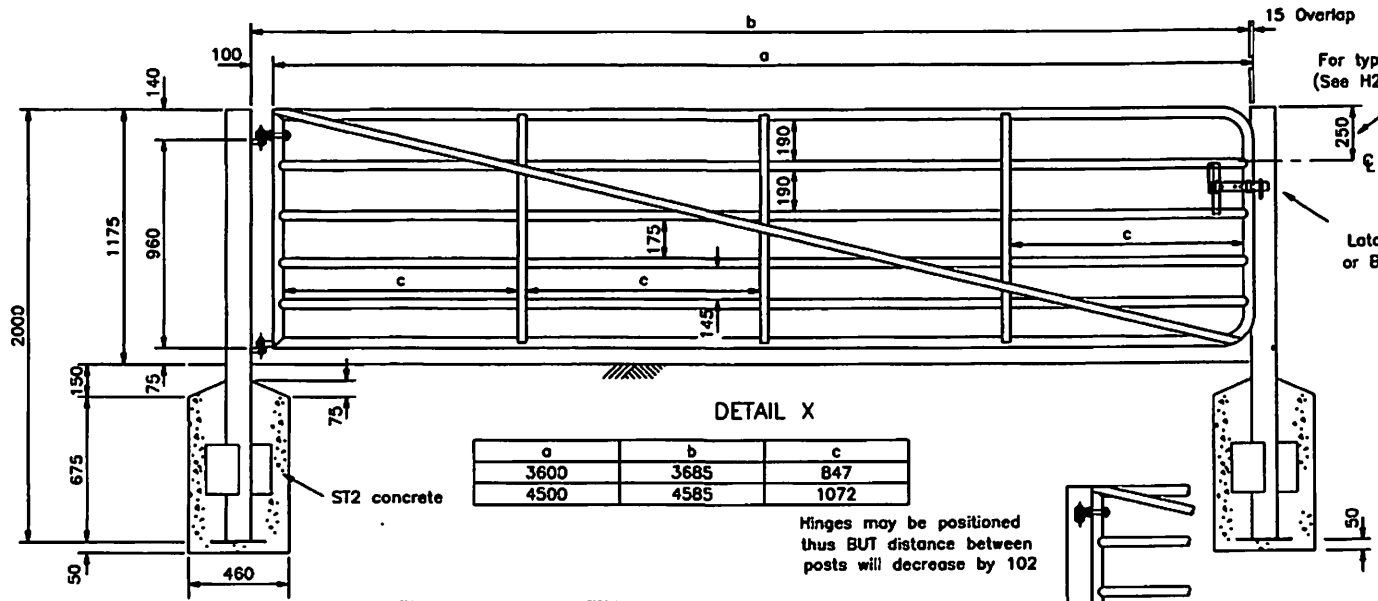
gc partnership

RPS Planning & Development
Marsh harrier Habitat Creation
Earthwork
Surplus Material incl. topsoil

BOUNDARY LIP SECTIONS

SCALE: 1:20@A3 DRAWN BY: TC
DATE: MAY 2011 CHECKED BY: M
DRG No.

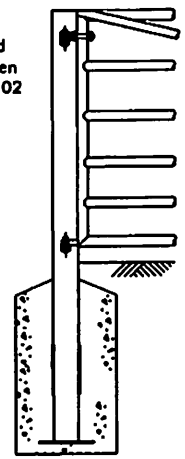
1288-002-3/C/RSPB01 r01



DETAIL X

a	b	c
3600	3685	847
4500	4585	1072

Hinges may be positioned thus BUT distance between posts will decrease by 102



DETAIL Y

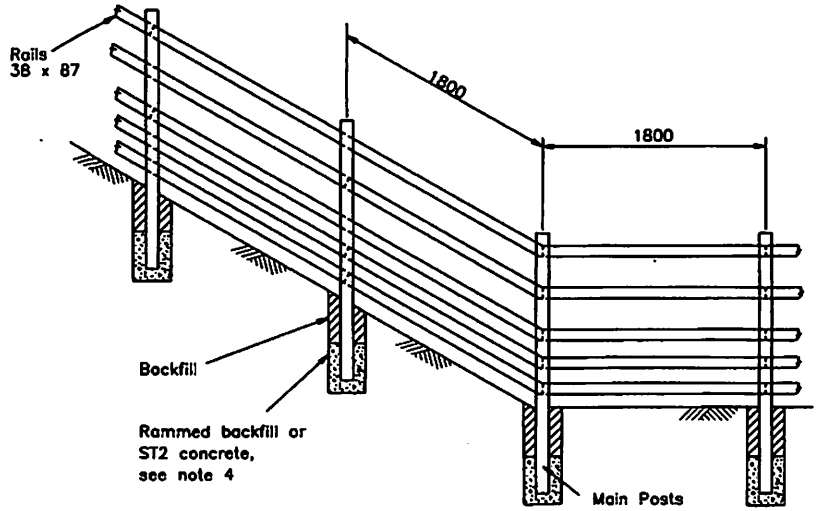
Alternative position of hinge to give a full 180° opening when required in Appendix 1/15 or 3/1

NOTES

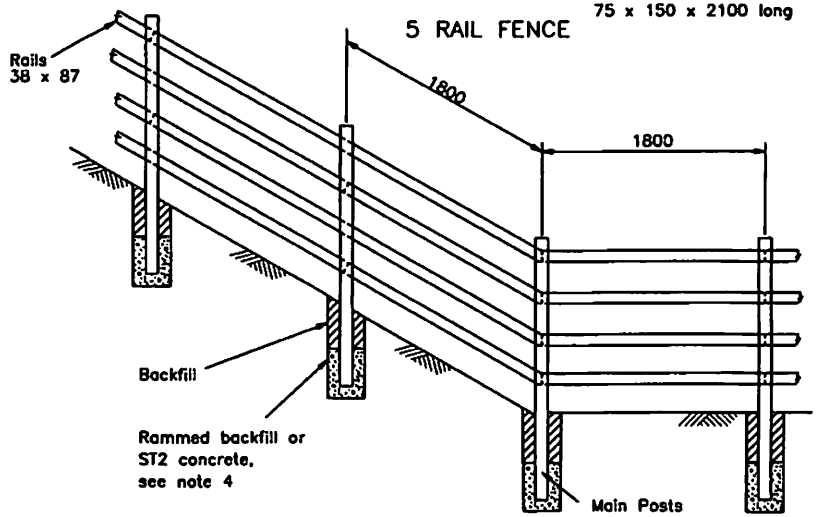
1. ALL DIMENSIONS ARE IN MILLIMETRES.
2. Gates shall comply with the appropriate Clauses in Series 300, any further requirements in Appendix 1/15 or 3/1, and with BS 3470. (Cattle yard).
3. For details of latches and fittings see Drawing Nos. H26,H27 & H28.
4. Gate stops to be provided in accordance with Drawing No. H33.
5. The gate shall open into the owner's property.
6. The corners of the main frame may be rounded, rounded and mitred (as drawn),mitred,saddled or crimped.
7. Protective treatment to be as described in Appendix 1/15 or 3/1.

DESCRIPTION OF MATERIAL	SIZE	FIXINGS AND FITTINGS
Hanging post (Tubular steel)	114.3 outer dia.x 3.6 thick	Top capping plate 4.8 thick Two 230x150x4.8 wing plates stitch welded to post Base plate 250x250x4.8
Shutting post (Tubular steel)	88.9 outer dia.x 3.2 thick	Cap and base plates to be continuously flush welded to tube
Outer frames	48.3 outer dia.x 2.9 thick	
Infilling horizontal rails (All tubular steel)	42.4 outer dia.x 2.6 thick	
Vertical braces (steel flat)	Three 38x4.8	Fillet welded to each gate member crossed by braces
Diagonal braces (steel flat)	Two 38x4.8	

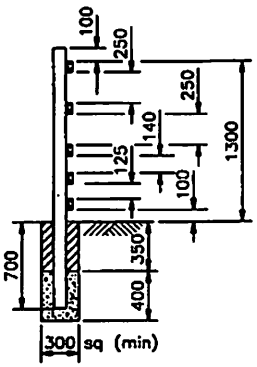
HIGHWAY CONSTRUCTION DETAILS	FENCES, STILES & GATES	Issue	Date	STEEL SINGLE FIELD GATE	Drawing No.
		B	MAY 04		H17
		A	DEC 91		



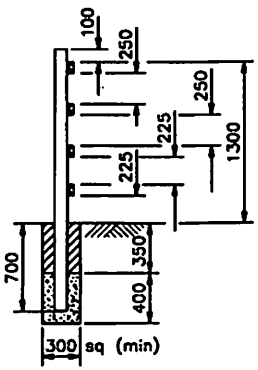
5 RAIL FENCE



4 RAIL FENCE



SECTION THROUGH
℄ OF MAIN POSTS



SECTION THROUGH
℄ OF MAIN POSTS

NOTES

1. Specification Clause 306 applies unless otherwise stated in Appendix 3/1 or Appendix 1/15.
2a). Where plain or barbed wire is required in Appendix 3/1 or Appendix 1/15 it shall be zinc coated and comply with BS 4102.
2b). 4 rail fence – BS 1722 Part 7 Type SPR 13/4 applies unless otherwise stated.
2c). 5 rail fence – BS 1722 Part 7 Type SPR 13/4 applies (except for the addition of a fifth rail, rails spaced as shown) unless otherwise stated.
3. Where the fence forms a boundary between the highway and private property, the rails shall be fixed to the private property side unless otherwise stated in Appendix 3/1 or 1/15.
4. Posts can be supported by rammed backfill or ST2 concrete unless Appendix 1/15 or Appendix 3/1 require ST2 concrete to be used.
5. ALL DIMENSIONS ARE IN MILLIMETRES.

HIGHWAY CONSTRUCTION DETAILS	FENCES, STILES & GATES	D	MAY 04	MOTORWAY AND ACCOMMODATION WORKS TIMBER POST AND 4 (OR 5) RAIL FENCES	Drawing No. H3
		C	MAR 98		
		B	AUG 93		
		A	DEC 91		
		Issue	Date		

SCHEDULE 4

The Maintenance Scheme

SCHEDULE 4
THE MAINTENANCE SCHEME

partnership

architecture
concept
masterplanning
design
development planning
interiors
landscape
space planning
building consultancy
project management
building surveying
cost management
m&e services
health and safety
planning supervision
facility management
civil engineering
rail
structural engineering
infrastructure
geo-environmental
remediation
transportation
marine

E.ON Habitat Creation – Harty Marshes, Leysdown, Management Plan

Client

RPS Planning & Development, Leeds

Project

Marsh Harrier Habitat Creation

September 2011

Project No 1228-002/D01

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London
SE1 4JU

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E.ON Kemsley

Leysdown Habitat Creation Works – Management Plan

Status	Details of Amendments	Date	Prepared	Checked	Approved
Rev 00	Issued – Tender	Sept 2011	EF (GCP)	JN (RSPB)	

Introduction

Harty Marshes habitat creation works.

E.ON Energy from Waste UK has funded the acquisition by the Royal Society for the Protection of Birds (RSPB) of 2.3 Ha of land at Harty Marsh Farms from the South East England Development Agency (SEEDA). The land will be converted to suitable habitat for Marsh Harriers in order to fulfill planning obligations for their proposed development in Kemsley near Sittingbourne, Kent.

The current area is defined as arable production land.
Approximately 1Ha (net) will be converted to habitat suitable for the target species for the duration of the construction period of the proposed development at the Kemsley SEP plant – approximately 4 years from the date of planning application approval. The rest of the site comprises part of the Capel Fleet.

The new habitat area will comprise a large dished plot with a low central area. There will be a perimeter ditch on the southern boundary from which tendrils will supply the body of the plot with water to enhance the run-off that will generally supply the site. There are perimeter ditches to the south and to east. Rills will be cut into the plot under the direction of RSPB. Reeds will be planted along the central area to provide initial vegetation patches and the rest of the area will self vegetate in due course. A weir control structure and crossing point are provided to allow access and control of the inflow of water from the adjacent eastern watercourse.

The ditch to the north and adjacent to the 1 Ha habitat creation area is a vole habitat. As such, a clearance zone is to be observed. Part of the clearance zone is to be used as the vehicular access track by RSPB for their management purposes.

Management objectives and options

Reedbed

Objective: Establish and maintain reedbed habitat of biodiversity value for the duration of the construction period of the proposed development at the Kemsley SEP plant alongside Capel Fleet reedbed to provide a Marsh Harrier suitable habitat

Rationale

The area of created reedbed will be approximately 1.0Ha in extent and will be managed to maintain physical characteristics of value to biodiversity. With the appropriate management of the reedbed area, it will be managed to provide structural diversity with the ongoing establishment of new regrowth and older dense stands.

Management options

Hydrological control

Water levels in the channel on the southern boundary will be managed by a controlling elbow weir. There will be tendril ditches formed from the perimeter ditch into the central area to provide water routes and wetted features. Surface water run-off will contribute to the hydrology. The central area has been designed to be approximately 100mm below the water table level.

Capel Fleet and ditches support reedbed growing in open water. The majority of the new reedbed should be dry for over 50% of each year, increasing the structure diversity of the reedbed habitat.

The encroachment of neutral grassland onto dry ground planted with common reed is a possibility. Some loss of reedbed habitat on the drier edge is acceptable but the extent of reedbed should remain above 0.9Ha. Management of water levels would remain controllable to allow the reedbed soils to be waterlogged and promote reed growth if necessary.

The management target will be to maintain a minimum area of 0.9ha of

reedbed and to establish and maintain the quality of the reedbed habitat.

Vegetation Management

Structural diversity at a microhabitat scale will provide niches for a range of faunal species. Maintaining areas with an open structure would encourage other plant species to establish within the reedbed.

A regime of rotational management should be employed to prevent dead reed from building up into a dense thatch across the whole habitat.

Possible options for periodic management would include cutting to ground level, selected areas of excavation, or potentially light grazing of the dry reedbed in combination with grazing of the adjacent neutral grassland.

Ditch channel

Short-term Objective: Maintain an open water channel

Long-term Objective: Maintain a high level open water channel to feed water into the plot.

Rationale

In the short – medium term while the ditch remains a low water feature used for the drainage of the adjoining arable field there are no specific nature conservation objectives, but would be periodically managed to keep it as a low water drainage ditch, where the flow is not being impeded by vegetation or the accumulation of plant material or silt. This type of management will be easily incorporated into the agreed management of the wider ditch network.

Management options

The ditch can be managed from either end for a short distance in either direction.

It is envisaged that periodic low-level management will be implemented to maintain a balance between established ditch vegetation and water flow. By managing the ditch network as a whole, RSPB will be able to incorporate

structural diversity through rotational ditch management regimes.

Water vole, a legally protected species of high conservation importance, is likely to be resident in the local area. Habitats in the habitat creation area (ditch and possibly reedbed) may become territories for water vole in the future.

The RSPB will undertake ditch management on land to the south that will be sensitive to the presence of water vole. Examples of management options that avoid or reduce affects on water vole include undertaking works during the hibernation season when water voles are not active or avoiding the clearance of extensive stretches of ditch vegetation at any one time were water voles are known to be present, so that some cover and food resource is permanently retained.

Future nature conservation management

Commitment to future management

The land will be incorporated into the RSPB management agreement with SEEDA. The RSPB will be responsible for all the maintenance works. The funding for the long term will be the responsibility of the RSPB.

It is the intention that no wildfowling would be permitted on the site.

It is proposed that the E.ON Marsh Harrier habitat creation area will be managed by the RSPB under this recently prepared management agreement.

The habitat management proposals have in-built flexibility to allow the RSPB to take on the management in conjunction with habitats located within the wider landholding and designated nature conservation sites within the Harty Marshes area.

The means by which consistency with the objectives of the management agreement between SEEDA and the RSPB are met will be left to the discretion of the RSPB. Alternative management options will apply only once the construction at Kemsley SEP plant has been completed. This will allow the RSPB to implement the simplest appropriate actions for the Harty Fen mitigation site as part of the nature conservation management programme for the wider landholding.

SCHEDULE 5

The Employment Strategy

Schedule 5 – Employment Strategy

The K3 Consortium (DS Smith, E.ON Energy from Waste UK, Wheelabrator Technologies Inc) will endeavour to ensure that, wherever possible, local companies and individuals are provided with opportunities to benefit from contracts and work opportunities arising from the construction and operation of the Kemsley (K3) Energy from Waste Plant.

Initial Contracting Opportunities

a) Construction

We will request the main construction contractors (as yet undetermined) to consider using local sub contractors and labour whenever possible. To facilitate this, and to allow local contractors and businesses to find out about potential sub contracting opportunities, we will hold a contractor 'open day' at a local venue.

This will be advertised in the local media and local contractors will be able to come along and meet members of the Project Team who will provide details about the kind of contracts that may be available. This open day will focus on works arising from the construction of the plant.

b) Operation of the plant

In advance of the plant becoming operational, a second open day focusing on goods and services likely to be needed at the plant, e.g. catering/maintenance/cleaning will be held. As above, this will be advertised locally and the event held at a local venue.

Initial Job Opportunities

a) Construction

We are keen to encourage local builders and tradesmen to apply for employment directly to the main construction contractor companies. However, if appropriate, branded advertisements to publicise vacancies may be created for publication in the local media. Local radio advertising may also be used. Vacancies will also be advertised via a 'Jobs' page on the plant's dedicated website and on the corporate websites of E.ON Energy from Waste and DS Smith via links to the plant website.

E.ON Energy from Waste and DS Smith will also work with a number of public facing agencies with whom they already have strong working relationships to ensure that the profiles of any vacancies arising are raised across the local area.

- Job Centre Plus (JCP) – JCP is currently the largest advertising 'job board' in the country reaching both those currently employed as well as those unemployed. In the event of vacancies becoming available, we will work with JCP's Labour Market Recruitment Advisors (LMRA's) to identify what is required. The mechanism for this is as follows: Each job in the external employment market has a code assigned to it, once JCP fully understands what is required it will check through every code and advise the **local** individuals already on their books that jobs matching their skills are available. If local individuals with the necessary skills are not identified, the search can be extended across a wider area.

- *Where 2 Work/Action 4 Employment/Remploy* – These are agency offshoots of the JCP and also offer a 'job board' service that can be tailored to the local area. Each partner provides a defined specialist service to a specific sector of the job seeker market (long term unemployed/registered disability.) We have strong relationships and a history of partnering each of these agencies.

By working with JCP agency offshoots such as those outlined above we will stand a greater chance of reaching the full community in the Kemsley/Sittingbourne area and ensuring that we do not unintentionally discriminate against any minority or excluded group. In advance of launching any recruitment campaign we would obtain data providing a breakdown of the local community in order to better understand how we can 'mirror and match' their needs.

b) Operation of the plant

As stated above, branded advertisements to publicise vacancies may be created for publication in the local media. Local radio advertising may also be used. Vacancies will also be advertised via a 'Jobs' page on the plant's dedicated website and on the corporate websites of E.ON Energy from Waste and DS Smith via links to the plant website. We will also continue to work with the public facing agencies mentioned above.

There will be a requirement to recruit and train apprentices before the plant becomes operational. E.ON Energy from Waste and DS Smith will link into their existing apprentice training schemes to ensure that young people from the local area are provided with opportunities to work and train at the plant. The criteria for potential apprentices would include the following:

- Applicants would be required to live within a safe, commutable distance from the plant
- Applicants would primarily be drawn from recent school/college leavers

Future employment

We anticipate that once the plant is operational it will provide ongoing employment and contracting opportunities, bringing significant economic benefit to the local area. The natural turnover of both employees and contractors will mean the plant will have recruitment needs in the future. We would expect these opportunities to be advertised through the local media, via the website and by continuing to work with local recruitment bodies.

SCHEDULE 6

The Relocation Scheme

SCHEDULE 6
THE RELOCATION SCHEME

ECOLOGICAL MITIGATION AND MANAGEMENT PLAN

Kemsley SEP,

Kemsley, Kent

August 2011

Our Ref: JPP1804-MP-001

RPS
Lakesbury House
Hiltingbury Road
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Hampshire
SO53 5SS

Tel: 0238 0810 440
Fax: 0238 0810 449
Email: rpsso@rpsgroup.com

QUALITY MANAGEMENT

Prepared by:	**Nicholas Betson**
Authorised by:	**Rob Pilcher**
Date:	**August 2011**
Project Number/Document Reference:	**JPP1804/ Ecological Mitigation and Management Plan**

CONTENTS

TABLES:

FIGURES:

EXECUTIVE SUMMARY

The development of the new Sustainable Energy Plant (SEP) at Kemsley, Kent, adjacent to the current DS Smith Kemsley Paper Mill was granted planning permission in May 2011, subject to the satisfactory agreement of a Section 106. Part of this agreement related to the production of an Ecological Mitigation and Management Plan (EMMP) for the site to address ecological impacts identified during the planning process.

This report identifies the habitat creation and mitigation actions required to ensure the long term survival of protected species both within the site boundary and in the wider area. It covers the mitigation required in relation to issues arising from the siting of the SEP on land to the east of DS Smith Kemsley Paper Mill. This includes habitat creation to be undertaken on a former landfill site to the immediate south of the proposed SEP.

The EMMP covers the following mitigation measures:

- Mitigation relating to reptiles;
- Habitat creation suitable for a range of nesting and foraging birds;
- Protection of bird breeding habitats;
- Habitat creation of Open Mosaic Habitat on Previously Developed Land (UK BAP Habitat)/habitat for invertebrates; and
- Mitigation for the Nationally Scarce Annual Beard-grass *Polypogon monspeliensis*.

Additional off-site reedbed habitat creation/management is not included in this document as being taken forward through a separate management arrangement.

1 INTRODUCTION

1.1 The development of the new Sustainable Energy Plant (SEP) at Kemsley, Kent, adjacent to the current D S Smith Kemsley Paper Mill was granted planning permission in May 2011, subject to the satisfactory agreement of a Section 106. Part of this agreement related to the production of an Ecological Mitigation and Management Plan (EMMP) to address ecological impacts identified during the planning process.

1.2 The purpose of this report is therefore to fulfil this requirement of the Section 106 agreement. It builds upon the Environmental Statement prepared for the development by RPS on behalf of E.on/DS Smith in 2010 (E.on 2010).

1.3 The recommendations made in the Environmental Statement and a subsequent Supplementary Biodiversity Information (SBI) document (RPS 2010) include enhancement of ecological features on the site and the principals by which other features will be protected. A summary of these ecological recommendations, together with an action plan on how they will be fulfilled, are provided in this EMMP.

1.4 This EMMP has been prepared for the SEP consortium, who will be responsible for its implementation on site.

1.5 This plan covers the first five years following the start of construction on site, after which time the EMMP should be reviewed.

Extent of site and description

1.6 The extent of site that this plan covers is shown in Figure 1.1. Broadly, it covers approximately 5 ha of previously developed land between the current DS Smith Kemsley Paper Mill and the Swale on the north Kent coast, north of Sittingbourne.

1.7 Prior to development the site comprised a mixture of dense scrub, tall ruderal, bare ground, long grassland and spoil heap habitats. The former landfill to the immediate south of the development site comprised short-mown grassland.

1.8 A large reedbed was located 200 m to the north of the development site within DS Smith land ownership.

1.9 The Swale Special Protection Area (SPA) / Site of Special Scientific Interest (SSSI) / Ramsar site was located beyond a sea wall directly adjacent to the east of the site.

Outline of development proposals

1.10 The works would proceed in phases and would briefly include:

- Habitat creation
- Ecological mitigation implementation;
- Site mobilisation;
- Construction of new SEP;

- Construction of balancing ponds; and
- Instatement of soft landscaping and adoption of appropriate site management.

Existing features of relevant conservation interest on site

1.11 The following features were identified in the Environmental Statement as habitat or species of conservation interest on or near the site that require consideration within this EMMP:

- A large population of reptiles;
- Habitat suitable for a range of nesting and foraging birds;
- Open Mosaic Habitat on Previously Developed Land (UK BAP Habitat) capable of supporting a range of invertebrates;
- Nationally Scarce Annual Beard-grass;
- The Swale SPA/SSSI/Ramsar site; and
- Habitat adjacent to the site which supports nesting Marsh Harrier.

Recommendations for ecological mitigation and enhancement

1.12 This EMMP has been developed to inform the S106 agreement in relation to the site. As required, this plan includes provisions based on the recommendations in the Environmental Statement as well as those presented in the subsequent SBI. These recommendations relate both to the development site and adjacent former landfill site. A summary of the recommendations are set out below:

- Construction of new reptile habitat on-site and on the former landfill;
- Construction of reptile hibernacula to increase carrying capacity of area;
- Creation of areas of bare ground and dense scrub habitat adjacent to former landfill site;
- Installation of reptile proof fencing around the development site and a suitable translocation programme into a pre-prepared reptile receptor site to the east of the site ;
- Translocation of Annual Beard-grass into new bare ground habitat;
- Site clearance under a watching brief of a suitably qualified and experienced Ecological Clerk of Works (ECoW);
- Limitations to the timing of certain noise-generating works; and
- Adoption of appropriate management to maintain habitats and species on site for the operational life of the SEP.

1.13 In addition, new off-site habitat will be created to provide alternative breeding opportunities for Marsh Harrier within their core breeding area on the Isle of Sheppey. This is to provide alternative breeding habitat for Marsh Harrier during the construction phase of the development even though the reedbed to the north of the site will not be directly affected. The creation and management of this off-site reedbed is not covered by this report as it is subject to a separate agreement.

2 MANAGEMENT OBJECTIVES

2.1 Table 2.1 sets out specific management objectives for the SEP site. The ecological features that are to be incorporated within the final development are shown on Figure 2.1.

Table 2.1. Management objectives for the SEP site

Habitat Type	Management type	Management objective
Grassland	Habitat Creation	To provide foraging habitat and nesting material for a range of wildlife species, particularly reptiles and birds but also invertebrates, through the planting of a species-rich grass area. To maintain the open mosaic habitat, particularly in relation to invertebrates.
Open / bare ground	Habitat Creation	To provide open basking areas for reptiles and areas for use by birds for dust baths To maintain the open mosaic habitat, particularly in relation to invertebrates.
Scrub	Habitat Creation	To provide nesting and foraging habitat for birds, and shelter for a range of wildlife, including reptiles. To maintain the mosaic of habitats on site.
Reptile hibernacula	Habitat Creation	To provide cover for reptiles, particularly for use during hibernation.

3 HABITAT CREATION AND MANAGEMENT

Introduction

3.1 The following section provides an overview of how it is planned that the habitats required on site will be created and managed.

3.2 All of the following habitat creation works should be undertaken at least the season before any reptile translocation is due to occur.

3.3 All of the listed works will be carried out under a watching brief of a suitably qualified and experienced ECoW.

Grassed areas

3.4 This includes habitat creation within the reptile receptor site to the east of the site and on the former landfill site to the south of the site.

Habitat creation

3.5 Selected areas will be cleared of scrub in a mosaic pattern, with some scrub islands retained to increase the diversity of the final habitat.

3.6 Scrub areas to be cleared will be cut by hand with a brush cutter. All cut vegetation should be removed from site to avoid re-seeding and allow grass to grow. An approved herbicide may be selectively used under the guidance of an ECoW. The ground should be lightly cultivated. The area should then be seeded with a suitable tussock-forming species-rich grass mix.

3.7 These works should be carried out as soon as possible to allow the grass to grow and the area to be established before the reptiles are translocated into this area.

3.8 Nesting birds are protected under the Wildlife and Countryside Act (1981), as amended. Under this act, it is an offence to:

- Kill, injure or take any wild bird;
- Take, damage or destroy the nest of any wild bird while that nest is in use or being built;
- Take or destroy an egg of any wild bird.

3.9 Due to the suitability of scrub to support nesting birds, all scrub removal on site will be carried out outside of the bird nesting season (generally accepted to be March – August inclusive). If this is not possible, the scrub will be checked before clearance by a suitably qualified ecologist. Any nests found will be protected with a 5 m buffer around them until the chicks have fledged.

3.10 The former landfill site already consists of some grassland, although this is currently species-poor. Therefore, in order to create a more diverse sward, the existing short grassland will be strimmed by hand to ground level to encourage any small animals present to move out of the area with any arisings removed. Any grass longer than 15 cm will be strimmed in two stages – the first cut to 15 cm and the second, 24 hours later, to ground level. This is to encourage any small mammals to move out of the area. Both cuts should be towards surrounding existing vegetation.

Management of habitat

3.11 Management may be necessary to prevent infestation by weed species and prevent re-growth of scrub (both on the development site and the landfill site). This will principally be done by mowing.

3.12 Grass areas will not normally be cut between April and the end of July, allowing plants to flower and set seed and maintaining species diversity. The grassland will therefore be mown between the end of July and before March each year. Only 20-25% of the grass area should be cut at any one time, leaving an area of long grass to provide cover for reptiles and small mammals while the cut area re-grows. All mown vegetation should be removed from site.

3.13 If cut when reptiles are still active (i.e. between the end of July and end of October), then the grassland will be cut first to a height of 15 cm and then subject to a second cut to the desired height.

3.14 Alternatively, grazing by sheep at a suitably low stocking rate could be allowed in early spring/late summer in place of mowing. If this were to be undertaken, a suitable management plan for the grazing should be produced and implemented to ensure it complements the current site management plan.

3.15 Any areas of weed or scrub species may be removed mechanically: (1) cut at ground level before the flowers open or (2) hand-pulling.

Open / bare ground

Habitat creation

3.16 Several areas of bare ground (approximately 0.5 ha – see figure 2.1), should be cleared of vegetation to leave open areas of substrate/soil. The intention is to create a mosaic of habitats within the reptile refuge and landfill habitat enhancement areas.

3.17 Existing vegetation, in particular the currently species-impoverished grassland, should first be strimmed to a height of 15 cm in order to encourage any animals present (reptiles and small mammals) to move out of this area. After 24 hours, a second cut should be undertaken to ground level.

3.18 The newly cleared ground should be sprayed with herbicide to discourage new vegetation growth.

3.19 Rubble/stone debris from on site will be added to some bare ground areas to create variation in substrate texture.

Management of habitat

3.20 In order to maintain the desired range of habitats on site, these bare areas will be regularly monitored (at least twice a year). Regrowth will be removed by hand or cut at ground level before the flowers open to ensure at least 50% bare ground is maintained in these areas.

Scrub

Habitat creation

3.21 Areas to the east and north of the landfill site (as shown on figure 2.1) will have additional scrub planting completed to increase the density of existing scrub areas.

3.22 Scrub to be planted will include native hedgerow-type species including Hawthorn *Crataegus monogyna*, Blackthorn *Prunus spinosa* and Dog Rose *Rosa canina*.

3.23 If appropriate, Bramble *Rubus fruiticosus* rhizome will also be transplanted from the main development site. Plants to be translocated should be cut to within 20 cm of the ground and then removed using an excavator (being careful to remove the roots/rhizome) and transplanted into the required relocation areas.

Management of habitat

3.24 These areas should be regularly monitored. Any areas that are transplanted that do not survive the first year will be replaced. These areas may be allowed to grow slightly but must not be allowed to significantly over grow the grass area. Any significant areas of growth will be controlled by cutting back.

3.25 While growth of the scrub is beneficial in the long term, it should not be allowed to grow onto the clay cap of the former landfill site. Any scrub vegetation that is found to be growing onto the cap will be removed by either cutting or application of a suitable contact herbicide.

Reptile Hibernacula

Habitat creation

3.26 At least two hibernacula will be constructed, as directed by the ECoW.

3.27 Several pits 1 m wide, 2 m long and 0.5 m deep will be excavated in suitably-open areas within the reptile receptor site.

3.28 Stone debris (preferably 150 – 300 mm) from elsewhere on site will be mixed with the excavated soil and used to fill the pits to 1 m above surface level.

3.29 Each mound will be partially covered with soil, leaving gaps around the edges to allow reptiles access.

3.30 If required, the mounds may be seeded using the same grass seed mix as used for the grassland. However, it is anticipated that these will naturally become vegetated over time.

Management of habitat

3.31 The hibernacula will be inspected for maintenance annually. If they become degraded (soil is eroded or grass does not grow) they will be maintained to replace any stones or soil, and re-seed if necessary.

3.32 The hibernacula will be kept clear of scrub so as not to become shaded.

4 MITIGATION ACTIONS

Marsh Harrier Protection

4.1 Marsh Harriers nest in the reedbeds of Kemsley Marsh, 200 m to the north of the site. In order to minimise disturbance during the breeding season 2.4 m high plywood faced timber framed boundary hoarding will be erected along the northern side of the proposed development site. The Marsh Harrier breeding season starts between mid-March and early May. Therefore, the fence will be in place before March during the first year of construction. The purpose is to shield the movement of machinery and people.

4.2 There will be no direct entry of the Kemsley reedbed by people or machinery as a result the proposed SEP. The need to mitigate any indirect affects arising from disturbance from activities during both construction and operation of the proposed SEP will be dependent upon whether Marsh Harrier nest in the reedbed, the stage of breeding that the Marsh Harrier has reached (nest building, sitting on eggs or feeding chicks) and the nature of the activity. The following activities will not occur within the distances listed of the nest site in the event that Marsh Harrier is found breeding in the Kemsley reedbed during construction:

4.3 Activities that only involve the movement of vehicles:

- Nest building 100 m
- Eggs 100 m
- Chicks 50 m

4.4 Activities that involve people outside of vehicles and construction activities such as excavation, concrete pouring and assembly:

- Nest building 200 m
- Eggs 200 m
- Chicks 100 m

4.5 Given that the hoarding to be erected should screen such activities within the main development site, this is aimed at preventing the any development activities occurring within the buffer zone between the development redline boundary and the edge of the reedbed.

Annual Beard-grass translocation

Introduction

4.6 Botanical surveys on the development site have identified the presence of Annual Beard-grass. This is a Nationally Scarce species, therefore mitigation must be carried out to ensure the continued occurrence of this species in the area. As the majority of the development site is due to be cleared, this species will need to be translocated from the development area to either the newly created grassland, described in section 3.1, or the landfill site.

Method

4.7 The site will be re-surveyed for the presence of Annual Beard-grass at a suitable time of year (between May and July) when it is most visible. The location of each plant or clump will be mapped and allowed to complete flowering.

4.8 As an annual species, translocation of individual plants is not possible, so the soil around each plant (which will contain the seeds) will be moved to a suitable location within the newly created grassland or the landfill. This will be achieved through carefully lifting the selected areas of soil using an excavator, under the watching brief of an ECoW.

4.9 It is suggested that the survey is completed in 2011 and that translocation of soil to a suitable location occur during late autumn 2011.

Reptile translocation

Introduction

4.10 All species of British reptile are protected under Schedule 5, section 9, of the Wildlife and Countryside Act (1981) as amended. This makes it an offence to:

- Intentionally kill, injure or take; and
- Sell, offer for sale, possess or transport for the purpose of sale or publish adverts to buy or sell a protected species.

Population estimate

4.11 The original survey completed by RPS in 2009 consisted of a standard seven visit presence/absence study. In order to properly quantify the population of reptiles within the development site, a further 13 visits were completed to bring the total to 20, as per Froglife (1999) guidance, using the standard reptile survey methodology.

4.12 A total of 65 artificial refugia (0.5 m x 0.5 m roofing felt) were placed across the site within suitable reptile habitat.

4.13 The full results are provided below for both surveys completed in 2009 and 2010.

Table 4.1 Reptile population estimate survey results from 2009/2010

Trapping Visit	Date	Conditions				Results											
						Viviparous Lizard				Slow-Worm				Grass Snake			
		Average Trapping Temperature (°C)	Wind	Rain	Cloud Cover (%)	Male	Female	Juvenile	Unknown sex	M	F	J	?	M	F	J	?
1	07/04/09	15	None	No	100				4				12				
2	09/04/09	13	None	No	85				2				22				
3	15/04/10	12	Slight breeze	No					2				10			1	

4	24/04/09	15	Slight breeze	No					4				33			1		
5	10/06/09	13	Breezy	No	100				1				6					
6	11/06/09	17	None	No					3				11			2		
7	12/06/09	15	Light	No	70				2				25					
8	17/09/10	14	Light	No	40				1									
9	21/09/10	18	Light	No	80				6									
10	22/09/10	16	Light	No	10			2	3		1							
11	23/09/10	15	Light	No	100			1	5									
12	24/09/10	14	Light	No	100		1	1	5									
13	27/09/10	16	None	No	75				11									
14	28/09/10	16	None	No	100			6	18		2	1						
15	04/10/10	17	None	No	100			1	5		1	1						
16	06/10/10	17	Light	No	100			2	6									
17	07/10/10	17	Light	No	100			1	20	1	2							
18	13/10/10	14	Light	No	50			5	6		1							
19	15/10/10	12	Light	No	100			2	4									
20	19/10/10	19	Moderate	No	100			9	1									
Peak Adult Count						**20**				**33**				**2**				

4.14 A peak count of 20 Common Lizards, 33 Slow-worm and 2 Grass Snakes over a site with around 2 ha of suitable reptile habitat (from measurements made during the completion of the original ES, E.on 2010) represents low populations of the various species (HGBI 1998).

Mitigation principals

4.15 This development has the ability to conserve the reptile population on site, rather than moving it to a new site, which has been shown in research to have a higher chance of producing a self-sustaining population in the long-term. Therefore, a suitable receptor site has been identified within the SEP redline boundary. Additional reptile habitat will be provided on and around the former landfill site as well as within soft landscaping to be established around the SEP once construction has been completed.

4.16 All reptiles within the development site will be translocated to a pre-determined release area (the newly created receptor site shown on Figure 2.1), to ensure their long-term survival. This area will be enclosed with reptile proof fencing throughout the construction period to prevent reptiles returning to the development area. When development is complete the fencing will be removed, allowing reptiles to disperse into the wider area, particularly the landfill enhancement area which is being enhanced to increase its ability to support reptiles. The receptor site will be established at least the season before translocation starts.

4.17 Given the size of the reptile population on site, a minimum of 60 suitable trapping days would be undertaken to clear the site as per HGBI (1998). This is scheduled for spring and summer 2011.

4.18 Trapping will only finish once five clear suitable days have been achieved with no reptiles caught. The trapping period will then be followed by a destructive search across the site.

Fencing Method

4.19 Reptile proof fencing will be installed by an appropriately experienced contractor, around the perimeter of the release area, under the watching brief of an ECoW.

4.20 The fences will be made of UV proof polythene sheet to prevent degradation, supported by soft wood timber stakes at approximately 2 metre intervals. The polythene used will be no less than 30 cm high and buried to a depth of 10 cm to discourage any reptiles burrowing under it and gaining access to the development area. This is the specification of exclusion fence as recommended by English Nature (1998), now Natural England.

4.21 High visibility netlon-type fencing will be erected around the reptile fencing to prevent accidental damage by construction activity. Clear signage will accompany the high visibility fencing to make clear why these areas should not be disturbed e.g. 'Reptile Area – Keep Out'. The ecological mitigation will also form part of the induction programme for personnel on site.

4.22 In addition to the fencing around the release area, the same standard of fencing will be installed around the edge of the development area. Fencing will also be installed within this area to divide it into separate sections to aid trapping.

Capture and Release Method

4.23 Following the erection of the temporary exclusion fencing the capture and relocation phase will be initiated. The methods of capture will essentially be the same as those used for the initial reptile survey, however, in addition to recording numbers/sex of reptiles found, the individuals would be humanely caught and removed into the receptor area after data collection is completed.

4.24 In order for the scheme to relocate the maximum number of reptiles as possible, the capture phase will commence as early after reptiles emerge from hibernation as possible - usually in March in southern England (Beebee & Griffiths, 2000). This would allow the capture phase of 60 suitable days to include the peak time for reptile numbers (May-June).

4.25 Natural England also recommend that the majority of trapping visits should be targeted between April and July in order to trap females prior to giving birth. This is important, as if trapping starts later in the season, it will result in many more reptiles needing to be moved. Additionally juveniles are far harder to catch due to their small size.

4.26 Reptile activity is primarily controlled by weather conditions, and therefore trapping activity should be concentrated to periods of appropriate weather. Warm days with intermittent but regular sunshine and perhaps a little light rain provide good conditions for capture. Hot dry weather usually results in the disappearance of reptiles from surface refugia (Beebee & Griffiths, 2000).

4.27 The low population of reptiles present on the site would involve using a high density of refugia (0.5m^2 roofing felt) and a large number of trapping days. Current advice states that a minimum of 60 trapping visits on separate days which allow time for the refugia to be used should be carried out in suitable weather, between March and September, using 100 traps per ha. The best months for carrying out this work are April, May and September. Traps need to be sufficiently close together to give the reptiles that often only travel a few meters away from their preferred areas, a chance to find them. Trapping should continue until five consecutive trapping days are carried out where no reptiles are seen or caught. These can be the final five days of the sixty minimum.

4.28 A 'destructive search' should then be carried out, under the watching brief of an ECoW. This is a means of collecting any remaining animals. The destructive search may involve cutting vegetation, dismantling features such as piles of rubble and excavating earth to find animals sheltering below.

4.29 Given the requirement to start on site in 2013 and the potential for clearance of the site of reptiles to go on beyond the 60 days, it is recommended that this is started as soon as possible or as soon as weather permits in 2012.

4.30 During the relocation and construction phases the temporary fences will be monitored weekly by a designated on-site representative, and a record kept of the checks ensuring their effectiveness and that construction operatives are not accessing the areas. Any noted failed or damaged fences will be replaced immediately. Construction staff should be made aware of the reptile issue on the site and understand the importance of the fences.

Future Monitoring

4.31 In order to confirm the success of the translocations, the reptile population and Annual Beard-grass will be monitored bi-annually for six years following completion of works.

5 LANDFILL MANAGEMENT

5.1 The former landfill site is currently being formally closed and may be subject to a range of management procedures to ensure the integrity of the clay cap that protects the landfill. These procedures have the potential to damage habitat created on the site since they may involve repairs to the clay cap, replacement of soil following land slippage or installation of further monitoring structures (such as bore holes).

5.2 With the exception of emergency procedures to the landfill to protect human health and safety, it is anticipated that all works to the landfill would be undertaken during spring/summer when the ground is drier and easier to work on. Therefore, all such works will be undertaken according to the following guidelines:

- The grassland to be created on the former landfill may be used by for nesting by bird species such as Sky Lark *Alauda arvensis*. Therefore, prior to any works starting the grassland will be checked for the presence of nests before any vegetation clearance. Any nests found will be protected with a 5 m buffer around them until the chicks have fledged.
- It is also intended that the grassland be used by reptiles. Therefore, vegetation clearance will be undertaken in two cuts by hand during weather when reptiles are likely to be active. The first strimming should be to a height of 15 cm in order to encourage any animals present (reptiles and small mammals) to move out of the area. The vegetation should be strimmed starting in the centre of the area to be cleared and completed in the direction of surrounding, retained vegetation. All arisings should be removed from the area to ensure no cover for animals remains within the desired work area. After 24 hours, a second cut should be undertaken to ground level.
- Any tracking by plant across the grassland during the breeding bird or active reptile period to be accompanied by a banksman walking ahead to check for breeding birds and encourage reptiles to move out of the way.

5.3 Once works are complete, the grassland should be re-instated according to the protocol detailed above using the appropriate seed mix.

6 REFERENCES

Beebee, T. & Griffiths, R. (2000) *Amphibians and Reptiles - A Natural History of the British Herpetolofauna*. Harper Collins.

English Nature (1998) *Translocation of slow-worms* – A Species Handbook.

E.on (2010) *Environmental Statement for a Sustainable Energy Plant, Kemsley, Kent.*

Froglife (1999) *Reptile survey, an introduction to planning, conducting and interpreting surveys for snake and lizard conservation*. Froglife Advice Sheet 10, Froglife, Halesworth

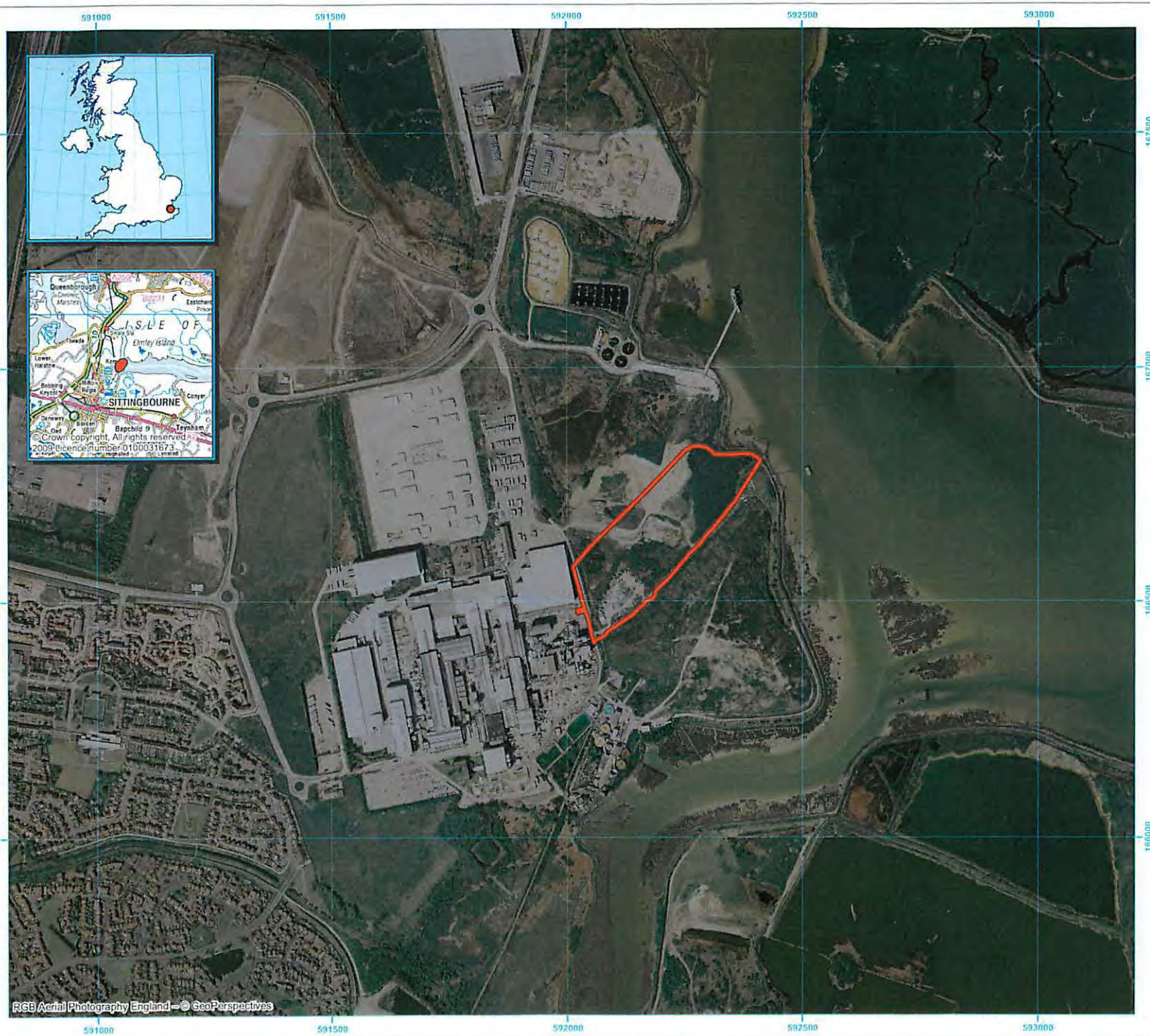
Herpetofauna *Groups of Britain & Ireland (1998) Evaluating local mitigation/translocation programmes: Maintaining best practice and lawful standards*. HGBI advisory notes for ARGs. HGBI, c/o Froglife, Halesworth. Unpub.

RPS (2010) *Kemsley SEP: Supplementary Biodiversity Information*. RPS report.

APPENDIX 1 – TUSSOCK-FORMING GRASSLAND SEED MIX

Scientific name	Common name
Achillea millefolium	Yarrow
Agrimonia eupatoria	Agrimony
Centaurea nigra	Common Knapweed
Centaurea scabiosa	Greater Knapweed
Daucus carota	Wild Carrot
Dipsacus fullonum	Wild Teasel
Galium album - (Galium mollugo)	Hedge Bedstraw
Geranium pratense	Meadow Cranesbill
Leucanthemum vulgare	Oxeye Daisy
Plantago lanceolata	Ribwort Plantain
Silene dioica	Red Campion
Silene vulgaris	Bladder Campion
Torilis japonica	Upright Hedge-parsley
Verbascum thapsus	Great Mullein
Vicia cracca	Tufted Vetch
Vicia sativa ssp. segetalis	Common Vetch
Alopecurus pratensis	Meadow Foxtail
Cynosurus cristatus	Crested Dogstail
Dactylis glomerata	Cocksfoot
Deschampsia cespitosa	Tufted Hair-grass
Festuca rubra	Strong-creeping Red-fescue
Holcus lanatus	Yorkshire Fog
Schedonorus arundinacea - (Festuca arundinacea)	Tall Fescue
Schedonorus pratensis - (Festuca pratensis)	Meadow Fescue
Trisetum flavescens	Yellow Oat-grass

FIGURES



Legend

Proposal site

Rev.	Date	Amendment:	Name	Checked

Data Source: RPS 2009

Status: **FINAL**

RPS
Willow Mere House Compass Point Business Park Stocks Bridge Way
St Ives Cambridgeshire PE27 5JL
T 01480 302751 F 01480 466911 E rpscm@rpsgroup.com

Client: DS Smith/E.on

Project: Kemsley Mill ES

Title: Proposal site and survey boundary

Scale: 1:8,000@A3

0 50 100 150 200 400m

Projection: British National Grid Datum: OSGB36

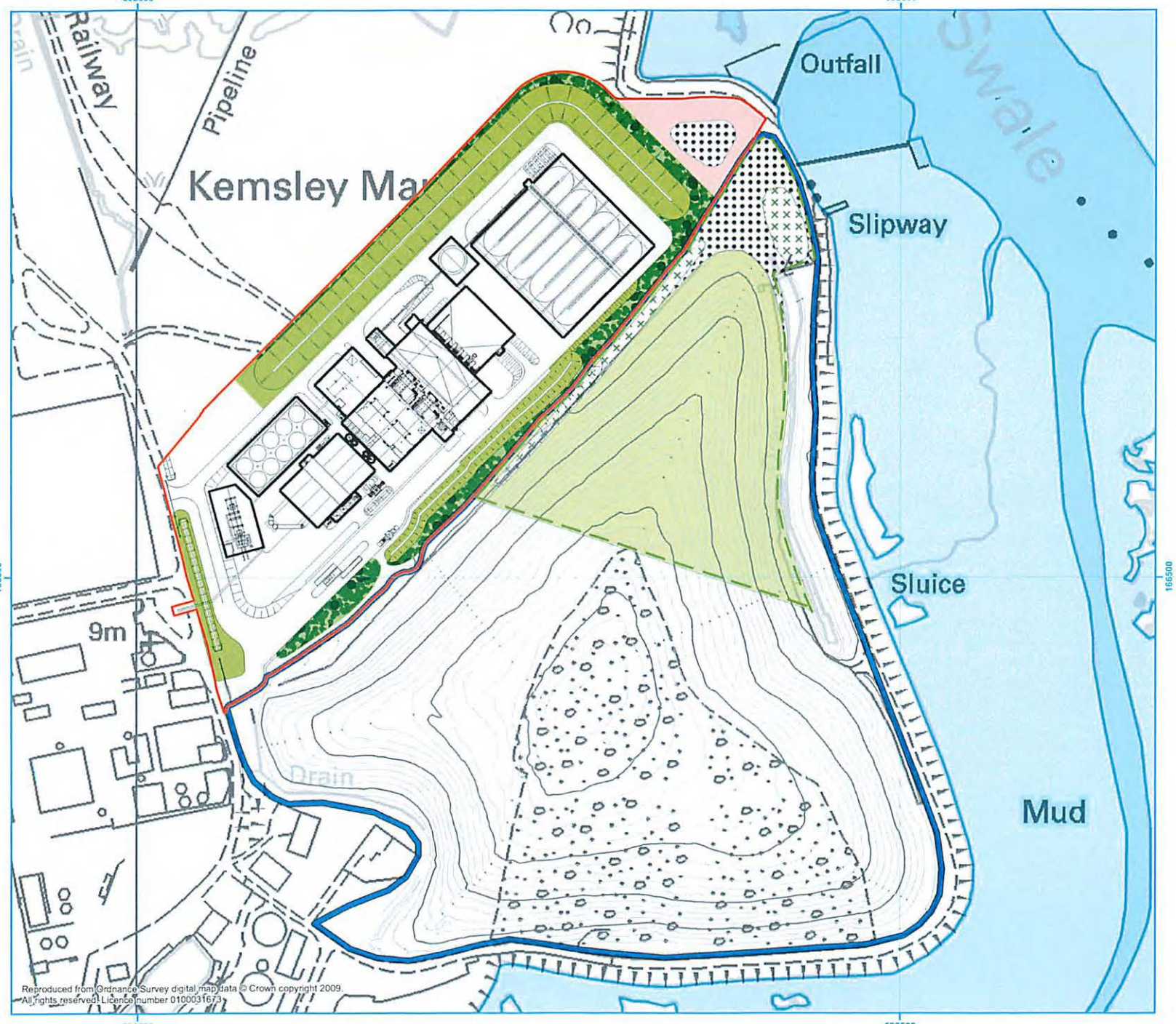
Date: 30/08/2011 Drawn: BF Checked: SS

Job Ref: **JPP1804** Figure No: **1.1** Revision: **B**

www.rpsgroup.com

Project Ref is JPP1804 Kemsley Mill ES\GIS\JPP1804_ES_SiteLocation.mxd

Figure 2.1 Mitigation Habitat



Legend

- Application boundary
- Landfill site
- Habitat to be created outside redline

Mitigation habitat

- Grassland
- Scrub
- Bare ground
- Reptile receptor site

Habitat created once construction complete

- Grassland
- Grassland/Scrub

Rev.	Date	Amendment	Name	Checked
B	16/09/11	Amended mitigation habitat layout	BF	NB

Data Source: RPS 2011

Status: **FINAL**

RPS
Willow Mere House Compass Point Business Park Stocks Bridge Way
St Ives Cambridgeshire PE27 5JL
T 01480 302751 F 01480 466911 E rpscm@rpsgroup.com

Client: DS Smith/E.on

Project: Kemsley Mill ES

Title: Mitigation Habitat Creation

Scale: 1:2,500@A3

0 10 20 40 60 80m

Projection: British National Grid Datum: OSGB36

Date: 30/08/2011 Drawn: BF Checked: NB

Job Ref: **JPP1804** Figure No: **2.1** Revision: **B**

www.rpsgroup.com

Project Ref: o:\JPP1804 Kemsley Mill ES\GIS\JPP1804_MitigationHabitatCreation_Aug2011.mxd

CC1 (Detailed)

DRAFT

Reference Code
of Application: SW/10/444

KENT COUNTY COUNCIL

TOWN & COUNTRY PLANNING ACTS
TOWN AND COUNTRY PLANNING (GENERAL DEVELOPMENT PROCEDURE)
ORDER 1995

Notification of Grant of Permission to Develop Land

To: St Regis Paper Co Ltd & EON Energy from Waste UK Ltd
c/o RPS Planning & Development Ltd
3rd Floor
34 Lisbon Street
Leeds
LS1 4LX

TAKE NOTICE that the KENT COUNTY COUNCIL, the County Planning Authority under the Town and Country Planning Act, **HAS GRANTED PERMISSION** for development of land situated to the north east of Kemsley Paper Mill, Kemsley, Sittingbourne and being development of a sustainable energy plant to serve Kemsley Paper Mill, comprising waste fuel reception, moving grate technology, power generation and export facility, air cooled condensers, transformer, bottom ash handling facility, office accommodation, vehicle parking, landscaping, drainage and access referred to in your application for permission for development dated the Twenty third day of March 2010 as amplified in the letters from RPS dated 5 October 2010 enclosing further supplementary reports in respect of biodiversity information and information to inform an appropriate assessment together with a separate report in response to observations made by the Environment Agency, 15 October 2010, 26 November 2010 and 17 March 2011 enclosing a plan entitled Kent & Hinterland, SUBJECT TO THE CONDITIONS SPECIFIED hereunder:-

(1) The development to which this permission relates shall be begun not later than the expiration of 5 years commencing with the date of this permission.

Reason; To comply with Section 91 of the Town and Country Planning Act 1990 (as amended)

(2) The Development to which this permission relates shall be carried out strictly in accordance with the details submitted with the application together with those further details to be submitted for approval.

Reason; For the avoidance of doubt and to maintain control over the application site

(3) The maximum number of Heavy Goods Vehicle movements to and from the Application Site shall not exceed a combined total of 258 movements per day save for movements in accordance with Condition (5) subject to any prior written variation as approved by the Waste Planning Authority.

Reason; In the interest of highway safety pursuant to policy W22 of the Kent Waste Local Plan.

(4) Waste deliveries shall only take place between 07:00 and 18:00 hours Monday to Friday inclusive and 07:00 and 13:00 hours on Saturdays, no waste deliveries shall take place on Saturday afternoon , Sunday or Bank/Public Holidays save for those deliveries in accordance with condition (5) and subject to any prior written variation as approved by the Waste Planning Authority.

Reason; In order to avoid nuisance from noise pursuant to Policy W18 of the Kent Waste Local

(5) Waste deliveries originating from and returning to the railway depot at Ridham Docks accessing and egressing the Application Site by the use of Ridham Dock Road shall not be subject to conditions (3) and (4) of the permission.

Reason; In order to encourage the reduction in the number of HGV movements generated by the Development on the local public road network.

(6) Prior to the Commencement of Development a strategy to encourage the use of the railway in the vicinity of the Application Site as a means of transporting waste deliveries to the Development hereby permitted shall be submitted to and approved in writing by the Waste Planning Authority and thereafter implemented in accordance with the approved strategy.

Reason; In order to encourage the reduction in the number of HGV movements generated by the Development on the local public road network.

(7) With the exception of construction using the concrete slip-forming method, construction using constant pore methods for concrete laying and internal process works relating to mechanical and/or electrical equipment installation, construction activities shall only take place between 07:00 and 19:00 hours Monday to Friday inclusive and 07:00 and 16:00 hours Saturday and Sunday with no construction activities to take place on Bank or Public Holidays subject to any prior written variation as approved by the Waste Planning Authority.

Reason; In order to avoid any adverse disturbance to breeding birds pursuant to policies W18 and W21 of the Kent Waste Local Plan and Policy SP2 of the Swale Borough Local Plan.

(8) All piling shall be by way of Auger other than where an alternative method is required for structural reasons. In such circumstances the prior written consent of the Waste Planning Authority shall be required which shall only be given if it has been demonstrated that there is no resultant unacceptable risk to groundwater and that impact piling will not take place between 1 April and 31 August in any given year, subject to any prior written variation as approved by the Waste Planning Authority.

Reason; In order to avoid any risks to groundwater pursuant to Policy W19 of the Kent Waste Local Plan and in order to avoid any disturbance to breeding birds pursuant to the requirements of PPS9 and policies W18 and W21 of the Kent Waste Local Plan.

(9) Noise levels as measured at the residential locations as set out in Figure 12.1 of Chapter 12 (Noise and Vibration) of the Environmental Statement (March 2010) attributable directly to the Development hereby permitted shall not exceed the background levels as set out in Appendix 12.5 of the Environmental Statement (March 2010) (Operational Noise Assessment) dated 24 November 2009.

Reason; In order to avoid any adverse impact from noise pursuant to Policy W18 of the Kent Waste Local Plan.

(10) Prior to the commencement of development the following components of a scheme to deal with the risks associated with contamination of the Application Site shall each be submitted to and approved in writing by the Waste Planning Authority and thereafter implemented in accordance with the approved scheme:-

1.1 A preliminary Risk Assessment which has identified:-

(a) All previous uses; and

(b) Potential contaminants associated with those uses; and

(c) A conceptual model of the Application Site indicating sources, pathways and receptors; and

(d) Potentially unacceptable risks arising from contamination at the Application Site.

1.2 A site Investigation Scheme based on the Preliminary Risk Assessment under 1.1 above shall identify those receptors which are most likely to be affected by contamination.

1.3 A Detailed Risk Assessment shall be undertaken of those receptors identified in the Site Investigation Scheme

1.4 A Detailed Risk Assessment shall inform an Options Appraisal and Remediation Strategy for those receptors identified in the Site Investigation Scheme and shown by the detailed Risk Assessment to require remediation. Details of the required remediation measures recommended for implementation shall be included in the Detailed Risk Assessment.

1.5 The recommendations of the Detailed Risk Assessment shall be undertaken in accordance with the provisions therein.

1.6 A Verification Plan shall present data and evidence to show that the recommendations in the Detailed Risk Assessment have been undertaken. The Verification Plan shall set out details of any long term monitoring of pollutant linkages that is required and shall provide mechanisms for ongoing maintenance arrangements and contingency actions.

Following the commencement of Development any long term monitoring or maintenance arrangements and contingency actions identified shall be undertaken as provided for subject to any prior written variation as approved by the Waste Planning Authority.

Reason; To ensure the Development is consistent with the requirements of PPS23 (Planning and Pollution Control) and to ensure any risks to groundwater and surface waters are appropriately mitigated pursuant to Policy W19 of the Kent Waste Local Plan.

(11) Prior to the Commencement of Development a scheme for the provision and management of a buffer zone alongside and including the ditch within the west of the application area as shown on Figure 4.2 of the Planning Application Supporting Statement shall be submitted to and approved in writing by the Waste Planning Authority. Thereafter the Development shall be carried out in accordance with the

approved scheme subject to any written variation as approved by the Waste Planning Authority. The Scheme shall include the following:

(a) Plans showing the extent and layout of the buffer zone; and

(b) Details demonstrating how the buffer zone will be protected during construction of the Development and managed/maintained over the longer term.

Reason; In order to protect the ecological value of the ditch pursuant to the objectives in PPS9 (Biodiversity and Geological Conservation)and Policy NRM5 of the South East Plan.

(12) Prior to the Commencement of Development a detailed Environmental Management Plan including Construction Method Statement to incorporate the proposed migration as outlined in the document entitled ' Appendix 9.6 Information for an Appropriate Assessment' for suppression of dust, construction noise, lighting and visual disturbance shall be submitted to and approved in writing by the Waste Planning Authority and thereafter be implemented as approved.

Reason; In order to protect the bio-diversity and geological interests for the Application Site and surrounding area consistent with the principles set out in PPS9 (Biodiversity and Geological Conservation) and Policy W21 of the Kent Waste Local Plan.

(13) Prior to the Commencement of Development a programme of archaeological work shall be submitted to the Waste Planning Authority for approval which shall include details of specification and timetables. The programme shall thereafter be implemented as approved.

Reason; To ensure that features of archaeological interest are properly examined and recorded to be consistent with the principles as set out in PPS5 (Planning and Historic Environment).

(14) Prior to the Commencement of Development details of a scheme of landscaping and tree planting shall be submitted to the Waste Planning Authority for approval and shall thereafter be implemented as approved.

Reason; In order to help reduce the visual impact of the Development.

(15) All trees and shrubs planted under the scheme as approved under condition (14) above shall be maintained for a period of 5 years. Any trees or shrubs that either die, are lost, damaged or become diseased during this 5 year period shall be replaced with a tree or shrub of the same species within the next available planting season.

Reason; In order to help reduce the visual impact of the Development.

(16) The Development hereby permitted shall be carried out strictly in accordance with the Flood Risk Assessment (FRA) submitted in support of the application and which includes the following detailed mitigation measures:-

1.1 The surface water management scheme outlined within Appendix 4 of the FRA (Surface Water Management and Foul Drainage Philosophy Statement) and the storage areas shown on drawings 16315 AO 0600 and 16315 AO 0301 within Appendix B shall be constructed and operational prior to the acceptance of waste by the Development.

1.2 A safe route into and out of the Application Site to an appropriate safe haven shall be identified and provided.

1.3 Finished floor levels are to be set in accordance with the FRA.

Reason; In order to reduce the risk of flooding and to ensure the safe access and egress from and to the Application Site pursuant to the requirements of PPS25 (Development and Flood Risk)

(17) All surface water drainage from the Application Site discharging to a local water course shall be attenuated for a 1:100 year return storm with a limited discharge of 7 litres per second per hectare or the equivalent run off from a Greenfield site for a 1:2 year storm.

Reason; In order to reduce the risk of flooding and ensure the safe access and egress from the Application Site pursuant to the requirements of PPS25 (Development and Flood Risk).

(18) Work on the proposed drainage outfall to the Swale (as shown on Figure 4.25 Proposed Drainage Layout of the Planning Application Site Supporting Statement) shall only take place between 1 April and 31 September in any given year.

Reason; In order to protect over-wintering birds on the Application Site and surrounding area consistent with the principles set out in PPS9 (Biodiversity and Geological Conservation).

(19) All fuels, oils and other liquids with the potential to contaminate the Application Site shall be stored in a secure bunded area in order to prevent any accidental or unauthorized discharge to the ground. The area for storage shall not drain to any surface water system. Where it is proposed to store more than 200 litres of any type of oil on the Application Site it must be stored in accordance with the provisions of the Control of Pollution (Oil Storage) (England) Regulations 2001. Where a drum or barrel has a capacity of less than 200 litres a drip tray capable of retaining 25% of the maximum capacity of the drum or barrel may be used in lieu of storing the drum or barrel in the secure bunded area.

Reason; In order to prevent any unacceptable risk to the environment pursuant to Policy W19 of the Kent Waste Local Plan.

(20) Prior to their installation/construction on the Application Site details of the storage bunkers (as shown on Figure 4.2 of the Planning Application Supporting Statement) into which waste would initially be tipped shall be submitted to the Waste Planning Authority for approval and then subsequently installed/constructed in accordance with such approved details.

Reason; To ensure that in the event of the plant shutting down that any waste stored in the storage bunkers can be readily removed or contained in a manner so as to prevent the creation of any unacceptable and unpleasant odours in the interests of residential amenity.

(21) Details of an external lighting strategy which follows best practice to reduce the impact of light spillage on the adjacent SPA and Ramsar site shall be submitted to the Waste Planning Authority for approval prior to the installation of external lighting on the Application Site. External lighting shall only be installed on the Application Site in accordance with the approved lighting strategy.

Reason; In order to protect the bio-diversity and geological interests of the Application Site and surrounding area consistent with the principles set out in PPS9 (Biodiversity and Geological Conservation) and Policy W21of the Kent Waste Local Plan.

(22) Other than waste arising from within Kent all waste used as a fuel in the Sustainable Energy Plant hereby permitted shall be pre-treated. Unless otherwise agreed in writing by the Waste Planning Authority no less than 20% of the annual waste throughput shall be pre-treated waste sourced from within the area defined as Hinterland shown on the plan attached to the letter from RPS dated 17 March 2011 entitled KENT & HINTERLAND and which includes Kent, Tandridge, Thurrock and Medway.

Reason; To ensure that waste processed at the plant is sourced consistent with the principles set out under policies W3 and W4 of the South East Plan and PPS10 (Planning for Sustainable Waste Management which seek to secure waste management capacity sufficient to achieve net regional and sub-regional self sufficiency having regard to the proximity principle.

(23) In the event that Kemsley Paper Mill no longer requires heat and /or power from the Sustainable Energy Plant hereby permitted, the operator of the plant shall submit a scheme to the Waste Planning Authority for approval setting out details of the steps that will be taken to identify alternative users of the heat and/or power generated.

Reason; To ensure that the plant continues to operate as a means of providing a sustainable supply of energy consistent with the objectives set out in PPS 10 (Planning for Sustainable Waste Management).

Town and Country Planning (Development Management Procedure) (England) Order 2010

This application has been determined in accordance with the Town and Country Planning Acts, and in the context of the Government's current planning policy guidance and the relevant Circulars, together with the relevant Development Plan policies.

The summary of reasons for granting approval are as follows:-

(1). The County Council is of the opinion that the proposed development gives rise to no material harm, is in accordance with the development plan and that there are no material considerations that indicate that the decision should be made otherwise. The County Council also considers that any harm as a result of the proposed development would reasonably be mitigated by the imposition of the attached conditions.

In addition please be advised of the following informative:

1. Please note the expiry date on your decision notice, along with all other conditions imposed. You are advised any conditions which require you to formally submit further details to the County Planning Authority for approval may be required to be formally discharged **prior** to commencement of operations on site, or within a specified time. It is your responsibility to ensure that such details are submitted. **Failure to do so may mean that any development carried out is unlawful** and which may ultimately result in the permission becoming incapable of being legally implemented.

It is therefore strongly recommended that the required details be submitted to this Authority in good time so that they can be considered and approved at the appropriate time. **Note that from 6th May 2008 each submission of details pursuant to conditions attracts an application fee of £85**

Dated this of December 2011

(Signed).....
Head of Planning Applications

INVICTA HOUSE
COUNTY HALL
MAIDSTONE
KENT ME14 1XX

The **COMMON SEAL** of THE **KENT COUNTY COUNCIL** was affixed to this deed, which was delivered when dated, in the presence of:

[redacted]

Authorised Signatory
Signature :
Name :

EXECUTED as a deed by **E.ON ENERGY FROM WASTE UK LIMITED** acting by a director in the presence of:

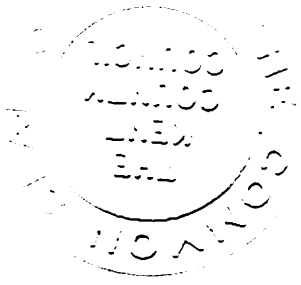
Director
Signature : [redacted]
Name :

Witness
Signature :
Name (Block Capitals) :
Address :
Occupation :

EXECUTED as a deed by **DS SMITH PAPER LIMITED** acting by a director in the presence of:

Director
Signature : [redacted]
Name :

Witness
Signature :
Name (Block Capitals) :
Address :
Occupation :



EXECUTED as a deed by **GROVEHURST ENERGY LIMITED** acting by a director in the presence of:

Director
Signature :
Name :

[redacted]

Witness
Signature :
Name (Block Capitals) :
Address :
Occupation :

[redacted]

EXECUTED as a deed by **SRP NEW THAMES LIMITED** acting by a director in the presence of:

Director
Signature :
Name :

[redacted]

Witness
Signature :
Name (Block Capitals) :
Address :
Occupation :

[redacted]

EXECUTED and delivered as a deed by **THE COMMON SEAL OF THE ROYAL SOCIETY FOR THE PROTECTION OF BIRDS** being hereto affixed in the presence of:

Director
Signature :
Name :

[redacted]

Director/Secretary
Signature :
Name :

APPENDIX C

SW/10/444 – Committee Report

Item C3

SW/10/444 - Development of a Sustainable Energy Plant to serve Kemsley Paper Mill. Land to the North East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent.

A report by Head of Planning Applications Group to Planning Applications Committee on 12 April 2011.

SW/10/444 - Development of a Sustainable Energy Plant to serve Kemsley Paper Mill, comprising Waste Fuel Reception, Moving Grate technology, Power Generation and Export Facility, Air Cooled Condensers, Transformer, Bottom Ash Handling Facility, Office Accommodation, Vehicle Parking, Landscaping Drainage and Access. Land to the North East of Kemsley Paper Milll, Kemsley, Sittingbourne, Kent. St Regis Paper Company Ltd and E. ON Energy From Waste Ltd. (MR. 922 665)

Recommendation: Planning permission be granted subject to conditions.

Local Member: Mr. M. Whiting and Mr. A. Willicombe Unrestricted

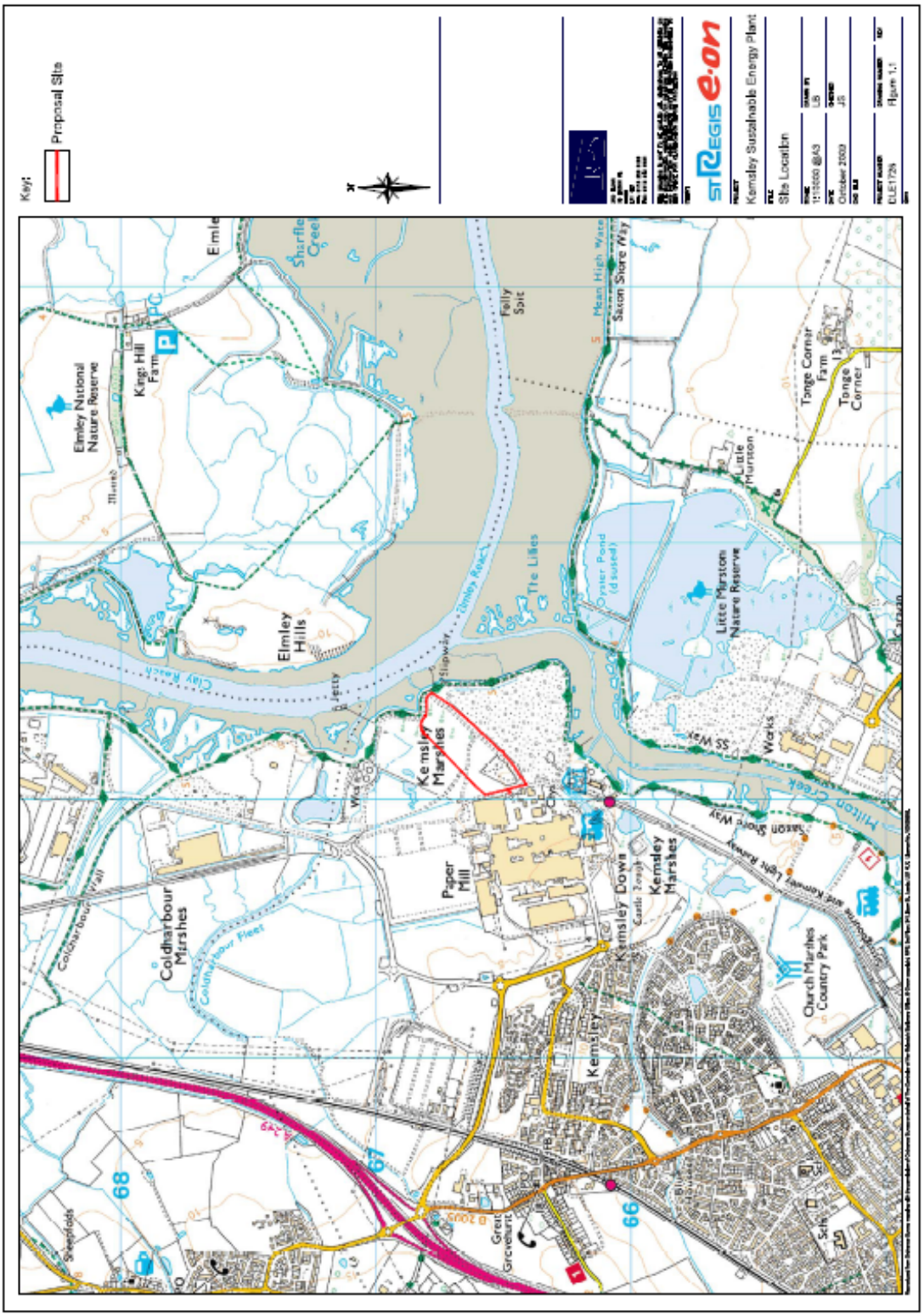
The Site and Background

1. The proposed site is located to the north east of Kemsley, some 2 kilometres south east of Iwade and the A249. It adjoins the north eastern side of the existing Paper Mill and lies close to habitats which form part of the Swale SSSI and the Medway Estuary and Marshes SSSI. These SSSIs are part of the Swale SPA and Ramsar Site and the Medway Estuary and Marshes SPA and Ramsar Site. The majority of the site is currently disused however the southern corner of the site contains a small area of storage for materials and vehicles with associated access tracks. Whilst there are no public rights of way which cross the site the Saxon Shore Way, a nationally important long distant footpath, runs along its northern boundary. See site location plan and aerial photograph below.

2. Members visited the site in July last year when they were able to hear the applicants explain the overall context of the proposed scheme and view the site in the context of the wider surroundings. (A note of the visit is attached under Appendix 1).

SW/10/444 - Development of a Sustainable Energy Plant to serve Kemsley Paper Mill. Land to the East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent

Site Location



SW/10/444 - Development of a Sustainable Energy Plant to serve Kemsley Paper Mill. Land to the East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent

Aerial View of Site

Prop

3. It is proposed to construct a Sustainable Energy Plant (SEP) within 7.0 hectares of land at the existing Kemsley Paper Mill Site, Sittingbourne, Kent. The proposed development footprint comprising of the plant and associated facilities would occupy some 4.6 ha in total (see site layout and elevational details), and consist of a reception hall and bunker, boiler house, 2 stacks (90m), flue gas treatment, air cooled condensers, Bottom Ash (BA) building, disabled car parking landscaping, and access. The main bulk of the building would extend to a height of some 50 metres.

Proposed Site Layout

4. The application site has previously been found to contain protected species. Although there would be a net loss of the existing habitat on site it is proposed that as part of the development new habitat would be created around the outside of the development footprint consisting of attenuation lagoons into which clean surface water would drain in order to encourage the colonisation by species consistent with the UK Biodiversity Action Plan. Also, prior to site construction, any existing species found present would be translocated onto newly formed habitat on an adjoining area which has been subject to previous landfilling with waste from the Paper Mill. In addition it is further proposed to provide around 1 hectare of reedbed habitat in a more remote area considered suitable for use by the breeding Marsh Harrier.

5. The applicants propose to use approximately 500,000 to 550,000 tonnes of pre treated waste per annum as a fuel source. Waste would comprise Solid Recovered Fuel Waste, Commercial and Industrial waste and pre treated Municipal Solid Waste, which may include up to 25,000 tpa of waste plastics arising from the adjoining paper making process. It is intended that the waste would be sourced from within Kent, with the balance from London, the South East and elsewhere in the UK subject to commercial viability. The SEP would use the waste as a fuel to recover energy producing some

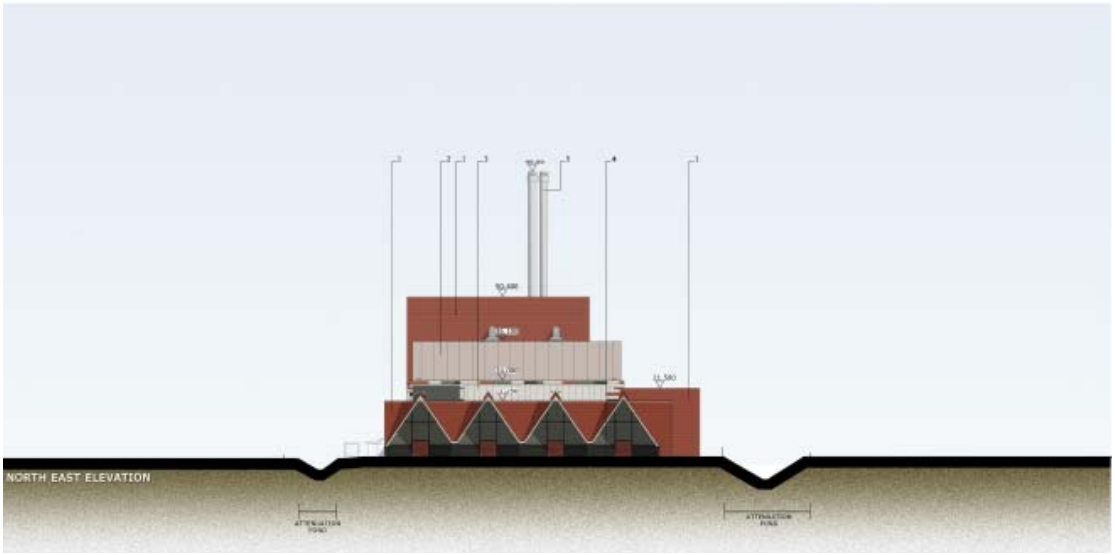
48.5 MW per hour of electricity and provide in excess of 50 MW per hour of steam to the mill.

6. The energy requirements at Kemsley paper mill are currently met on site by a Combined Heat and Power (CHP) plant which is fuelled by natural gas, a fossil fuel based energy source, and by a Waste to Energy plant which burns rejects from the paper making process. The applicants state that the mill's energy cost is some £50m per annum representing 25% of turnover. With the pricing of natural gas having become extremely volatile in recent years and with the European market less de-regulated than the UK, the applicants claim this has put Kemsley Mill and other UK operators at a disadvantage to their European competitors, as a result of which 22 paper mills have closed in the UK over the last 5 years including 3 in Kent. With the UK becoming more reliant upon imported natural gas, the applicants are concerned about the future supply of natural gas on which their operations currently rely.

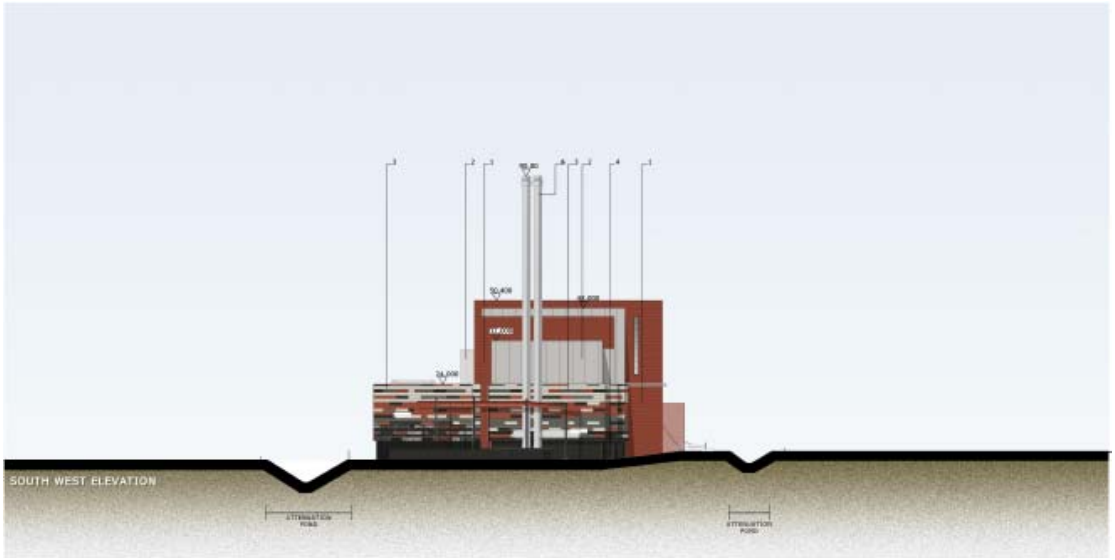
7. Although natural gas will remain as a significant source of energy for the mill, the applicants argue there is a clear need for Kemsley Mill to diversify its fuel source and, in so doing, to reduce its reliance on fossil fuel based energy sources. They claim the proposed SEP would therefore ensure a greater degree of energy supply security and improve the competitive position of the mill.

South East Elevation

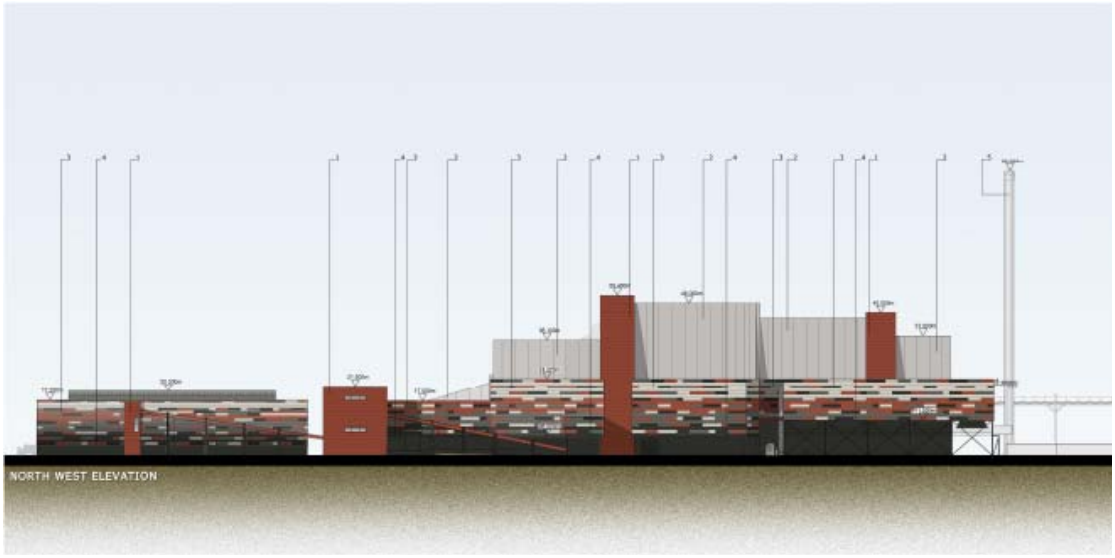
North East Elevation



South West Elevation



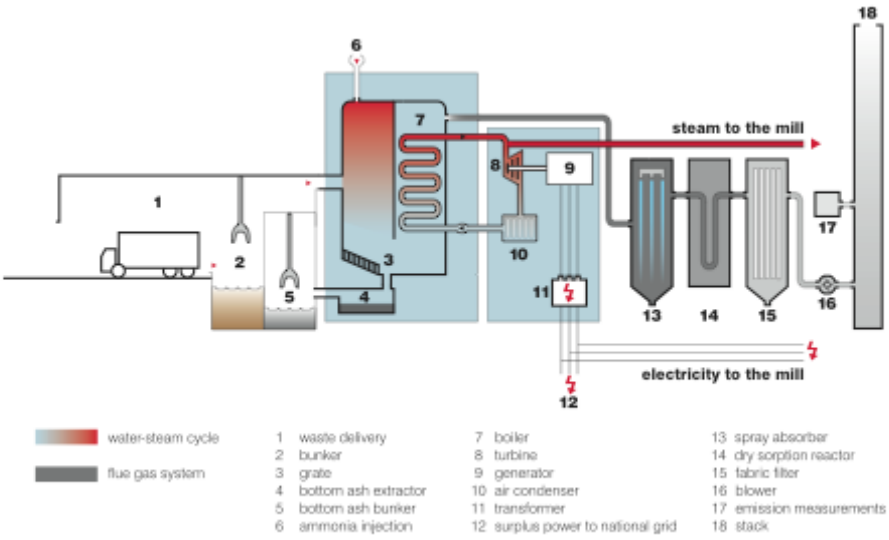
North West Elevation



Process

8. Waste would be delivered to the plant by Heavy Goods Vehicles within enclosed containers. Loads would be weighed upon entry to the site at a weighbridge located at the site entrance and then vehicles directed to a reception hall using a dedicated circulatory access road within the site. The waste would be tipped into a bunker which is designed to accept up to 3000 tonnes per day, and processed through a thermal treatment process at a rate of up to 2 x 37 tonnes per hour. Within the bunkers the waste fuel would be mixed by two hydraulic grabs to provide an homogenous mix to the plant before being fed into charging hoppers which in turn feed the grate stoker furnace located within the boiler house.

Flow diagram of the SEP process



9. The fuel bunker would be ventilated under negative pressure by the primary air fan. During normal operation the exhaust air would be fed into the incineration system. During downtime the extracted air is ventilated through a separate activated charcoal filter and discharged through a vent pipe on the roof of the bunker.

10. The combustion grate is where the combustion of the waste would take place. The charging hopper passes into a shaft, the fuel in this shaft would work as a gas tight seal between the combustion chamber and the bunker. Hydraulically driven ram feeders are used to evenly distribute the incinerator charge along its extent and transport it to the grate area. The grate is designed as a multi line sliding grate/feed stoker and longitudinally consists of four separate grate zones.

11. The ash hoppers beneath the grate discharge into a water quench slag extractor. The burnt up slag at the end of the grate falls into the water quench via the bottom ash hopper. A slat conveyor carries ash and slag out of the water quench to a slag bunker via a belt conveyor.

12. Back up burners fuelled by light fuel oil would be located above the grate and would allow for start up from a cold state and as a supplementary firing means to ensure a minimum operating temperature of 850 ºC as necessary.

13. Primary combustion air will be fed into the furnace through the underside of the grates by a primary air fan. Secondary air will also be injected at high velocity through nozzles positioned in the walls of the combustion chamber above the level of the waste. This will create turbulence, which assists in mixing the secondary air and combustion gases to achieve complete combustion of the gases. The volume of both primary and secondary air would be regulated by an automatic combustion control system.

14. The steam generation system is located above the grate. The steam generating environment operates within a pressure of 48bar and 410ºC. This minimises chloride corrosion to the heating surfaces. The pipe walls of the first, second and third exhaust flue as well as those of the horizontal flue constitute the evaporator heating surfaces, where at first saturated steam would be generated. The horizontal flue would contain a convection, heating surfaces suspended in the flue gas flow and super heater and feed water heater (Economiser). The flue gas would be ventilated from the grate via the four passes in to the flue gas treatment system behind the horizontal flue.

Energy Recovery

15. The steam produced would be used to drive a steam turbine which in turn would drive a generator producing electricity transformed to a voltage distribution of 400V and to 700V to supply the plant itself. Surplus electricity would be exported from the plant and fed to the grid via a transformer at 132kV. Low pressure steam would also be extracted for use as process steam within the paper mill. The steam would be fed to the mill over a bridge which crosses the internal site road to the west of the proposal site.

Flue Gas Treatment

16. Combustion gases would be cleaned before they are released to the atmosphere. The flue gas treatment system is a dry conditioned flue gas treatment system. The final configuration and design of the abatement plant would be agreed with the Environment Agency as part of the Environmental Permitting authorisation process. The flue gas treatment (FGT) system would be designed to be compliant with the EC Waste Incineration Directive and which would be enforced by the Environment Agency through conditions attached to the facilities Environmental Permit. The proposed flue gas treatment process is able to precipitate acid components to a minimum. The flue gas from the grate is cleansed of any acids or other compounds by a process which turns nitrogen oxides (NOX) produced during combustion by non catalytic conversion to nitrogen and steam. The reducing agent used is ammonium hydroxide, which reacts with nitrogen dioxide of the flue gases within a temperature range of 850 - 950oC. Approximately 20% by weight of the total ash produced by the sustainable energy plant would be in the form of fly ash and reaction product FGT. Thus assuming a 90% load factor it is expected that approximately 28,000 tonnes of fly ash and reaction FGT residue will be produced per annum.

17. Once collected, the ash will be loaded into sealed containerised vehicles and transported from the site for disposal within a permitted facility.

18. Bottom ash would represent around 20% to 25% of the waste throughput equating to up to 138,000 tonnes per annum. Ash from the slag bunker would be transported to a separate slag treatment system on site where it would be crushed into a graded material. Ferrous and non ferrous metals would be recovered together with any un-burnt material being returned to the fuel bunker. The ash would be graded and stored in rows within an enclosed building for a period of three months during which time it would mature improving its ability to be used for construction purposes off site. Any ash not sold would be treated as a waste product and also be removed off site to an authorised facility.

19. Clean exhaust gas would be directed to the stack by an induced draft fan and an exhaust silencer would control sound emissions at the stack outlet. The applicant indicates that each processing line would be served by a stack with a height of 90 metres located at the south western end of the building. The applicant states that the height has been determined through dispersion modelling of emissions and evaluation of the resulting dispersion plumes so that ground level concentrations of key pollutants are maintained within acceptable levels under all operating conditions.

Access to the Site

20. The applicants proposal assumes all waste would be delivered to the site by road, however they indicate that they are pursuing other options for delivery by water and/or rail should this be found to be practicable and viable. There are two points of vehicular access available to the existing Kemsley Paper Mill. The southern access is via Ridham Avenue to the south of the mill site. The other site access is located at the north-east corner of the site and is accessed via Barge Way. It is proposed that staff and visitors would use the existing southern access and that HGVs accessing the site delivering waste would use the existing northern access. It has been assumed that all HGVs would travel from junction 5 of the M2 via the A249 and Swale Way. Overall, the SEP would generate some 258 daily HGV movements which would equate to 22 movements per hour.

Proposed Working Hours

Construction Stage

21. Construction work would include civil engineering works associated with the plant construction and the process work involved in the mechanical and electrical equipment installation, fit out and commissioning of the plant. The applicants propose that construction activities would take place between:

    0700 and 1900 Monday to Friday, and
    0700 and 1600 Saturday and Sunday

    with the exception of non-intrusive activities which would take place outside of the above.

Operational Stage

22. The applicants are seeking permission to enable the SEP to operate on a continuous 24 hour basis, 7 days a week. However waste deliveries would be restricted to between the following times:

    0700 and 1800 hours Mondays to Fridays, and
    0700 and 1300 hours on Saturdays

23. The application is accompanied by an environmental statement which includes an assessment of the possible effects of the proposed development in relation to the existing conditions on site and its surroundings. Having regard to the specified information as required under the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988 (as amended), the following key matters have been taken into account;

(i) Need
(ii) Traffic
(iii) Air Quality
(iv) Landscape and visual Impact
(v) Nature Conservation
(vi) Hydrology
(vii) Noise
(viii) Socio Economic Impacts

National, Regional and Local Planning Policy Context

24. The original members briefing note initially set out the relevant policy considerations in relation to the proposed development. The South East Plan (SEP) referred to in that note in the meantime was abolished and later reinstated pending the enactment of the Localism Bill Members will be aware that that they have to have regard to the policies in the SEP and the Government's intention to abolish the Regional Spatial Strategies (RSS) as material considerations. However, the weight to be accorded is a matter for the decision makers. Members should also note that Cala Homes has been granted leave to appeal the recent High Court judgement and are seeking clarification on how much weight should be given to the RSS in the light of the intention to revoke.

25. The key National and Development Plan Policies most relevant to the proposal are summarised below:

Planning Policy Statement 1 (PPS1): Delivering Sustainable Development - Encouraging decisions taken on planning applications to contribute to the delivery of sustainable development. The Supplement to PPS1 – Planning and Climate Change sets out how planning should contribute to reducing emissions and stabilising climate change. Tackling climate change is a key government priority in the planning system.

Waste Strategy 2007 – aiming to reduce waste by making products with fewer natural resources, breaking the link between economic growth and waste growth; products should be re-used or their materials recycled. Energy should be recovered from other waste where possible.

Planning Policy Statement 7 (PPS7): Biodiversity and Geological Conservation – This sets out planning policies on protection of biodiversity and the geological conservation through the planning system.

Planning Policy Statement 10 (PPS10): Planning for Sustainable Waste Management – Underlines the importance of planning for and consenting the necessary number and

range of facilities in order to ensure that adequate provision is made for the future management of our waste.

The key aim of moving waste management up the 'waste hierarchy' forms the underlying objective of national policy. The proximity of waste disposed and 'self sufficiency' are also expected to represent the fundamental key to securing such objectives to ensure that communities take responsibility for their own waste.

Through more sustainable waste management, moving the management of waste up the 'waste hierarchy' through the descending order of reduction, re-use, recycling and composting, using waste as a resource of energy and only disposing of waste to landfill as a last resort, government aims to break the link between economic growth and the growth of waste.

Planning Policy Statement 22 (PPS22): Renewable Energy – This sets out the valuable role that renewable energy can play in meeting Governments' commitment to addressing the impacts of climate change and maintaining reliable and competitive energy supplies. Renewable energy will contribute to the Governments' sustainable development strategy by meeting energy needs, reducing greenhouse gas emissions and the impact of climate change, the prudent use of natural resources and a reduction in the reliance on fossil fuels. Development proposals should demonstrate any environmental, economic and social benefits as well as how environmental and social impacts have been minimised through careful consideration of location, scale and design.

In decision making local planning authorities should also have regard to the following key principles. Renewable energy developments should be capable of being accommodated throughout England in locations where the technology is viable and environmental, economic and social impacts can be satisfactorily addressed : development plan policies should promote and encourage such development ; the wider environmental and economic benefits of renewable energy projects irrespective of scale should be given significant weight in decision making ; assumptions about the technical and commercial feasibility of the project is not a consideration and developments should demonstrate any environmental, economic and social benefits as well as how any environmental benefits have been minimised through location, scale and design considerations.

Planning Policy Statement 23 (PPS23): Planning and Pollution Control – LPAs must be satisfied that planning permission can be grated on land use grounds taking full account of environmental impacts. This will require close co operation with the E.A. and or the pollution control authority and other relevant bodies. It states that controls under the planning and pollution control regimes should compliment and not duplicate each other. In considering proposals LPAs should take account of the risks of pollution and land contamination and how these can be managed or reduced. The policy advice is clear in that the Planning System should focus on whether the development itself is an acceptable use of the land and the impacts of those uses, rather than the control of those processes or emissions themselves. Planning Authorities should work on the assumption that the relevant control regime will be properly applied and enforced . The need to avoid duplication in regulatory processes is reiterated in the supplement to PPS1 Planning and Climate Change.

Planning Policy Statement 24 (PPS24): Planning and Noise – Outlines the consideration to be given to those developments with the potential to generate noise and the

need to ensure that adequate mitigation can be put in place to prevent any adverse effects on nearby noise sensitive land uses.

Planning Policy Statement 25 (PPS25): Development and Flood Risk – The aim of planning policy should be to ensure that flood risk is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding and to direct developments away from areas at high risk. Where new development is necessary in such areas policy aims to make it safe without increasing flood risk elsewhere.

26. The South East Plan May 2009

Policy CC1: The principle objective of the Plan is to achieve and to maintain sustainable development in the region by prioritising amongst other matters; sustainable levels of resource use, reducing greenhouse gas emissions and ensuring the South east is prepared for the inevitable impacts of climate change.

Policy CC2: Measures to mitigate and adapt to climate change implemented through the application of local planning policy and other mechanisms recognising that behavioural change will be essential in implementing this policy.

Policy NRM1&2: Seek to protect groundwater supply avoiding adverse effects on water Quality.

Policy NRM5: Avoidance of net loss of biodiversity

Policy NRM9: Improvements in air quality.

Policy NRM11: Gives support for renewable energy and encourages LPAs to promote and secure greater use of renewable energy in new development.

Policy NRM13&14: Set out regional renewable energy targets and sub regional targets for electricity generation.

Policy NRM16: Requires LPAs to support in principle the development of renewable energy and to take into account what contribution new development could make towards meeting renewable energy targets and carbon dioxide savings.

Policy W3: Requires Waste Authorities and waste management companies to provide management capacity sufficient to achieve regional self - sufficiency together with a declining amount of waste from London.

Policy W4: Requires Waste Authorities to aim for net sub-regional self-sufficiency.

Policy W5: Targets for diversion from landfill. A substantial increase in recovery of waste and a commensurate reduction in landfill is required in the region.

Policy W12: Support for other recovery and diversion technologies including the combined generation and distribution of heat and power.

Policy W17: Waste development documents will, in identifying locations for waste management facilities, give priority to safeguarding and expanding suitable sites with an existing waste management use and good transport connections. The suitability of existing sites good accessibility from existing urban areas or major new or planned development, good transport connections, compatible land uses, including previous or existing industrial land use, contaminated or derelict land and be capable of meeting a range of locally based environmental and amenity criteria.

27. Kent Waste Local Plan Saved Policies (Adopted March 1998)

Policy W11: Identifies this site as being suitable in principle for a Waste to Energy Plant

Policy W17: Requires regard to be had to air quality and its cumulative effects such that emissions will not adversely affect neighbouring land uses

Policy W18: Before granting permission for a waste management operation the planning authority will require to be satisfied as to the means of control of:-

(i) noise
(ii) dust, odours and other emissions
(iii) landfill gas

Particularly in respect of its potential impact on neighbouring land uses and amenity.

Policy W19: Before granting permission for a waste management facility, the planning authority will require to be satisfied that surface and groundwater resource interests will be protected and that where necessary a leachate control scheme can be devised, implemented and maintained to the satisfaction of the planning authority.

Policy W20: Before granting planning permission for a waste management facility the Planning Authority will need to be satisfied that proposals have taken account of drainage and flood control.

Policy W21: Before granting permission for a waste management proposal the planning authority will need to be satisfied that the earth science and

ecological interests of the site and its surroundings have been established and provisions made for the safeguarding of irreplaceable and other important geological and geomorphological features, habitats, or species of wildlife importance. Where an overriding need requires some direct loss or indirect harm to such features, habitats or species, where practicable suitable compensatory mitigation measures should be provided.

Policy W22: When considering applications for waste management facilities the planning authority will:-

(i) normally refuse permission if it is considered that the proposed access, or necessary off-site highway improvements or the effects of vehicles travelling to and from the site, would affect in a materially adverse way:-

(a) the safety (or would exceed the capacity) of the highway network
(b) the character of historic rural lanes
(c) the local environment including dwellings, conservation areas and listed buildings.

(ii) ensure that any off-site highway improvements considered to be necessary to secure acceptable access are completed, if necessary in stages related to the development of the site, before specified operations on site commence and provided at the development's expense.

Policy W25: When considering details relating to the siting, design and external appearance of processing plant, hard surfacing, buildings and lighting, the planning authority will ensure that:-

(i) facilities are grouped to prevent sprawl and the spreading effects, and to assist screening.
(ii) Advantage is taken of topography and natural cover.
(iii) Designs and means of operation minimise visual and noise intrusion.
(iv) Appropriate colour treatment is provided, to reduce their impact and to assist their integration into the local landscape.

Policy W27: Securing and considering the interests of users of the Public Right of Way

28. Swale Borough Local Plan

Policy SP2: In order to provide a robust, adaptable and enhanced environment, planning policies and development proposals will protect and enhance the special features of the visual, aural, ecological, historical,

atmospheric and hydrological environments of the Borough and promote good design in its widest sense.

Development will avoid adverse environmental impact, but where there remains an incompatibility between development and environmental protection, and development needs are judged to be the greater, the Council will require adverse impacts to be minimized and mitigated. Where a planning decision would result in significant harm to biodiversity interests, which cannot be prevented or adequately mitigated against, appropriate compensation measures will be sought.

Policy E12: Sites designated for their importance to biodiversity or geological conservation.

Policy B2: Providing for new employment.

Policy U3: Renewable Energy - The Borough Council will permit proposals for renewable energy schemes where they demonstrate environmental, economic and social benefits and minimise adverse impacts. Before planning permission is granted, the Borough Council will consider such matters including the contribution to the regional requirement for

Policy B10: Ridham as an existing committed employment site.

Policy B11: Identifies the area in which the application site falls as having outline permission for a mix of employment uses including general industrial and storage and distribution. In this context the Borough Local Plan considers the area to be of strategic importance and considers it is unique within the borough and the wider sub-region for the range of plot sizes it can accommodate.

29. Consultations

Swale Borough Council: No objection subject to conditions covering landscaping, construction materials. investigation of use of rail infrastructure, fuel source, hours of working.

Iwade Parish Council: Considers the application remains speculative at this stage given that the source of the waste has yet to be determined. The application does not meet the general principles of Best Practicable Environmental Option given that it raises ecological issues would include waste imported from London and the south east and elsewhere contrary to the proximity principle and generate greenhouse gases through increased lorry movements in the area. Adverse impact from lorry traffic on the local road network. Latest government targets for recycling and composting reduces the need for incineration. Adverse effects from stack emissions.

Bobbing Parish Council: Raise concerns over the impacts from traffic on the local highway network together with concerns over air quality impacts from stack emissions and also odours. Considers scale of the proposed building would be out of character with the area especially when viewed from the Nature Reserve at Elmley. Asks whether there would be any need for additional pylons to accommodate the grid connection.

Minster Parish Council: Whilst they feel a modern Waste to Energy Plant would help improve the environment rather than the old gas fired power station their two mains concerns relate to types of emissions and traffic. Asked for alternative ways of transporting waste to the site to be explored (e.g. by rail). The scale of the operation is unknown and the Parish Council would need a definitive answer on the waste catchment area.

Tonge Parish Council: Views awaited.

Bapchild Parish Council: Views awaited

Queenborough Parish Council: Views awaited

Environment Agency: Raise no objection to the proposal subject to a number of issues that would first need to be addressed including further consideration of alternative site location, more use of waste arisings on site (i.e. paper sludge etc) reducing the need to import, further analysis of the net carbon balance deriving from the use of the intended waste stream, impacts from emissions on air quality cannot be assessed pending the receipt of an Environmental Permit Application. Conditions on any future permission to include ground contamination assessment together with any associated remedial works in the event that contaminants are found present on site, development to be undertaken in accordance with the recommendations set out in the submitted flood risk assessment, fuel storage, restriction on piling or other foundation designs using penetrative methods without the express written consent of the LPA and the provision of a buffer zone between the development and surrounding watercourses

Health Protection: Considers this is a new installation which has from a public health point of view a limited potential for causing concern at this stage. However would stress that they would expect regular monitoring results for air quality as well as regular dust and odour inspections/monitoring to be forwarded to the regulators, both during construction and the operational phases, in order to ensure that the potential for any nuisance or health issues is as limited as the monitoring data suggests.

Divisional Transport Manager: Agrees with the conclusions of the traffic impact that the development would have negligible impact on the local Highway network.

Highways Agency: No objection

Lower Medway Internal Drainage Board: No objection provided all surface water drainage discharging from the site is attenuated for the 1:100 year return storm with a limited discharge of 7 l/s/ha or the equivalent run off from the Greenfield site for the 1:2 storm. The application meets with the Environment Agency requirements.

Jacobs (noise): Considers that noise levels during both site construction and operation of the plant will fall below existing background levels measured at the nearest housing. Recommends any future permission should be conditioned to this effect.

Jacobs (landscape): Considers the environmental impact assessment underestimates the significance of the visual impacts which will need to be carefully balanced against the other beneficial and adverse effects of the scheme.

County Archaeologist: Considers it may be possible that archaeological remains are present on site. Therefore advises that any future permission includes a condition requiring the implementation of a programme of archaeological investigations.

SEEPB: Considers the proposal is not entirely consistent with policies W3 and W4 of the South east Plan given the source of the waste is stated as Kent with the balance from London, the South East and elsewhere in the UK subject commercial viability. Whereas Policies W3 and W4 seek net regional and sub - regional self sufficiency with London's exports restricted to landfill and from 2016 limited residues. However, accepts there may be less certainty of supply of C & I waste from within Kent and therefore arisings may not be accessible to the plant, resulting in an insufficient supply which will affect the commercial viability of the proposal. It is therefore important that in considering the application, the county council considers these issues.

CAA: The proposed structure(s) would not formally constitute an aviation en-route obstruction. Recommends that an aviation warning light is installed at the highest practicable point of each chimney.

English Heritage: Do not wish to offer any comments and recommends that the application is determined in accordance with national and local policy guidance on the basis of the county councils specialist conservation advice.

Natural England: Whilst originally raised an object to the application pending further information being submitted to enable the effects on the nearby ecological designations to be determined have since withdrawn their objection following the submission of further supporting information. Given in their view the proposal is likely to have a significant effect on the Swale SPA and Ramsar site and also has implications for the Swale SSSI, considers that an 'Appropriate Assessment' needs to be undertaken by the County Council as the competent authority under Regulation 61 of the Habitats Directive. However, also considers that the proposal would not have an adverse effect on the integrity of the Swale SPA and Ramsar and should not damage the interest features of the Swale SSSI subject to the imposition of appropriate conditions on any future permission.

RSPB: Whilst originally raised an objection pending further discussion and clarification of the effects of the proposal on the local bird population, have since withdrawn their objection subject to the imposition of appropriate conditions to secure mitigation measures set out in further supporting information.

Kent Wildlife Trust: Originally considered that the application failed to adequately evaluate the ecological value of the site and expected a development of this scale to contribute towards the enhancement of the biodiversity. Considered the reptile survey of the site was out of date and therefore a new survey should be undertaken in order for a

mitigation strategy to be developed. However, have since withdrawn their objection subject to the imposition of conditions to secure mitigation measures set out in further supporting information.

County Biodiversity: The enhancements to the mitigation receptor area must be carried out before the translocation of reptiles from the application site. Improving the management of surrounding ditches would be more beneficial for wildlife. Lighting arrangements must be carried out in accordance with the details set out in the environmental statement The effect of lighting on bats should be undertaken. Reptile monitoring should be carried out at the development site a year after offsite translocation has taken place and the development site shall be maintained unsuitable for reptiles until such time as the development is completed No information on the management plan and monitoring of the mitigation area has been provided. A mitigation strategy must be submitted and include details of proposed works and timings.

EDF: No objection

CPRE: Whilst supporting the general principles of a waste to energy CHP Plant objects on the grounds of the cumulative effects of other similar proposals in the area, the proposal would reduce the incentives for recycling although any reduction in landfill would be welcomed. Given the existing large volumes of traffic on the local road network the importation of waste by other means should be explored. Recognise there is a known demand for power at the Paper Mill and that local employment is an important issue.

National Grid:
Public Rights Rights of Way:
County Conservation Officer:
MOD:

Views awaited.

Local Members

30. The two local members Mr Willicombe and Mr Whiting were formally notified of the proposal on 15 April 2010, to date I have not received any written comments from them.

Representations

31. The application has been advertised in the local press and notices posted on site and in the surrounding locality, I also wrote to some 2,400 nearest local residents. To date I have received 28 letters of representation, 1 in support of the proposal from Unite the Union who purport to represent some 450 members of the 800 locally employed staff at the Paper Mill site. They draw attention to the need for the Mill to remain competitive and that the proposal would help secure a sustainable future for the mill and protect local jobs. The other 27 letters raise objections to the proposal on the grounds of:

- Traffic impacts
- Adverse effects from stack emissions

- Visual intrusion
- Adverse impacts on nature conservation

Discussion

32. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise.

32. Prior to the publication of PPS10 and Waste Strategy 2007, former advice required planning authorities to consider whether waste planning applications constituted the Best Practicable Environmental Option (BPEO). Case law established that consideration of BPEO against individual applications should be afforded substantial weight in the decision making process.

33. The new advice in PPS10 moves the consideration of BPEO principles to the Plan making stage where it is to be considered as part of the Sustainability Appraisal (SA)/Strategic Environmental Assessment (SEA) process applied to the Plan. However, where planning authorities' current waste policies have not been subject to the SA/SEA process (as is the case with the Kent Waste Local Plan), it is appropriate to consider planning applications against the principle of BPEO.

34. Until such time as the **Kent Waste Development Framework** (WDF) reaches a more advanced stage, applications will be considered against relevant saved Kent Waste Local Plan Policies and other development plan policies. This is fully consistent with the approach Local Planning Authorities are advised to adopt as set out in PPS10.

35. Policy exists at both the national, regional and local level which give support in principle for the establishment of alternative waste management facilities to landfill. These include Waste to Energy Plants, particularly where they also involve combined heat and power generation (CHP), where waste should be recovered as a resource to produce energy. Such objectives also support the aim of how planning should contribute towards reducing the carbon footprint by lowerimng emissions and stabilising climate change.

36. The current energy requirements at Kemsley Paper Mill are already partially met on site through a combination of a CHP, albeit fuelled by natural gas, together with a Waste to Energy Plant which burns rejects from the paper making process. The site at Kemsley is also identified under Policy W11 of the saved policies of the Kent Waste Local Plan as being suitable in principle for a Waste to Energy Plant.

Main determining issues

37. In the light of the above policy considerations and the issues raised, I consider the key determining issues to be:

- Traffic
- Air Quality
- Water Quality and Floodrisk
- Landscape
- Nature conservation and ecology
- Noise
- Employment

38. Furthermore, account will need to be taken of the source of the waste arisings, taking account of the proximity principle (i.e. where waste should be dealt with as close to where it occurs in order to reduce vehicle journey distances) and having regard to both current regional and local development plan policies which aim to achieve regional and sub-regional net self-sufficiency, and the existing and future waste capacity requirements for Kent.

Traffic

39. Access for the delivery of waste to the site would be by road from the west assuming vehicles would exit at junction 5 of the M2 via the A249 and Swale Way. The applicant predicts that when operating at full capacity the proposal would generate a maximum of 258 daily HGV movements which would equate to some 22 movements per hour. Whilst it is currently assumed all waste would be delivered by road the applicants have indicated that they are pursuing other options for delivery by water and /or rail should this be feasible.

40. Concerns have been raised over the adverse impacts from lorry traffic on the local road network in terms of the existing capacity available. Particular concerns have also been raised by one of the local County Members over what he considers to be problems encountered at the small roundabouts at the A249/Grovehurst Road Junction. In his opinion visibility is poor and could be improved by reducing the size of the central island, and asks whether such improvements could be secured if Kemsley were to be permitted. He also asked whether it would be appropriate to seek a financial contribution from the applicant towards the construction of the remainder of the Sittingbourne Northern Relief Road (SNRR).

41. The Transport Assessment submitted in support of the proposal is considered by the Divisional Transport Manager (DTM) to give a robust indication of the traffic expected to use the local highway. This takes account of other committed development, the proposal itself along with the effects of the opening of the next section of the SNRR. The proposal is shown to generate relatively insignificant increases on the local network as a whole and the DTM concurs with the conclusion that the development would have a negligible impact on the local highway network. With regard to the layout of the small roundabouts at the A249/Grovehurst Road junction he has confirmed that there is no crash history associated with these and although HGVs squeeze the path

of other vehicles as they negotiate the first roundabout drivers appear to be aware of the need to give HGVs a wide berth as they enter at this location. Whilst reducing the size of the roundabout may provide more room for HGVs to manoeuvre around the central island, in his opinion this would also reduce the amount of deflection that vehicles would need to steer around to enter the junction. The result of this would be higher vehicle entry speeds such that this could result in accidents. The DTM has raised no objection to the application subject to the imposition of appropriate conditions including wheel cleaning measures, vehicle parking and completion and use of the access in accordance with the details submitted with the application.

42. With regard to other stretches of the carriageway that would serve access to the site, which includes junction 5 exit from the M2 and the slip roads onto the A249 leading to the large gyratory roundabout providing access to the internal haul roads, this is the responsibility of the Highways Agency who have raised no objection to the application.

43. With regard to the question of a financial contribution from the applicant to the construction of the remainder of the SNRR I am mindful that the necessary funding to complete these works has already been secured.

44. Having regard to the above comments and in the absence of any objections from the Highways Agency and DTM, I do not feel an objection on highway grounds is justified.

Air Quality

45. Concerns have been raised over the potential impacts from the proposal on air quality both in terms of stack emissions and their effects on health and the surrounding ecological designations, together with the effects from vehicle exhaust fumes. The environmental statement which accompanied the application has assessed the potential effects on air quality through detailed dispersion modelling. It includes the effects of both stack and vehicle exhausts and dust emissions having regard to existing baseline conditions, and has assessed their potential impacts on human health and the nearby habitats which form part of the Swale SPA , Ramsar site and Swale and Medway Estuary SSSI's. The assessment has been undertaken based on a number of worse-case assumptions which it considers is likely therefore to result in an over-estimate of the contributions that would arise from the operation of the plant. The assessment concludes that with appropriate mitigation measures in place, emissions from all three sources when measured against existing background levels would fall below EU Directive limits and local air quality standards.

46. The mitigation recommended includes the employment of dust controls such as the use of water bowsers during site construction and that all vehicles associated with this particular activity to switch off their engines to avoid vehicles idling and all deliveries entering and leaving the site to be covered. Residual impacts from the operational phase both from stack emissions and traffic are also considered negligible and not likely to exceed EU Directive emission limits or local air quality standards. Accordingly residual impacts on human health risk and ecological impacts are not considered significant.

47. The Health Protection Agency has raised no objection to the proposal and considers that from a public health point of view the proposal has a limited potential for causing concerns at this stage. However, they would expect regular monitoring and inspections monitoring for air quality as well as regular dust and odour monitoring inspections to be forward to the regulators in order to ensure that the potential for any nuisance or health issues is limited as the monitoring data set out in the environmental statement suggests.

48. In their initial response, whilst raising no objection the E.A indicated that in the absence of having received an application for an Environmental Permit they were unable at that time to form a final view on potential impact to air quality, human health, designated habitats or the control of nuisance impacts (e.g. noise/odour). Since then matters have progressed and an application for a Permit was submitted to the E.A. towards the end of last year on which the County Council were formally consulted. As part of their assessment of the application the E.A. looked not only at the potential effects as a result of the emissions from the proposed development itself but also the combined effects of new and existing permissions, plans and projects that are relevant to an area protected under the Habitats Regulations due to the close proximity of the site to the various habitats which form part of the SPA/SSSI/Ramsar. Whilst the E.A. have yet to form a final view and are continuing to have discussions with various consultees including N.E. they have undertaken an audit of the Air Quality Modelling submitted with the Permit application. The audit concludes there is no risk to Human Health from the proposal. The National Permitting Service has also indicated that this is supported by the Health Protection Agency.

49. The policy advice set out in PPS23 is clear in that the planning and pollution control regimes should compliment and not duplicate each other. Most fundamentally Planning Authorities are asked to work on the assumption that the relevant control regime will be properly applied and enforced. In this context, having regard to paragraph (40) above I am satisfied that there are no material reasons to justify refusing the application on the grounds of adverse effects on air quality.

Water Quality and Flood risk

50. The applicant has assessed the likely impact the development may have on hydrology, controlled waters and human health given the current ground conditions. The site was previously used as a coal store and refuse tip and is now largely derelict with some stockpiled material in the west. The site is characterised by made up ground and alluvial clays that immediately overlie London clays with silty sands beneath. Perched water was found at a shallow depth in the London clay which is separated from the true groundwater found in the granular deposits at depth. The flow of water in both bodies is towards the Swale to the east where it ultimately discharges.

51. Baseline assessments of pollutants found elevated concentrations of brown asbestos, nickel, selenium and sulphates within the shallow elevated groundwater. These concentrations were considered acceptable for an industrial/commercial end use and would not represent a risk to construction workers. Elevated concentrations of nickel and sulphate found at a deeper level in what is considered to represent the true

groundwater are considered representative of the natural baseline concentrations associated with the underlying strata compared to the surface contamination detected.

52. The principal concerns following the baseline assessment relate to the risk to human health caused by groundwater ingress to deep excavations, the lateral migration of contaminated shallow groundwater towards the Swale and asbestos found in the shallow soils and groundwater. To address this it is proposed to target those specific areas within the site where such contaminants are found present, as part of a Construction Environmental Management Plan.

53. The E.A. consider that the proposals to deal with any contamination on site are acceptable in principle, however they would wish to see further consideration of whether there is a link between the contamination found in the shallow groundwater and the adjoining landfill site. In order to address this issue along with how contamination found present at the site will generally be dealt with the E.A. have recommended that conditions be imposed on any future permission requiring the submission of a preliminary risk assessment along with details of any remedial measures proposed to deal with any contaminants found present on site. I am satisfied that provided such conditions are imposed on any future permission this would ensure that appropriate measures are put in place to prevent any risk to human health or adjoining ecological interests from groundwater pollution.

54. The applicant has also produced a Flood Risk Assessment (FRA) in support of the application, the scope of which was previously agreed with the E.A. having regard to advice set out in PPS25. The site lies partially within Flood Zone 2 and 3a and therefore has a 1 in 200 annual probability of flooding from tidal sources in any one year. The Swale Estuary is located to the east of the site, flowing in an easterly direction until it meets with the North Sea approximately 16km to the east of the site.

55. Following re-profiling of the development site to 5.8m AOD (i.e. some 0.6m above the 5.2m critical flood level), the development will have been uplifted outside the flood plain falling entirely within Flood Zone 1, with less than 0.1% probability of flooding from tidal sources. Given that the site does not form part of the functional floodplain, the effect on flood storage capacity is considered to be negligible. The site would incorporate a surface water drainage system which drains into surrounding surface water attenuation ponds as a means of regulating discharges to the surrounding watercourses. This, together with the elevated platform that would be created, would in the applicants' opinion protect the site from risk of flooding to a 1 in 100 year standard from on-site flooding.

56. The E.A. have raised no objection to the application on the grounds of flood risk provided that a condition is imposed on any future permission requiring the development to be carried out in accordance with the FRA submitted as part of the application. On this basis I am satisfied that there are no overriding objections on the grounds of risk from flooding.

Landscape

57. The proposed site is located immediately adjacent to the eastern side of the Kemsley Paper Mill Complex which lies in between the application site and Kemsley. Kemsley Paper Mill and the application site also form part of a much larger area identified in the Swale Local Plan for future employment use and which has outline permission for the development of mixed industrial uses. For this reason the borough Local Plan considers the area is strategically important and it can therefore be expected that other major development proposals will come forward in the future. In addition to the Paper Mill the area also contains a number of other major developments including the Knauf Plaster Board factory and the Morrisons distribution depot. Members may recall when they visited the site that officers pointed out these developments commenting in particular that the Knauf building was of a similar scale and height to the proposed development at Kemsley Paper Mill.

58. The applicants have undertaken a landscape and visual appraisal of the proposal which includes an assessment of the visual impact in the landscape when viewed from various locations surrounding the site considered most sensitive to the development. This included various views taken along the Saxon Shore Way which runs along the northern boundary of the site and also Kemsley residential edge, along with more distant views from the general surroundings. The more distant views demonstrate that the area is already dominated by large industrial buildings including the existing Kemsley Paper Mill, and in my opinion the additional visual impacts from the proposed development would not therefore significantly alter this industrial landscape. When in close proximity to the site, particularly when viewed from the Saxon Shore Way, the impact would be more severe. However, this impact has to be considered against what can already be seen which is currently dominated by Kemsley Mill which is of a similar scale and height.

59. In order to help mitigate the visual impact of the proposed development particularly when viewed from a distance, the applicants propose that the external finish of the building is graduated such that at the lower level the colour would reflect that of the marshland in the foreground with a lighter grey colour being used in the upper levels when viewed above the skyline.

60. Having regard to the comments made by the County Council's landscape consultants Jacobs, in my opinion the mitigation measures proposed by the applicants represent a satisfactory balance when considered against other benefits that would derive from the proposal. The external finish of the building would in my opinion help absorb the development into what is an industrialised landscape particularly when viewed at a distance. This view is also likely to become more predominant as further industrial development becomes established given the strategic importance of the area for future employment as reflected in those policies set out in the Swale Borough Local Plan do not therefore consider there are any overriding landscape objections to the proposal.

Nature Conservation and Ecology

61. Whilst the site itself is not covered by any statutory nature conservation designations it lies near to habitats which form part of the Swale SSSI and the Medway Estuary and Marshes SSSI. These SSSIs are part of the Swale SPA and Ramsar Site and the Medway Estuary and Marshes SPA and Ramsar Site. Natural England (N.A.) have advised that based on the information contained in the application it is their view that the proposal is likely to have a significant effect on the Swale SPA and Ramsar Site, alone or in-combination with other plans and projects and that there are also implications for the Swale SSSI. In this context they draw attention to Regulation 61 of the Habitats Regulations which requires 'competent authorities' , before deciding to give any consent to a project which is (a) likely to have a significant effect on a European site (either alone or in combination with other plans or projects), and (b) not directly connected with or necessary to the management of the site, to undertake an Appropriate Assessment of the implications for the site in view of its conservation objectives.

62. Notwithstanding the above however, N.E. agree that the proposal will not have an adverse impact on the integrity of the Swale SPA and Ramsar Site and should not damage the interest features of the Swale SSSI provided conditions are imposed on any future permission requiring; the submission of a detailed Environmental Management Plan with Construction Method Statements, Work on the drainage outfall not to take place during the over-wintering bird season October to March inclusive, a lighting strategy to be submitted for the approval of the LPA and provision of a 1ha reedbed habitat offsite to offset any potential affect to breeding Marsh Harrier.

63. The methodology used by the applicant for assessing the potential impacts on ecology and nature conservation involves 4 key stages namely; baseline studies, identification of valued ecological receptors, identification and characterisation of potential impacts and assessment of impact significance. The survey methodology included a desk based study together with walkover surveys of the site and surrounding areas. These surveys sought to identify: Reptiles, Invertebrates, Birds, Water Voles, Otters, Badgers and potential Bat roosts. The results of the surveys revealed that with regard to Otters, Badgers and Bats there was no evidence of their presence on the development site. Whilst offsite feeding signs of Water Voles in adjacent ditches were indicated.

64. The most likely potential significant impacts from the development were identified as being the direct impacts resulting from the loss of suitable habitat for reptiles and invertebrate from the development site, together with offsite impacts from noise, dust and stack emissions on the breeding bird population and surrounding features of ecological interests.

65. In order to address concerns raised by consultees the applicant submitted supplementary information in respect of both on-site and offsite mitigation. With regard to the direct impacts on the development site, in addition to the enhanced areas of habitat which include the surface water attenuation ponds, it is also proposed that a further 3.1 ha of suitable habitat would be created on the adjoining former landfill site to the east into which species from the development site would be translocated. The County Council's Biodiversity Projects Officer has drawn attention to the need to ensure that the habitat to be created is satisfactorily completed before any

translocation exercise from the development site takes place and that reptile monitoring continues to take place on the development site until such times as construction takes place. This is also supported by N.E. who whilst welcoming the additional habitat to be created considers that a detailed strategy should be submitted and approved before the commencement of any works. They also consider it is important that the long-term management of this area is also secured by way of condition or Section 106 Agreement.

66. Offsite mitigation measures include the provision of a 1 ha site in a more remote area considered suitable for use by the breeding Marsh Harrier population of the Swale SPA. The applicants propose to agree the detailed design of the habitat with the RSPB, N.E. and SEEDA. Such offsite mitigation would need to be secured by a separate Legal Agreement the draft terms which I consider would need to be covered are set out under Appendix (2).

67. Other offsite mitigation proposed includes measures to prevent any adverse noise impacts from construction activities. The main noise source is considered to be from piling. In order to avoid any adverse impacts from piling on the breeding bird population a more detailed piling strategy has been developed which provides for the use of augered piling where practical and impact driven piles only where absolutely necessary. It is also proposed that impact piling would only commence on site at the end of August to avoid any disturbance to breeding birds.

68. With regard to Air Quality Impacts in terms of deposition levels at the nearby sensitive receptors, the assessment undertaken by the applicant concluded that the habitats were considered to be relatively insensitive to acid deposition and therefore unlikely to affect the integrity of the Swale SSSI/SPA/Ramsar. However, during discussions with N.E. they indicated that they have been looking at the issue of NOx in respect of this application in view of monitoring that has been undertaken on Elmley having revealed high levels of background concentrations. However it was due to the uncertainty of the figures and that currently there is little research on the long-term effects of elevated levels of NOx on grazing marsh and inter-tidal habitats that partly led to them withdrawing their original objection to the application. Nevertheless they recognise that the applicant would still need to apply for an Environmental Permit from the E.A. and confirm that they have highlighted their concerns with the E.A. Whilst not a requirement for this application, in view of the monitored hotspots for air pollutants on Elmley, N.E. have requested that any future proposals for development in the area should undertake a more robust analysis of air quality. Meanwhile due to the increasing number of NOx emitting facilities in the Ridham Dock area the applicant has voluntarily agreed to form part of a long-term air quality monitoring programme for the area. The details of the programme will be compiled through discussions with N.E., Swale Borough Council and the E.A.

69. As advised by N.E. the County Council as the competent authority, in tandem with its consideration of the application has undertaken a separate Appropriate Assessment in accordance with Regulation 61 of the Habitats Directive. The formal record of the Appropriate Assessment is set out under Appendix (3) which concludes that provided certain mitigation measures are put in place the proposal would have no adverse effects on the integrity of the sites of interest.

Noise

70. A Noise Assessment submitted in support of the application has been undertaken. The methodology employed included a comparison of the existing daytime and night time background noise levels at what are considered to be the nearest noise sensitive receptors with those both during the site construction activities and when the site becomes operational. Four locations were identified, three of which, at Reams Way (*along the haul Road to the site*), Walsby Drive (*the nearest residential properties in Kemsley*) and within the centre of a reedbed adjoining the northern boundary of the site considered representative of the potentially noise sensitive ecological habitats, were subject to long term noise monitoring over a 24hr period. The fourth location was at the Saxon Shore Way adjacent to the northern boundary of the site where a 15 minute measurement was taken.

71. Noise levels when measured at the nearest residential properties are not predicted to rise above the existing background levels either during site construction activities or when the plant becomes operational. Noise levels when measured along the Saxon Shore Way are predicted to rise when the plant becomes operational to between 52 and 60 dB and will therefore be noticeable to walkers as they pass the site. For comparison based on guidance provided by the World Health Organisation general daytime levels of 55 dB are desirable to prevent any significant community annoyance. The figure of 55dB has been taken to be free-field and therefore no adjustments have been made for road and rail traffic noise. However, these receptors are temporary and transitory and the applicant considers it is not therefore appropriate to apply the same criteria as that which would apply to long term outdoor amenity receptors. The applicant therefore considers that it would not be unreasonable to expect walkers to tolerate noise levels around 60dB for a limited period whilst passing the site and it is unlikely therefore that walkers would be significantly adversely affected by noise associated with the operation. I would concur with these conclusions. Similar noise levels are predicted to occur at the Reedbed location during site construction with noise levels during the operational phase varying between 30 to 35dB at the intertidal area of Milton Creek where the majority of watering birds would be expected to congregate. On this basis I do not consider that noise from the proposal would cause any unacceptable disturbance to the local bird population.

72. The County Council's noise advisor Jacobs concurs with the applicant that noise levels both during construction and operation of the plant would fall below existing background levels when measured at the nearest housing and recommends that any future permission be conditioned to this effect. In my view having regard to the conclusions of the Noise Assessment and the comments made by Jacobs I do not consider there are any overriding nose objections to the proposal.

Employment

73. Kemsley Paper Mill currently employs around 800 staff many of whom the applicants claim live locally. In addition, there are a further 205 contractors working full-time many of whom are also employed locally. The Mill is clearly therefore a major local employer in the area.

74. The current proposal would generate additional employment both at the construction stage and also when the plant becomes operational. The applicants estimate that up to 500 staff would be required during the construction phase. One of the key issues at the construction phase would be the extent to which main contractors and sub-contractors attempt to use local labour or that from outside. Normally this is a combination of the two with imported labour more likely to consist of workers with specialist skills, and locally sourced labour consisting of unskilled and semi-skilled labour. Construction workers, especially those with specialist skills are known to travel significant distances to sites for which the construction period may be of a limited duration.

75. Once the site becomes operational the applicant's estimate that some 50 full time jobs would be created, some of which would require particular management and technical skills which may not necessarily be able to be sourced locally. However, in my view there would still be scope for at least some of the additional labour force to be sourced from the local area. In addition the applicants have indicated that an average of 100 contractors would be employed for planned shutdowns. The applicant's state that that such skills need not be acquired in the waste industry industry or in a plant of this nature and that suitable personnel could be recruited from industries with similar characteristics. Notwithstanding the clear need for people with appropriate skills, it seems likely that the required labour could be sourced without difficulty in the immediate area and from Sittingbourne itself. This is especially so given the high proportion of manufacturing jobs in the area and the average distance people already travel to work.

76. The Mill is clearly therefore already a major employer in the area and in my opinion the current proposal represents an opportunity to play a significant role in increasing the local labour market.

77. Members may be aware of an announcement made in the coalition government's Budget last month when the Chancellor of the Exchequer issued a call to action on growth, publishing an ambitious set of proposals to help rebuild Britain's economy. The Government's top priority is to promote sustainable economic growth and jobs, and as a fundamental means to achieve this considers the planning system has a key role to play by ensuring that the sustainable development needed to support economic growth is able to proceed as easily as possible. Government's clear expectation therefore is that there should be a strong presumption in favour of development except where this would compromise the key sustainable development principles set out in national planning policy.

78. In order to achieve government's aspirations, notwithstanding the applicants have argued the proposal would not only help safeguard existing jobs at the Paper Mill but also provide the potential to create additional local employment, I consider that it would be appropriate to have some form of legally binding commitment from them that where possible employment would be sourced locally. In my opinion this is best secured by way of a separate Legal Agreement and should members be minded to grant permission I would strongly recommend this approach.

79. In support of their proposal the applicants have argued that the primary driver is to meet the future energy requirements of the Paper Mill in a viable and sustainable manner, thereby reducing its dependence on fossil fuel, improving the carbon footprint

of the mill, ensuring a degree of energy supply security, improving the mill's competitive position and most importantly as discussed above, safeguarding and securing employment in the locality. The energy requirements at the mill are currently met on site by a CHP plant fuelled by natural gas and by a Waste to Energy Plant which burns reject materials from the paper making process. The applicants claim that the mill is a major energy consumer the cost of which represent 25% of the annual turnover. With continuing volatile gas prices and other European markets being less regulated this has put Kemsley Mill and other UK operators at a disadvantage resulting in 22 paper mills in the UK having closed over the past 5 years 3 of which were in Kent.

80. The applicants argue that rather than being a stand alone proposal the proposed plant at Kemsley is unique in that it would be specifically designed to meet the needs of the mill using residual waste as a fuel (i.e. waste which has been subjected to some form of pre treatment) with the secondary benefit of providing new capacity for Kent's non-municipal waste arisings. The proposed throughput of 500,000 to 550,000 tonnes per annum of waste used as a fuel has been specifically designed to meet the energy requirements of the mill in parallel with a reduced reliance upon the existing gas fired CHP Plant.

81. The waste used as a fuel would comprise Solid Recovered Fuel (SRF) Waste and Industrial and pre treated Municipal Solid Waste which may include up to 25,000 tpa of waste plastics arising from the paper making process at the mill. It is intended that the waste would be sourced from London, the South East and elsewhere in the UK subject to commercial viability with approximately 100,000 tpa of Kent's non municipal waste arisings. The applicants argue that in order to secure the necessary funding to build the plant, they would need to demonstrate to the Financial Institutions the security of the revenue stream which they claim is typically in the order of 80% of the incoming waste stream and which would need to be tied to long term contracts. MSW contracts led by Waste Disposal Authorities are typically long term, often between 25 to 30 years. This, the applicants claim provides certainty to lenders in funding schemes of this nature. All of Kent's MSW arisings is currently tied to long term contracts. On this basis if the applicants were to include an element of MSW as part of their waste source this would have to be sourced from outside the County. Whereas C & I waste streams, the majority of which currently goes to landfill, are characterised by short term contracts, typically less than 3 years. Accordingly if the applicants were to rely solely on these contracts they would not provide the long tern security to the Financial Institutions for them to lend the money to fund the project. Whilst the applicants consider their proposal would contribute to diverting some 100,000 tonnes of such waste from landfill equating to some 20% of the plant's capacity, such sources originally included residual C & I waste from Kent and its immediate hinterland, which the applicant identified as being Medway, Bexley, Bromley, Thurrock and Tandridge. As explained above, the security of the revenue stream that underwrites the facility, which is typically in the order of 80% of the incoming waste stream will need to be tied to long term contracts. Inevitably given that all of Kent's MSW is contractually committed, if the project is to succeed this implies 80% of the waste consisting of SRF will need to be sourced from outside the County.

82. Policy W3 of the South East Plan requires Waste Authorities to provide capacity sufficient equivalent to the amount of waste arising and management within the region's boundaries, plus a declining amount of waste from London. Currently provision for

London's exports are limited to landfill and by 2016, new permissions will only provide for residues of waste that have been subject to recycling or other recovery processes.

83. Policy W4 requires Waste Planning Authorities (WPAs) to plan for sub-regional self sufficiency through provision for waste management capacity equivalent to the amount of waste arising and requiring management within their boundaries. It also states that that a degree of flexibility should be used in applying the sub-regional self sufficiency concept where appropriate consistent with Policy W3. This does not therefore preclude cross border flows across regional and sub-regional boundaries.

84. Policies W3 and W4 of the South East Plan reflect advice set out in PPS10 which suggests that WPAs should not arbitrarily restrict the movement of waste across borders. The underlying objective of PPS10 is to move waste management up the 'waste hierarchy ' using waste as a resource and to consider disposal as the last option. Having regard to the current proposal, as one of a number of means to secure sustainable energy supplies which reduce the reliance on the use of fossil fuels and hence helps meet the climate change agenda, provided it can be demonstrated that the waste to be used as a fuel in the plant at Kemsley will arise from treated sources, then in my opinion this is fully consistent with the objectives of PPS10. However, having regard to Policies W3 and W4 of the South East Plan I consider it is important that the potential for dealing with Kent's waste is also maximised.

85. Following discussions with the applicants over waste sources in the context of the above policy considerations the applicants agreed to revise the hinterland catchment area for residual C & I waste by excluding the London Boroughs of Bromley and Bexley. Further, the applicant has also supported a restriction such that all waste used as a fuel at the site other than that arising in Kent would be required to be pre treated so as not to preclude any untreated waste arising from within the County being processed at the site. With such restrictions in place I am satisfied that the proposal is consistent with those policy considerations as set out in paragraphs (74) to (76) above.

Conclusion

86. Whilst this application has been considered as a 'waste matter ' and considered against those relevant policies as set out in national and regional guidance along with the relevant development plan policies, the proposal is clearly primarily driven by the need to meet the future energy requirements of Kemsley Paper Mill as opposed to the need for a waste treatment facility per se. On this basis whilst it has been appropriate to consider how the facility could fulfil a role in providing future waste management capacity, in my opinion the argument put forward by the applicant for the need for the Paper Mill to remain competitive in the light of European competition, and most fundamentally in order to safeguard local jobs with the potential for creating additional local employment opportunities, is a major factor when weighed against other material considerations. Should permission be granted however, I would wish to ensure that in the event that the facility is no longer required to meet the needs of Kemsley Mill then alternative users of the power generated should be sought. I would recommend that this is secured by way of condition.

87. I am satisfied that having regard to consultees comments and having considered the proposal against the relevant national and regional guidance along with those relevant development plan policies, provided appropriate conditions as recommended are imposed on any future permission together with the completion of a Legal Agreement to secure those matters as set out in the Draft Heads of Terms set out under Appendix (2), there are no overriding objections to the proposal.

Recommendation

88. I RECOMMEND that SUBJECT TO the satisfactory completion of a legal agreement to secure the Draft Heads of Terms as set out under Appendix (2) PERMISSION BE GRANTED subject to conditions covering amongst other matters; hours of working, vehicle movements, noise restrictions, ground contamination, flood risk, fuel storage, surface water discharge, archaeology, lighting, ecology, alternative users of power generation, landscape planting and construction materials, investigation of alternative use of rail and waste sources.

89.

Case Officer – Mike Clifton	Tel no. 01622 221054
Background Documents - see section heading	

Appendix 1

APPLICATION SW/10/TEMP/0016 – SUSTAINABLE ENERGY PLANT TO SERVE KEMSLEY PAPER MILL AT LAND TO THE EAST OF KEMSLEY PAPER MILL, KEMSLEY, SITTINGBOURNE ME10 2TD

NOTES of a Planning Applications Committee site meeting at Kemsley Paper Mill on Wednesday, 7 July 2010.

MEMBERS PRESENT: Mr R E King (Chairman), Mr J F London (Vice-Chairman), Mr C Hibberd, Mr J D Kirby, Mr R J Parry, Mr R A Pascoe, Mr M B Robertson and Mr C P Smith.

OFFICERS: Mrs S Thompson and Mr M Clifton (Planning); and Mr A Tait (Legal and Democratic Services).

SWALE BC: Cllrs C Foulds, B Stokes, R Truelove and G Whelan.

IWADE PC: Mr P Wilks

THE APPLICANTS:
St Regis Paper Company Ltd: Mr C Rosser and Mr W Faure Walker;
E.On Energy from Waste UK Ltd: Mr N Badri and Mr N Chan;
RPS Consultants: Mr J Standen.

(1) The first part of the meeting was held in the Offices of St Regis paper Company.

(2) The Chairman opened the meeting by explaining that its purpose was to enable Members of the Planning Applications Committee to gather the views of interested parties and to familiarise themselves with the site.

(3) Mr Clifton said that he would introduce the application at the application site. He then invited the applicants to explain the overall context.

(4) Mr Faure Walker (Divisional Commercial Director – St Regis Paper Company) said that St Regis Paper Company Ltd was one of the largest paper companies in the UK. It owned 4 paper mills of which Kemsley Mill was the largest. St Regis recovered 1.3 million tonnes of recycled paper per annum and, in turn produced 1.1 million tonnes which was used for packaging, plasterboard liner amongst other end products. They worked in partnership with E-On Energy From Waste who had a high reputation gained from running 17 waste plants in Europe.

(5) Mr Faure Walker then turned to Kemsley Mill itself. He said that it had been running since 1925 and now had a total capacity of some 800,000 tonnes of paper and pulp per annum. This represented tremendous exponential growth since St Regis had acquired the operation in 1988.

(6) The entire paper industry had struggled in recent times, partly due to escalating and volatile gas costs. Twenty mills had closed over the last few

years. For this reason, St Regis intended to diversity its power source whilst reducing its carbon footprint. Since 1993, Kemsley Mill had been powered by a Combined Heat and Power Plant (CHP) which had been developed by E-On to replace a coal-based plant.

(7) Mr Faure-Walker concluded his presentation by saying that the construction of the Sustainable Energy Plant (SEP) was a major strategic project which would enable St Regis to compete on an even playing field with continental companies. It would enable the applicants to safeguard the 800 mainly skilled jobs at the mill as well as adding another 50 to run the plant. The building phase would provide employment for 500 construction workers.

(8) Following the presentation, Members were taken to the application site. They travelled along the route that would be used by HGVs along Barge Way to the proposed northern entrance.

(9) Mr Clifton introduced the application itself. It was for a Sustainable Energy Plant containing a waste incineration facility and associated developments. The development site would be within an area of 7 hectares, with the plant area taking up 4.6 hectares.

(10) Mr Clifton then pointed out the footprint of the proposed plant itself, including the boundary of the former landfill site to the east and the area where the grass became a darker shade of green to the west.

(11) Mr Clifton said that the site contained protective species. The applicants would therefore be required to provide attenuation ponds to encourage wildlife and a translocation scheme for reptiles to the former landfill site.

(12) When operating at maximum capacity, the plant would use up to 555,000 tonnes per annum of pre-treated waste as a fuel source. The majority of the waste would arise in Kent, although some would come from London and the rest of the South East. It would consist of pre-treated commercial and industrial waste as well as municipal solid waste.

(13) Mr Clifton said that the main building would be 52 metres in height (about the height of the Knauf building to the north of the site). The top half of the building would be painted a lighter colour to reduce its visual impact. The stack would be similar in design to that at Allington and would be 90 metres high. This was some twenty metres higher than those in the paper mill.

(14) Fly ash arising from the flue gas treatment would be loaded into sealed container vehicles and transported for disposal within a permitted facility. The bottom ash would be weathered and made available as secondary aggregate. Any bottom ash that could not be sold would be disposed of in the same way as the fly ash.

(15) Waste fuel deliveries would be between 7am to 6pm on Mondays to Fridays and from 7am to 1pm on Saturdays. The plant itself would have to operate on a continuous 24 hour basis throughout the week.

(16) Mr Clifton then said that the statutory consultees had raised issues relating to stack emissions and traffic impacts. Natural England, RSPB and the Kent Wildlife Trust had raised concerns relating to the impact of the proposed development on the various designated areas (SSSIs, SPA and Ramsar sites). These issues were the subject of ongoing consultation.

(17) Mr Clifton concluded his presentation by saying that some 2,500 local residents had been written to. Twenty seven letters of representation had been received objecting to the proposal on the grounds of traffic impacts, stack emissions, visual intrusion and adverse impacts on nature conservation.

(18) Mr Robertson asked for further detail on the weathering process for the bottom ash. Mr Clifton said that it would be graded and stored in rows within an enclosed building for some three months. . This meant that the process would be completely dry.

(19) Mr Robertson then asked how many lines of operation there would be. He knew that that the main problems faced by the Allington incinerator had arisen on those occasions when there had been a complete shutdown. Mr Chan (E-On) said that there would be two boilers but that only one of them would be running for 96% of the time. Mr Badri (E-On) added that the plant would operate at 95% availability. All waste brought onto the site would be kept completely covered within an enclosed building. In the event of a shut down, the boilers would be *completely* emptied.

(20) Mr Wilkes (Iwade PC) said that the application needed to be considered in the light of the recently-permitted biomass power plant at Ridham Dock and two other current applications for incinerator plants in the vicinity. Iwade PC was concerned about the cumulative impact of emissions if all four were permitted. In respect of this particular application, there was concern over the proximity of the site to the local RAMSAR site on the other side of the nearby sea wall.

(21) Mr Clifton said in reply to Mr Wilkes that the applicants had needed to undertake a Dispersion Modelling exercise to determine the height that the stack would need to be in order to prevent impacts on the designated sites. He confirmed that the County Planning Authority would determine all three of the outstanding waste to energy applications, taking into account the cumulative impacts.

(22) Mr Wilkes then said that the site contained species, such as Great Crested Newts that were protected by Law. Mr Clifton replied that this had been recognised by a survey that had been undertaken in 2007. Any permission granted would contain a condition requiring translocation.

(23) Mr Truelove (Swale BC) asked whether there was a risk of contaminated waste being brought on site. Mr Clifton said that the type of waste brought on site would be determined by the contractor. It would be stored in sealed containers after having been pre-treated. Possible methods of pre-treating included shredding and recycling. Whatever biological, thermal or chemical process was used, the waste that would be used in the plant would be residue that was incapable of recycling.

(24) Mr Parry asked what proportion of the mill's power would be supplied by the plant and also how many lorry movements would be needed to transport the residual ash off the site.

(25) Mr Faure Walker replied to Mr Parry by saying that the plant would provide 48.5 megawatts of power capacity. This would equate to around one third of the mill's heat demand, with the other two thirds being provided by the CHP. The plant would actually have the capacity to provide all of the mill's power. Mr Standen (RPS Consultants) added that the removal of residual ash was included in the estimated 258 daily lorry movements (22 per hour).

(26) Mr Robertson asked what the total energy recovery percentage was expected to be and how much carbon would remain in the ash. Mr Badri replied that the recovery rate was expected to be in excess of 70% and that the intention was to remove all the energy (including carbon) from the ash before it left the site.

(27) Mrs Thompson said that the earliest date for the application to be reported to Committee was October 2010.

(28) The Chairman thanked everyone for attending. The notes of the meeting would be appended to the report to the determining Committee meeting.

Appendix 2

DRAFT HEADS OF TERMS

For Agreement in connection with Planning with Planning Application SW/10/444 –Development of a Sustainable Energgy Plant to serve Kemsley Paper Mill. Land to the East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent.

Prior to the issue of the Planning Permission the applicant shall enter into all of the necessary legal agreements required to secure the following matters at no cost to the County Council;

1. The Developer will not commence development on the application site until:-

   (a) the freehold of the estate of the land shown edged red on plan ( ) is transferred free of charge to the RSPB or such other charity as may approved in writing by the County Council.

   (b) a commuted sum in the sum of (£) has been paid in full to RSPB or such other body as agreed under paragraph 1 (a) above. The commuted sum will be Indexed Linked from the date of this Agreement to the date of payment. The Index to be then Retail Price Index.

   (c) until a scheme for the creation and maintenance of the New Reed Bed Habitat has been approved by the RSPB and Natural England and their written approval to the scheme has been received by the County Council together with a copy of the scheme.

   (d) until a scheme for the creation and long - term maintenance of the newly formed habitat on land shown outlined in ( ) on plan ( ) adjoining the application site and being the site of the former landfill site has been submitted to and approved by the County Council.

   (e) until a strategy has been submitted to and approved by the County Council which sets out the mechanism to maximise the use of locally employed personnel at the site.

2. The applicant to pay all the County Council's legal and professional costs including those already incurred by the Head of Planning Applications Group prior to the completion of the Agreement.

Appendix 3

KEMSLEY SUSTAINABLE ENERGY PLANT CONSERVATION OF HABITATS AND SPECIES REGULATIONS ASSESSMENT

This is a record of the Appropriate Assessment, required by Regulation 61 of the Habitats Regulations 1994 undertaken by Kent County Council in respect of the elements of the proposed Kemsley Sustainable Energy Plant , for which the Competent Authority, in accordance with the Habitats Directive (Council Directive 92/43 EEC).

Having considered that the plan or project would have a '' likely significant effect'' (stage 1) on the Swale Special Protection Area and Ramsar Site and that the scheme was not directly connected with or necessary to the management of the site, an Appropriate Assessment (stage 2) has been undertaken of the implications of the proposal in view of the site's conservation objectives.

Natural England was consulted under the provisions of Article 10 of the Town and Country Planning (General Development Procedure Order) 1985, Section 28 of the Wildlife and Countryside Act 1981 (as amended) and Regulation 61 of the Conservation of Habitats and Species Regulations 2010 (Habitats Regulations) on 25 October 2010 and their comments to which the County Council has had regard, are attached. The conclusions of this Appropriate Assessment are in accordance with the advice and recommendations on Natural England.

Title: Development of a Sustainable Energy Plant to serve Kemsley Paper Mill

Location: Land to the North East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent.

Designations: The proposal is adjacent to the Swale Site of Special Scientific Interest , Special Protection Area and Wetland of International Importance under the Ramsar Convention (Ramsar Site). Additionally it lies close to The Medway Estuary and Marshes SSSI, SPA and Ramsar Site.

Description of the Project: The purpose of the proposed development is to develop a Sustainable Energy Plant to serve Kemsley Paper Mill as a means of meeting it's future energy needs and to supplement and reduce the Mill's reliance on Fossil Fuels.

The proposed development comprises Waste Fuel Reception, Moving Grate Technology, Power Generation and Export Facility, Air Cooled Condensers, Transformer, Bottom Ash Handling Facility, Office Accommodation, Vehhicle Parking, Landscaping Drainage and Access. The Waste Fuel would comprise Solid

Recovered Fuel Waste, Commercial and Industrial Waste and pre-treated Municipal Solid Waste.

A more detailed description of the each element of the development can be found in the Environmental Statement accompanying the application. The scheme is not directly connected with or necessary to the management of the SAC and Ramsar Site. However, the development has been carefully designed to minimise its effects on the features for which the European site has been designated. The Environmental Statement concludes that the scheme accords with government guidance and strategic and local planning policies.

Brief description of the European Site to which this Appropriate Assessment applies:

The boundary of the Swale SPA/Ramsar site lies some 150m to the east of the area covered by the proposal.

The Swale separates the Isle of Sheppey from Kent mainland. To the west it adjoins the Medway Estuary, to the east the outer Thames Estuary . It consists of a complex of grazing marsh with ditches , intertidal saltmarshes and mud-flats. The grazing marsh is the most extensive in Kent and there is much diversity both in the salinity of the dykes (which range from fresh to strongly brackish) and in the topography of the fields.

The Swale Ramsar was designated in 1993. In addition to qualifying under criterion 3a by virtue of regularly supporting over 20,000 waterfowl, with an average of peak count of 57,000 birds for the five winter period 1986/1987 to 1990/1991, and under criterion 3c by supporting, in winter, internationally important populations of four species of migratory waterfowl, the Swale also qualifies under criterion 2a of the Ramsar Convention by supporting a number of species of rare plants and invertebrates.

The intertidal flats are extensive, especially in the east of the site, and support a dense invertebrate fauna. These invertebrates, together with beds of algae and Eelgrass *Zostera spp.,* are important food sources for water birds. Locally there are large Mussels *Mytilus edulis* beds formed on harder areas of substrate. The wide diversity of coastal habitats combine to support important numbers of waterbirds throughout the year.

The diverse mix of habitats within the Swale support internationally important populations of waterbirds. It supports outstanding numbers of waterfowl with some species regularly occurring in nationally or internationally important numbers. The Swale SPA was classified in 1985 and extended in 1993. The qualifying bird interest features in the SPA Citation, SPA Review and Ramsar citation, SPA Review and Ramsar citation, together with the criteria used for this assessment) in line with Natural England advice this is whichever provides the strongest protection).

During severe winter weather elsewhere , the Swale can assume even greater national and international importance as a cold weather refuge. Wildfowl and waders from

many areas arrive, attracted by the relatively mild climate, compared with continental European areas, and the abundant food sources available.

Conclusions

The assessment has concluded that the development proposed , both alone and in combination with other proposed or planning projects in the locality, has the potential to adversely effect the integrity of the site. However, appropriate avoidance and mitigation measures have been incorporated into the design of the proposed Sustainable Energy Plant proposal to be able to draw a conclusion of no adverse effect on all of the qualifying features of the Natura 2000 and Ramsar sites under consideration.

The in-combination effects would be the cumulative effect of development on SPA/Ramsar species due either to direct impacts on the SPA/Ramsar (lighting, noise, access) or loss of the habitat outside the designation but used by SPA/Ramsar species. Mitigation measures in the form of design, retention and enhancement of existing habitats are proposed to offset these impacts for all the developments that have been assessed. For those plans and projects where impacts are unknown at this time, best practice would be followed to reduce and mitigate impacts so that overall the in-combination effects would be negligible.

However, based on the wide array of where the developments are geographically and within the planning process ; and the face that it is umlikely that they would occur at the same time, impacts on both SPA/Ramsar sites are considered negligible.

The final conclusion is that the planning application will have no adverse effects on the integrity of the following sites:

- The Swale SPA and Ramsar
- Medway Estuary and Marshes SPA and Ramsar
- Thames Estuary and Marshes SPA and Ramsar
- Outer Thames Estuary pSPA

Signed: **Date:**

APPENDIX D

SW/19/501345 – Decision and Background Documents

Wheelabrator Technologies
c/o RPS Planning & Development
RPS P&D
Suite D10 Josephs Well
Hanover Walk
Leeds
LS3 1AB

FAO: RPS Planning & Development

Planning Applications Group
First Floor, Invicta House
County Hall
Maidstone
Kent ME14 1XX
Tel: 03000 411200

Website: www.kent.gov.uk/planning
Email: planning.applications@kent.gov.uk
Direct Dial/Ext: 03000 413484
Text Relay: 18001 03000 417171
Ask For: Mr Jim Wooldridge
Your Ref:
Our Ref: SW/19/501345
Date: 14 June 2019

TOWN AND COUNTRY PLANNING ACT 1990

Dear Sir/Madam

APPLICATION: **SW/19/501345 (KCC/SW/0007/2019)**

PROPOSAL: **Section 73 application for the removal of Condition 11 (Western Ditch Buffer Zone) from approved planning application SW/18/503317**

LOCATION: **Land to the East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent ME10 2TD**

The above mentioned planning application received for the formal observations of the County Council, as County Planning Authority has now received consideration.

I write to inform you that the County Planning Authority resolved that planning permission be Granted with Conditions as set out in the attached formal notification.

Please note the conditions imposed and any informatives as described.

Yours faithfully

[redacted]

Sharon Thompson
Head of Planning Applications Group

Reference Code of Application: SW/19/501345

KENT COUNTY COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015

NOTIFICATION OF GRANT OF PERMISSION TO DEVELOP LAND

To: Wheelabrator Technologies
c/o RPS Planning & Development
Suite D10 Josephs Well
Hanover Walk
Leeds
LS3 1AB

F.A.O. Andrew Stevenson

TAKE NOTICE that the KENT COUNTY COUNCIL, the County Planning Authority under the Town and Country Planning Act, HAS GRANTED PERMISSION for development of land situated at Land North East of Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD and being the Section 73 application to remove condition 11 (Western Ditch Buffer Zone) of planning permission SW/18/503317, referred to within the application for permission for development dated 18 January 2019, received on 18 January 2019, as amplified by the details referred to in the attached Schedule 1, SUBJECT TO THE FOLLOWING CONDITIONS:

1. The development to which this permission relates shall be begun not later than the expiration of 3 years beginning with the date of this permission. Written notification of the actual date of commencement shall be sent to the County Planning Authority within 7 days of such commencement.

   Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended).

2. Unless otherwise approved beforehand in writing by the Waste Planning Authority, the development to which this permission relates shall be carried out and completed in all respects strictly in accordance with the details permitted under planning reference SW/10/444 on 6 March 2012, as amended and/or supplemented by planning permission SW/14/506680 dated 21 April 2015, planning permission SW/17/502996 dated 23 August 2017, planning permission SW/18/503317 dated 11 October 2018, the details approved pursuant to planning permission SW/10/444 on 23 September 2013 [i.e. rail strategy (condition 6), contamination risk (condition 10), buffer management zone for ditch (condition 11), environmental management plan (condition 12), programme of archaeological work (condition 13), scheme of landscaping (condition

14) and waste bunkers (condition 20)] and 27 June 2017 [i.e. rail strategy (condition 6), buffer zone alongside western ditch (condition 11), environmental monitoring and mitigation plan (condition 12), landscaping scheme (condition 14) and storage bunkers (condition 20)], the non-material amendment to planning permission SW/18/503317 dated 21 December 2018 [i.e. built elevations, appearance and site layout], and the details submitted with the application referred to above, and as stipulated in the conditions set out above and below.

Reason: For the avoidance of doubt and to maintain planning control over the development.

3. The maximum number of Heavy Goods Vehicle Movements to and from the Application Site shall not exceed a combined total of 348 movements per day save for movements in accordance with condition 5 subject to any prior written variation as approved by the Waste Planning Authority.

   Reason: In the interests of highway safety.

4. Deleted by planning permission SW/14/506680 (dated 21 April 2015).

5. Waste deliveries originating from and returning to the railway depot at Ridham Docks accessing and egressing the Application Site by the use of Ridham Dock Road shall not be subject to condition 3 of the permission.

   Reason: In order to encourage the reduction in the number of HGV movements generated by the Development on the local public road network.

6. The rail strategy approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.

   Reason: In order to encourage the reduction in the number of HGV movements generated by the Development on the local public road network.

7. With the exception of construction using the concrete slip-forming method, construction using constant pour methods for concrete laying and internal process works relating to mechanical and/or electrical equipment installation, construction activities shall only take place between 07:00 and 19:00 hours Monday to Friday inclusive and 07:00 and 16:00 hours on Saturday and Sunday with no construction activities to take place on Bank or Public Holidays subject to any prior written variation as approved by the Waste Planning Authority.

   Reason: In order to avoid any adverse disturbance to breeding birds.

8. All piling shall be by way of Auger other than where an alternative method is required for structural reasons. In such circumstances the prior written consent of the Waste Planning Authority shall be required which shall only be given if it has been demonstrated that there is no resultant unacceptable risk to groundwater and that impact piling will not take place between 1 April and 31 August in any given year, subject to any prior written variation as approved by the Waste Planning Authority.

   Reason: In order to avoid any risks to groundwater and any disturbance to breeding birds.

9. Noise levels as measured at the residential locations as set out in Figure 12.1 of Chapter 12 (Noise and Vibration) of the Environmental Statement (March 2010) attributable directly to the Development hereby permitted shall not exceed the background levels set out in Appendix 12.5 of the Environmental Statement (March 2010) (Operational Noise Assessment) dated 24 November 2009.

Reason: In order to avoid any adverse impact from noise.

10. The scheme to deal with the risks associated with contamination of the Application Site approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 23 September 2013 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.

Reason: To ensure that any risks to groundwater and surface waters are appropriately mitigated.

11. Deleted.

12. The detailed Environmental Management Plan including Construction Method Statement approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.

Reason: In order to protect the bio-diversity and geological interests of the Application Site and surrounding area.

13. The programme of archaeological work approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 23 September 2013 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and recorded.

14. The scheme of landscaping and tree planting approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.

Reason: In order to help reduce the visual impact of the development.

15. All trees and shrubs planted under the scheme as approved under condition 14 above shall be maintained for a period of 5 years. Any trees or shrubs that either die, are lost, damaged or become diseased during this 5 year period shall be replaced with a tree or shrub of the same species within the next available planting season.

Reason: In order to help reduce the visual impact of the development.

16. The Development hereby permitted shall be carried out strictly in accordance with either:

    A. The Flood Risk Assessment (FRA) submitted in May 2017 which includes the following detailed mitigation measures:

        1. The Surface Water Management and Foul Drainage Philosophy (including the drainage layout and surface water storage pond as shown on drawing referenced 16315 / A0 / 0301 Rev H and site section referenced 16315 / A0 / 0250 Rev G at Appendix B) which shall be constructed and operational prior to the acceptance of waste by the development;
        2. A safe route into and out of the Application Site to an appropriate safe haven shall be identified and provided; and
        3. Finished floor levels are to be set in accordance with the FRA.

    or

    B. A Flood Risk Assessment and Surface Water Drainage Philosophy submitted to and approved by the Waste Planning Authority in writing.

    Reason: In order to reduce the risk of flooding and ensure the safe access and egress from and to the Application Site.

17. All surface water drainage from the Application Site discharging to a local water course shall be attenuated for a 1:100 year return storm with a limited discharge of 7 litres per second per hectare or the equivalent run off from a Greenfield site for a 1:2 storm.

    Reason: In order to reduce the risk of flooding and ensure the safe access and egress from the Application Site.

18. Work on the proposed drainage outfall to the Swale (as shown on Figure 4.25 Proposed Drainage Layout of the Planning Application Site Supporting Statement) shall only take place between 1 April and 31 September in any given year.

    Reason: In order to prevent any unacceptable risk to the environment.

19. All fuels, oils and other liquids with the potential to contaminate the Application Site shall be stored in a secure bunded area in order to prevent any accidental or unauthorised discharge to the ground. The area for storage shall not drain to any surface water system. Where it is proposed to store more than 200 litres of any type of oil on the Application Site it must be stored in accordance with the provisions of the Control of Pollution (Oil Storage) (England) Regulations 2001. Where a drum or barrel has a capacity less than 200 litres a drip tray capable of retaining 25% of the maximum capacity of the drum or barrel may be used in lieu of storing the drum or barrel in the secure bunded area.

    Reason: In order to prevent any unacceptable risk to the environment.

20. The storage bunkers into which waste would initially be tipped approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be installed / constructed as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.

    Reason: To ensure that in the event of plant shutting down that any waste stored in the storage bunkers can be readily removed or contained in a manner so as to prevent the

creation of any unacceptable and unpleasant odours in the interests of residential amenity.

21. Details of an external lighting strategy which follows best practice to reduce the impact of light spillage on the adjacent SPA and Ramsar site shall be submitted to the Waste Planning Authority for approval prior to the installation of external lighting on the Application Site. External lighting shall only be installed on the Application Site in accordance with the approved lighting strategy.

    Reason: In order to protect the bio-diversity and geological interests of the Application Site and surrounding area.

22. Other than waste arising from within Kent all waste used as a fuel in the Sustainable Energy Plant hereby permitted shall be pre-treated. Unless otherwise agreed in writing by the Waste Planning Authority no less than 20% of the annual waste throughput shall be pre-treated waste sourced from within the area defined as Hinterland shown on the plan attached to the letter from RPS dated 17 March 2011 entitled Kent & Hinterland and which includes Kent, Tandridge, Thurrock and Medway.

    Reason: To ensure that waste processed at the plant is sourced consistent with the principles of net regional and sub-regional self-sufficiency and having regard to the proximity principle.

23. In the event that Kemsley Paper Mill no longer requires heat and/or power from the Sustainable Energy Plan hereby permitted, the operator of the plant shall submit a scheme to the Waste Planning Authority setting out details of the steps that will be taken to identify alternative users of the heat and/or power generated.

    Reason: To ensure that the plant continues to operate as a means of providing a sustainable supply of energy.

Town and Country Planning (Development Management Procedure) (England) Order 2015

This application has been determined in accordance with the Town and Country Planning Acts, and in the context of the Government's current planning policy and associated guidance and the relevant Circulars, including the NPPF and associated planning practice guidance, together with the relevant Development Plan policies, including the following:-

Kent Minerals and Waste Local Plan 2013-30 (July 2016) – Policies CSW1, CSW2, CSW4, CSW6, CSW7, CSW8, CSW16, DM1, DM2, DM3, DM5, DM8, DM10, DM11, DM12, DM13, DM14, DM15, DM16 and DM19.

Bearing Fruits 2031: The Swale Borough Local Plan (July 2017) – Policies ST1, ST5, CP1, CP2, CP4, CP7, CP8, DM6, DM14, DM19, DM20, DM21, DM22, DM23, DM24, DM28, DM30 and DM34.

Where necessary the planning authority has engaged with the applicants and other interested parties to address and resolve issues arising during the processing and determination of this planning application, in order to deliver sustainable development, to ensure that the details of the proposed development are acceptable and that any potential impacts can be satisfactorily mitigated.

The summary of reasons for granting approval is as follows:-

The County Council is of the opinion that the proposed development gives rise to no material harm or significant environmental effects (having regard to the Environmental Statement – Addendum dated May 2018 and other environmental information submitted in support of the application), is in accordance with the development plan and that there are no material considerations that indicate that the decision should be made otherwise. The County Council also considers that any harm as a result of the proposed development would reasonably be mitigated by the imposition of the attached conditions. More detailed reasoning for the decision can be found in the committee report (Item C1) of the Planning Applications Committee Meeting on 10 October 2018.

In addition please be advised of the following informatives:

1. Please note the expiry date on your decision notice, along with all other conditions imposed. You are advised any conditions which require you to submit further details to the County Planning Authority for approval may need to be formally discharged **prior** to commencement of operations on site, or within a specified time. It is the applicant's responsibility to ensure that such details are submitted. The County Council may consider it appropriate to carry out consultations and other procedures prior to giving a formal decision on these matters and it is unlikely that this will take less than 4 weeks. The above information should be taken into account when programming the implementation of the permission. **Any development that takes place in breach of such conditions is likely to be regarded as unlawful** and may ultimately result in the permission becoming incapable of being legally implemented. It is therefore strongly recommended that the required details be submitted to this Authority in good time so that they can be considered and approved at the appropriate time.

2. You are advised that this planning permission reflects:

    (a) the development provided for by planning permission SW/10/444 dated 6 March 2012;

    (b) the deletion of condition 4 and amendment to condition 2 of planning permission SW/10/444 by planning permission SW/14/506680 dated 21 April 2015;

    (c) the variation of condition 16 of planning permission SW/10/444 by planning permission SW/17/502996 dated 23 August 2017;

    (d) the variation of condition 3 of planning permission SW/17/502996 by planning permission SW/18/503317 dated 11 October 2018;

    (e) the non-material amendment to planning permission SW/18/503317 relating to built elevations, appearance and site layout approved under planning reference SW/18/503317/R on 21 December 2018; and

    (f) the following details approved pursuant to conditions attached to planning permission SW/10/444 (with planning references and dates):

        (i) rail strategy (condition 6), contamination risk (condition 10), buffer management zone for ditch (condition 11), environmental management plan (condition 12), programme of archaeological work (condition 13), scheme of landscaping (condition 14) and waste bunkers (condition 20) (SW/10/444/RVAR, dated 23 September 2013); and

(ii) rail strategy (condition 6), buffer zone alongside western ditch (condition 11), environmental monitoring and mitigation plan (condition 12), landscaping scheme (condition 14) and storage bunkers (condition 20) (SW/10/444/RVAR, dated 27 June 2017).

Further detail on these is provided in Schedule 1 titled “Relevant permissions, non-material amendments and approved details” attached to this decision notice.

Dated this Fourteenth day of June 2019

(Signed).. [redacted] ……

Head of Planning Applications Group

KENT COUNTY COUNCIL
PLANNING APPLICATIONS GROUP
FIRST FLOOR, INVICTA HOUSE
COUNTY HALL
MAIDSTONE
KENT ME14 1XX

Schedule 1

Relevant permissions, non-material amendments and approved details

Note: Where shown in *italics and underlined*, the details referred to have been superseded by a more recent approval

Planning Permission / Approval / Details	**Date**

Planning permission SW/10/444
 	
The development of a sustainable energy plant to serve Kemsley Paper Mill, comprising waste fuel reception, moving grate technology, power generation and export facility, air cooled condensers, transformer, bottom ash handling facility, office accommodation, vehicle parking, landscaping, drainage and access on land to the North East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD.
 	
• Application dated 23 March 2010, as amplified in the letters from RPS dated:
  o 5 October 2010 enclosing further supplementary reports in respect of biodiversity information and information to inform an appropriate assessment together with a separate report in response to observations made by the Environment Agency;
  o 15 October 2010; and
  o 26 November 2010; and 17 March 2011 enclosing a plan entitled Kent & Hinterland.
	6 March 2012

Planning approval SW/10/444/RVAR
 	
Details pursuant to conditions *6 (Rail Strategy)*, 10 (Contamination Risk), *11 (Buffer Management Zone)*, 12 (Environmental Management Plan), 13 (Archaeology), *14 (Landscaping)* and *20 (Details of the Waste Bunker)* of planning permission SW/10/444.
 	
• Details set out in the RPS letter dated 5 August 2013, received with accompanying Planning Statements entitled "Application for Approval of Details Reserved by Condition" and "Scheme for Discharge of Condition 10" dated July 2013, as amended by:
  o Drawing number 16315/A1/4.21A Rev E received with accompanying RPS letter dated 17 September 2013 and as further amended by:
  o Drawing number 16315/A1/4.21A Rev F entitled "Landscape Masterplan".
	23 September 2013

Planning permission SW/14/506680 Section 73 application to vary conditions 2 and 4 of planning permission SW/10/444 to allow a variation to the permitted hours of delivery to allow for 24 hours 7 days per week operation. • Application dated 11 November 2014, as amplified in: ○ The email from Jonathan Standen (RPS) dated 12 February 2015.	**21 April 2015**
Planning approval SW/10/444/RVAR Details pursuant to conditions 6 (Rail Strategy), 11 (Buffer Zone alongside the Western Ditch), 12 (Environmental Monitoring & Mitigation Plan), 14 (Landscaping Scheme) and 20 (Storage Bunkers) imposed on planning permission SW/10/444. • Details submitted on 3 April 2017 within the letter from Andrew Stevenson of RPS Planning & Development Ltd and accompanying documents titled "Wheelabrator Kemsley Generating Station Condition 6: Revised Rail Strategy" (dated 24 March 2017), "Kemsley EFW, Kemsley Paper Mill, Sittingbourne, Kent: Ditch Buffer Zone Management Plan" (dated January 2017) and "Kemsley Sustainable Energy Plant Environmental Monitoring and Mitigation Plan Kemsley, Kent" (dated November 2016) and drawing numbers 16315/A1/4.21 Rev K titled "Landscape Masterplan" (dated January 2017), 16315/A1/P/0220 Rev B titled "Fuel Bunker Level +2.000m" (dated 14 February 2017), 16315/A1/P/0221 Rev B titled "Fuel Bunker Level +20.000m and Level +36.000m" (dated 14 February 2017), 16315/A1/P/0222 Rev B titled "Fuel Bunker Section A-A" (dated 15 February 2017) and 16315/A0/P/0223 Rev B titled "Fuel Bunker Section B-B" (dated 15 February 2017)	**27 June 2017**
Planning permission SW/17/502996 Section 73 application to vary condition 16 of planning permission SW/10/444 to allow an amended surface water management scheme. • Application dated 18 May 2017, as amplified and amended by: ○ the email from Andrew Stevenson (RPS) dated 6 June 2017 (09:33 hours) with attached details.	**23 August 2017**
Planning permission SW/18/503317 Section 73 application to vary the wording of condition 3 of planning permission SW/17/502996 to increase the permitted number of HGV movements per day (from 258 to 348) in order to allow waste to be transported directly from local collection points to the Sustainable	**11 October 2018**

Energy Plant. • Application dated 30 May 2018.	
Non-Material amendment approval SW/18/503317/R Non-material amendments to built elevations, appearance and site layout of planning permission SW/18/503317. • Letter from Andrew Stevenson of RPS Planning & Development Ltd dated 7 November 2018. • Surface Water Management and Foul Drainage Design Philosophy Statement (ref: NK016315) prepared by RPS. • Supporting drawings which identify the amendments sought as set out below: o 4.1D Permitted Site Location Plan (ref: 16315/A0/P/0060 Rev N); o 4.2D Proposed Building Layout (ref: 16315/A0/P/0105 Rev L); o 4.3D Proposed Site Layout(ref: 16315/A1/P/0100 Rev U); o 4.4D South East Elevation; (ref:16315/A1/P/0110 Rev U); o 4.5D North East Elevation; (ref: 16315/A1/P/0111 Rev T); o 4.6D South West Elevation; (ref: 16315/A1/P/0112 Rev U); o 4.7D North West Elevation; (ref: 16315/A1/P/0113 Rev T); o 4.8D Main Building: Proposed South East Elevation; (ref: 16315/A0/P/0125 Rev K); o 4.9D Main Building: Proposed North East Elevation; (ref: 16315/A1/P/0126 Rev K); o 4.10D Main Building: Proposed South West Elevation; (ref: 16315/A1/P/0127 Rev L); o 4.11D Main Building: Proposed North West Elevation; (ref: 16315/A0/P/0128 Rev K); o 4.12D Site Layout & Access; (ref: 16315/A1/P/0160 Rev K); o 4.13D Proposed Structure for Air Cooled Condenser Elevations; (ref: 16315/A1/P/0121 Rev N); o 4.19D Typical Office and Staff Amenities Building (UYA) Floor Plans; (ref: 16315/A1/P/0171 Rev H); o 4.20D Proposed Gatehouse Floor Plan and Elevation; (ref: 16315/A2/P/0172 Rev L); o 4.21D Landscape Masterplan (ref: 16315/A1/4.21 Rev M); o 4.22D Boundary Treatment (ref:16315/A0/P/0106 Rev R); o 4.24D Site Sections (ref: 16315/A0/0250 Rev J); o 4.25D Proposed Drainage Layout (ref: 16315/A0/0301 Rev J); o 4.26D Proposed Levels/Site Plan (ref: 16315/A1/0600	**21 December 2018**

Rev H); ○ 4.27D Fuel Bunker Level +2.000m (ref: 16315/A1/P/0220 Rev D); ○ 4.28D Fuel Bunker Level +20.000m and Level +36.000m (ref:16315/A1/P/0221 Rev E); ○ 4.29D Fuel Bunker Section A-A (ref: 16315/A1/P/0222 Rev C); ○ 4.30D Fuel Bunker Sections B-B (ref: 16315/A0/P/0223 Rev C); ○ 4.31D Tipping Hall Layout Level +2.000m (ref: 16315/A1/P/0201 Rev E); ○ 4.32D Tipping Hall Section A-A (ref: 16315/A1/P/0202 Rev D); ○ 4.33D Overall Roof Layout Comparison Drawing (ref: 16315/A1/P/0200 Rev H); ○ 4.34D Illustration 1 of 7 (ref: 16315/P/0150 Rev R); ○ 4.35D Illustration 2 of 7 (ref: 16315/A1/P/0202 Rev P); ○ 4.36D Illustration 3 of 7 (ref:16315/P/0152 Rev O); ○ 4.37D Illustration 4 of 7 (ref:16315/P/0153 Rev Q); ○ 4.38D Illustration 5 of 7 (ref: 16315/P/0154 Rev O); ○ 4.39D Illustration 6 of 7 (ref:16315/P/0155 Rev O); ○ 4.40D Illustration 7 of 7 (ref: 16315/P/0156 Rev R); ○ 4.41D Proposed Western Ecological Ditch (ref: 16315/A3/0260 Rev C). <u>Note:</u> This approval further revised the details previously approved under the non-material amendments approved on 18 December 2015 (under planning reference SW/10/444RA), 2 September 2013 (under planning reference SW/10/444/R) and 27 March 2017 (under planning reference SW10/444/RB) which are not listed here.	

TOWN AND COUNTRY PLANNING ACT 1990

NOTIFICATION TO BE SENT TO AN APPLICANT WHEN A LOCAL PLANNING AUTHORITY REFUSE PLANNING PERMISSION OR GRANT IT SUBJECT TO CONDITIONS

- This permission is confined to permission under the Town and Country Planning Act 1990, the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended) and the Town and Country Planning (Applications) Regulations 1988 and does not prevent the need to comply with any other enactment, by-law, or other provision whatsoever or of obtaining from the appropriate authority or authorities any permission, consent, approval or authorisation which may be required.

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

- If you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

- Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

- The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

- The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

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Our Ref: OXF9812
Your Ref:

Email: andrew.stevenson@rpsgroup.com
Date: 17th January 2019

Jim Wooldrigde
Kent County Council
Invicta House
County Hall
Maidstone
Kent
ME14 1XX

Dear Mr Wooldridge,

SECTION 73 PLANNING APPLICATION FOR THE REMOVAL OF CONDITION 11 (WESTERN DITCH BUFFER ZONE) FROM APPROVED PLANNING APPLICATION REF: SW/18/503317 AT KEMSLEY GENERATING SITE.

This application seeks planning permission pursuant to the provisions of s73 of the Town and Country Planning Act 1990 [As amended] to undertake the development without complying with condition 11 of the previously approved planning permission ref: SW/18/503317. In this respect it is proposed, in accordance with s73 (2) (a) that planning permission should instead be granted with different planning conditions i.e. without the imposition of condition 11.

The application is submitted via the planning portal (ref: PP- 07426665) and the application fee of £234 will be paid separately.

This extended planning supporting letter outlines the proposed development for which the planning permission is sought and advances the reasoned justification for that development being granted, under the following headings:

A. Application documentation;
B. Background;
C. Minor Amendment Procedure;
D. EIA Screening;
E. Description of the minor amendment;
F. Planning Appraisal; and,
G. Conclusion

A. APPLICATION DOCUMENTATION

The application comprises of the following documents:

(a) The completed application form and certificates;
(b) Copy of notification letter to landowner;
(c) This extended planning supporting letter;
(d) Ecological Note prepared by RPS (ref: ECO00047**)**

B. BACKGROUND

Planning permission was originally granted for the development on 6th March 2012 (planning authority reference SW/10/444).

Thereafter, the pre-commencement conditions were approved by the planning authority, and the development lawfully implemented in accordance with the planning permission.

Construction has been ongoing since August 2016 and the development is anticipated to become operational in Q4 of 2019.

Since the application was initially approved a number of alterations have been made to the approval either by the provision of s73 of the Act or the provision of the s96A of the Act. The following section provides a summary of the applications that have been submitted on site.

Following the approval of the original application a section 73 application was approved on 21st April 2015 for the variation of conditions 2 (approved details) and 4 (waste delivery times) (planning application ref: SW/14/506680). A subsequent section 73 application was approved on the 23rd August 2017 to vary the wording of condition 16 in order to allow an amended surface water management scheme to be implemented on site (planning application ref: SW/17/502996). Finally, most recently a section 73 application was approved on site on the 11th October 2018 for the variation of the wording of condition 3 in order to allow the permitted number of HGV movements per day to increase (ref: SW/18/503317

The original approval has also been subject to several s96A which are summarised below:

- Planning application ref: SW/10/444/R approved on 2nd September 2013;
- Planning application ref: SW/10/444/RA approved on 18th December 2015

These permissions changed the site layout and building footprints, including the removal of the IBA storage and Maturation Facility and the replacement of the surface water attenuation swale along the northern and eastern edge of the concrete apron with an attenuation pond in the area previously proposed to locate the IBA Storage and Maturation Facility, as well as repositioning the Stack.

- Planning application ref: SW/10/444/RB approved on 27th March 2017

This NMA was a refinement of the previously approved NMA and sought amendments to the site layout, building footprints, elevations and appearance.

There is also another S96a which is currently under consideration by the Council for amendments to the layout of the site and the external elevations (ref: SW/10/444/R).

Unlike, non-material amendments under s96A, applications to vary conditions under s73 of the Act, if granted, lead to the grant of a new standalone planning permission. As the latest planning permission relevant to the development of the site, it is therefore this permission (i.e. planning

authority reference SW/18/503317), which it is proposed that planning permission should be granted.

In this regard we also note that there is at present a further NMA application awaiting approval which is due for determination shortly which should also form part of the s73 permission sought.

C. MINOR AMENDMENT PROCEDURE

Under s. 73 of the Act, applications may be made seeking planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted.

In relation to minor amendments to approved plans, Planning Practice Guidance [paragraph 017 Reference ID: 17a-017-20140306] outlines that:

"There is no statutory definition of a 'minor material amendment' but it is likely to include any amendment where its scale and/or nature results in a development which is not substantially different from the one which has been approved."

In granting a minor amendment under s. 73 a new freestanding planning permission is granted and as such, the provisions of section 70 are engaged which require that the application must be determined in accordance with the provisions of the development plan, so far as material to the application, unless material considerations indicate otherwise.

In determining such applications, s. 73 itself confirms that the planning authority shall consider only the question of the conditions subject to which planning permission should be granted. In this respect, PPG [paragraph 031 Reference ID: 21a-031-20140306] further clarifies that:

"….Some or all of the conditions could be removed or changed by making an application to the local planning authority under section 73 of the Town and Country Planning Act 1990*. In deciding an application under section 73, the local planning authority must only consider the disputed condition/s that are the subject of the application – it is not a complete re-consideration of the application…."*

In summary, therefore, the planning authority has to be satisfied that the scale and nature of the amendments are not substantially different to the approved plans and details; and, that they are, so far as is material to the amendments proposed, in accordance with the development unless material considerations indicate otherwise.

D. EIA SCREENING

As the proposed amendments seek a new freestanding planning permission they are subject to the Environmental Impact Assessment Regulations 2017 ["EIA Regulations"], and the requirements for Screening.

Planning Practice Guidance [Paragraph: 016 Reference ID: 17a-016-20140306] is clear that where the original development was EIA development, as is the case here, the planning

authority will need to consider **if** further information needs to be added to the original ES to satisfy the requirements of the Regulations. Where the planning authority considers the development subject to the s73 application to be EIA development, an ES must be submitted with the application.

In this respect, whilst the original application was a 'Schedule 1 development' for which EIA is mandatory, the proposed change to the project would not 'in itself' meet the thresholds for Schedule 1 (as required by Schedule1, category 24). EIA is therefore only required if the development 'as changed' is a 'Schedule 2 development' which would be likely to have significant effects on the environment by virtue of factors such as its nature, size or location.

However, the proposed development 'as changed' would not be likely to have significant on the environment taking into consideration that:

a) the original EIA established that development would not be likely to lead to significant adverse effects on the environment and that assessment was made on the basis that surveys had established that the western ditch did not have significant ecological value and demonstrated that the proposed development which at the time did not include its enhancement, would not lead to significant adverse effects; and,
b) Subsequent to this, recent surveys of the ditch (undertaken in 2016) confirmed that the ecological value of the ditch had not improved and it did not support water vole.

The effects upon ecology from the development 'as changed' will not therefore be significant adverse, nor would the overall effects on the environment.

Accordingly, whilst the proposed development 'as changed' is a Schedule 2 development, it is not EIA development. It is not, therefore, considered necessary to submit further information to satisfy EIA Regulations, as the development 'as changed' is unlikely to lead to significant effects of the environment.

E. REMOVAL OF CONDITION 11

On the latest decision notice (planning permission reference SW/18/503317) Condition 11 reads as follows:

'The scheme for the provision and management of a buffer zone alongside and including the ditch within the west of the application area as shown on Figure 4.2 of the Planning Application Supporting Statement approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.'

Reason: In order to protect the ecological value of the ditch.

It is proposed that planning permission should be granted without the imposition of condition 11.

By removing this condition, there would no longer be the requirement to improve and enhance and thereafter manage the ditch. There are a number of reasons the applicant require the condition to be removed which are set out below:

- Land ownership

Land ownership issues have arisen since the initial application was approved on site. The condition requiring the enhancement of the ditch was imposed when the application was a joint venture between E.On (at the time) and DS Smith Paper. Wheelabrator Technologies Inc. do not have a legal right to access the ditch to ensure its enhancement and maintenance. The ditch's function is as drainage for the landfill to the south of K3, and is unrelated to the proposed development.

- Poor Ecological state of the Ditch

The Ecology Note submitted sets outs that, ecologically, the ditch was very poor pre-development comprising dense reed with scattered scrub and occasional willow. The original ES noted that it was very shallow with no aquatic vegetation beyond the reed and only around 200 m in length. It was not considered of significant ecological value as it was too small to classify as a reedbed and, surveys undertaken in 2009 and 2016 pre development found that it does not support water vole. Its enhancement was never considered within the overall ES in terms of acceptability of final ecological impacts; the total amount of habitat creation associated with K3 was acceptable without such enhancement. The provision of the reedbed on the Isle of Sheppey also has associated with it (as part of the structure controlling water levels) some 250 m of high-quality ditch habitat which was not considered during the application in an area with known water vole presence. As such, the inclusion of a condition necessitating the western ditch enhancement was not required in order to secure biodiversity gain. Indeed, the condition was placed on the original permission (ref: SW/10/444) '*In order to protect the ecological value of the ditch pursuant to the objectives in PPS9 (Biodiversity and Geological Conservation) and Policy NRM5 of the South East Plan*.' Given that the ditch always lacked any such value and a ditch of significant value has been created on the Isle of Sheppey, the development has already delivered a longer length of enhanced ditch habitat on Sheppey thus fulfilling the spirit of this condition.

There is, therefore, no ecological justification for the requirements of the condition, and as such, it would fail the necessity test for its imposition.

- The requirement of the ditch

The ditch will not play a role in drainage from the K3 site. It was originally included within the redline boundary to ensure flexibility with respect to drainage but such a function is not necessary for the as-built development.

Overall, the landownership issues mean that it would not be possible to access the ditch in order to maintain it and therefore the condition is unworkable, the ditch has previously been shown via survey work to be very poor ecologically with sufficient ecological enhancement being provided elsewhere on site; and finally, the ditch is not required to play a role in the drainage of K3.

F. PLANNING APPRAISAL

As set out above, in accordance with section 70 and 73 of the Act, the proposed development must only be considered against the policies of the relevant Development Plan and other material considerations including national planning policy and guidance, so far as they relate to the proposed revisions to the conditions.

In this respect, section 38(3) of the Planning and Compulsory Purchase Act 2004 provides that:

"For the purposes of any other area in England the development plan is—

- *the regional spatial strategy for the region in which the area is situated, and*
- *the development plan documents (taken as a whole) which have been adopted or approved in relation to that area."*

The statutory development plan, therefore, comprises of:

- Kent Minerals and Waste Local Plan 2013-30 (adopted July 2016);
- The Swale Borough Local Plan (Adopted July 2017)

In addition, national policy as set out in the National Planning Policy Framework (NPPF) and the National Policy for Waste (NPPW) are also relevant.

Key issues

In so far as this proposal is a section 73 application, the principle of the development is not a material consideration as only those considerations relating to the conditions themselves are material.

The determinative issue is therefore ecological impact, and the following policies are most relevant.

Kent Minerals and Waste Local Plan 2013-30 (July 2016)

Policy DM3 'Ecological Impact Assessment' outlines that proposals for waste developments will be required to ensure that they result in no unacceptable adverse impacts on Kent's important biodiversity assets.

Policy DM10 'Water Environment' outlines that planning permission will not be granted for waste development where it (inter alia) under criterion 1 would result in the deterioration of physical state, water quality or ecological status of any water resource and waterbody, including rivers, streams, lakes and ponds.

The Swale Borough Local Plan (Adopted July 2017)

Policy DM21 'Water, flooding and drainage' sets out that when considering the water-related implications of development proposals will (*inter alia*), within criterion 4, look to enhance biodiversity and amenity where possible.

Policy DM28 'Biodiversity and Geological Conservation' outlines that '*development proposals will conserve, enhance and extend biodiversity, provide for net gains in biodiversity where possible, minimise any adverse impacts and compensate where impacts cannot be mitigated*.'

The condition has been attached to the approved decision notice '*in order to protect and enhance the ecological value of the ditch*.' However, it has been established both within this submission and in the original application that the ditch is of poor ecological value and that an acceptable amount of additional habitat has already been created in association with K3. Consequently, given the poor existing ecological value of the ditch and the enhancements that have been made elsewhere, there is no need to protect and enhance the ecological value of the ditch; and as such there is no need for the condition to be attached to the decision notice. It therefore, fails the necessity test set out in paragraph 206 of the NPPF.

Furthermore, there are fundamental land ownership issues on site which would prevent the applicant from having a legal right to access the ditch to undertake the improvements and to maintain them. As such, not only is the condition unnecessary due to the lack of the ecological value of the ditch, it is also unworkable as the applicant has no access rights to maintain the ditch. It therefore, fails the reasonableness test set out in paragraph 206 of the NPPF.

The removal of this condition would not lead to any adverse impacts on the biodiversity assets of Kent nor would it lead to the deterioration of any waterbodies. The proposal would therefore comply with policies DM3 and DM10 of the Kent Minerals and Waste Local Plan. Furthermore, it is considered that the K3 scheme has already provided sufficient enhancement on and off site, and therefore there is no requirement to enhance and extend biodiversity as part of this proposal.

In addition, as there will be no adverse impact caused by the proposed removal of condition 11 itself which would require either militating against or compensation the proposal would accord with policies DM21 and DM28 of the Swale Borough Local Plan.

G. CONCLUSION

This application seeks to vary the most recently approved planning permission on site (planning permission reference: SW/18/503317**)** by deleting condition 11 which refers to a scheme for the provision and management of a buffer zone alongside and including the ditch within the west of the application area.

It has been demonstrated that the ditch offers no ecological value and sufficient enhancements have been made elsewhere on site; and that the applicant does not have any legal access rights to the ditch to allow it be maintained, as such it is not possible to comply with the condition. Consequently, the condition should be removed as not only is it not required due to the poor ecological value of the ditch, the lack of access to the ditch would make it impossible to achieve.

It has also been demonstrated that the proposal would comply with relevant planning policy contained within both the Kent Minerals and Waste Local Plan and Swale Borough Local Plan.

Accordingly, in accordance with the presumption in favour of sustainable development as set out at paragraph 11 of the NPPF, as the application accords with the development plan which is up to date, in the absence of material considerations that would indicate otherwise, the application should be approved without delay.

We therefore look forward to receiving confirmation of the application's validation and favourable determination in due course. In the meantime, should you have any questions, please do not hesitate to contact me.

Yours sincerely
For RPS

[redacted]

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Associate

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ECOLOGY NOTE

REMOVAL OF CONDITION 11 (WESTERN DITCH BUFFER ZONE) FROM APPROVED PLANNING APPLICATION REF: SW/10/444 AT KEMSLEY GENERATING SITE

This Note is prepared in support of an application submitted under section 73 of the Town and Country Planning Act 1990 pursuant to the removal of Condition 11 of the Kemsley Generating Site, planning reference SW/18/503317, and provides the ecological justification in that respect.

Although the ditch is to be partly re-aligned to facilitate the development of the final K3 access and will therefore be re- instated, it plays no role in drainage from the K3 site.

Ecologically, it was very poor pre-development comprising dense reed with scattered scrub and occasional willow. It was very shallow with no aquatic vegetation beyond the reed and only around 200 m in length. The ES submitted with the original application in 2010 did not consider it to be of significant ecological value as it was too small to classify as a reedbed and surveys both at the time (as reported in the ES) and pre-development in 2016 confirmed it did not support water vole. Its enhancement was never considered within the overall ES in terms of acceptability of final ecological impacts; the total amount of habitat creation associated with K3 was acceptable without such enhancement. Further, the provision of the reedbed on the Isle of Sheppey as an avoidance habitat for any potential marsh harrier disturbance also has associated with it (as part of the structure controlling water levels) some 250 m of high-quality ditch habitat which was not considered during the application. This new ditch network is located adjacent to Capel Fleet and is in an area with known water vole presence. As such, the inclusion of a condition necessitating the western ditch enhancement was not required in order to secure biodiversity gain; the development has already delivered a longer length of enhanced ditch habitat on Sheppey thus fulfilling the spirit of this condition.

The condition requiring its enhancement was applied when the application was a joint venture between E.On (at the time) and DS Smith Paper. As DS Smith are no longer part of the project, there is no longer a means by which WTI could have a legal right to access the realigned ditch, in the long term, to ensure its maintenance. Given that the ditch's function is as drainage for the landfill to the south of K3, it is very much within the operational jurisdiction of DS Smith

I hope the above is acceptable. Please do not hesitate to contact me if you have any questions/queries,

NICHOLAS BETSON
Technical Director

APPENDIX E

Schedule of Conditions

K3 Planning Permission – Planning Conditions Tracker

September 2019 Version

Condition	Original – SW/10/444 6th March 2012	Variation of Conditions 2 and 4 - SW/14/506680 21st April 2015	Variation of Condition 16 – SW/17/502996 23rd August 2017	Variation of Condition 3 – SW/18/503317 11th October 2018	Removal of Condition 11 – SW/19/501345 14th June 2019	Status within DCO
1	The development to which this permission relates shall be begun not later than the expiration of 5 years commencing with the date of this permission		The development to which this permission relates shall be begun not later than the expiration of 3 years beginning with the date of this permission. Written notification of the actual date of commencement shall be sent to the County Planning Authority within 7 days of such commencement.			The condition has been satisfied due to K3 being largely constructed at the time of operation. The dDCO contains its own provisions in terms of the commencement of the development it seeks to authorise.
2	The Development to which this permission relates shall be carried out strictly in accordance with the details submitted with the application together with those further details to be submitted for approval.	The Development to which this permission relates shall be carried out strictly in accordance with the details submitted with the application as varied together with those further details to be submitted for approval.	Unless otherwise approved beforehand in writing by the Waste Planning Authority, the development to which this permission relates shall be carried out and completed in all respects strictly in accordance with the details permitted under planning reference SW/10/444 on 6 March 2012, as amended and/or supplemented by planning permission SW/14/506680 dated 21 April 2015, the non-material amendment to planning permission SW/10/444 dated 27 March 2017 [i.e. building footprint, elevations, appearance and site layout] under planning reference SW/10/444/RB, the details approved pursuant to planning permission SW/10/444 on 23 September 2013 [i.e. rail strategy (condition 6), contamination risk (condition 10), buffer management zone for ditch (condition 11), environmental management plan (condition 12), programme of archaeological work (condition 13), scheme of landscaping (condition 14) and waste bunkers (condition 20)]	Unless otherwise approved beforehand in writing by the Waste Planning Authority, the development to which this permission relates shall be carried out and completed in all respects strictly in accordance with the details permitted under planning reference SW/10/444 on 6 March 2012, as amended and/or supplemented by planning permission SW/14/506680 dated 21 April 2015, planning permission SW/17/502996 dated 23 August 2017, the non-material amendment to planning permission SW/10/444 dated 27 March 2017 [i.e. building footprint, elevations, appearance and site layout] under planning reference SW/10/444/RB, the details approved pursuant to planning permission SW/10/444 on 23 September 2013 [i.e. rail strategy (condition 6), contamination risk (condition 10), buffer management zone for ditch (condition 11), environmental management plan (condition 12), programme of archaeological work (condition 13), scheme of landscaping (condition 14) and waste bunkers (condition 20)]	Unless otherwise approved beforehand in writing by the Waste Planning Authority, the development to which this permission relates shall be carried out and completed in all respects strictly in accordance with the details permitted under planning reference SW/10/444 on 6 March 2012, as amended and/or supplemented by planning permission SW/14/506680 dated 21 April 2015, planning permission SW/17/502996 dated 23 August 2017, planning permission SW/18/503317 dated 11 October 2018, the details approved pursuant to planning permission SW/10/444 on 23 September 2013 [i.e. rail strategy (condition 6), contamination risk (condition 10), buffer management zone for ditch (condition 11), environmental management plan (condition 12), programme of archaeological work (condition 13), scheme of landscaping (condition 14) and waste bunkers (condition 20)]	The dDCO refers to a set of approved 'as built' documents, drawings and plans relating to K3, which will form the approved works plans in respect of the K3 facility.

Condition	Original – SW/10/444 6th March 2012	Variation of Conditions 2 and 4 - SW/14/506680 21st April 2015	Variation of Condition 16 – SW/17/502996 23rd August 2017	Variation of Condition 3 – SW/18/503317 11th October 2018	Removal of Condition 11 – SW/19/501345 14th June 2019	Status within DCO
			and 27 June 2017 [i.e. rail strategy (condition 6), buffer zone alongside western ditch (condition 11), environmental monitoring and mitigation plan (condition 12), landscaping scheme (condition 14) and storage bunkers (condition 20)]	and 27 June 2017 [i.e. rail strategy (condition 6), buffer zone alongside western ditch (condition 11), environmental monitoring and mitigation plan (condition 12), landscaping scheme (condition 14) and storage bunkers (condition 20)],	and 27 June 2017 [i.e. rail strategy (condition 6), buffer zone alongside western ditch (condition 11), environmental monitoring and mitigation plan (condition 12), landscaping scheme (condition 14) and storage bunkers (condition 20)], the non-material amendment to planning permission SW/18/503317 dated 21 December 2018 [i.e. built elevations, appearance and site layout],	
			and the details submitted with the application referred to above, and as stipulated in the conditions set out above and below.	and the details submitted with the application referred to above, and as stipulated in the conditions set out above and below.	and the details submitted with the application referred to above, and as stipulated in the conditions set out above and below.	
3	The maximum number of Heavy Goods Vehicle movements to and from the Application Site shall not exceed a combined total of 258 movements per day save for movements in accordance with Condition (5) subject to any prior written variation as approved by the Waste Planning Authority.		The maximum number of Heavy Goods Vehicle movements to and from the Application Site shall not exceed a combined total of 348 movements per day save for movements in accordance with condition 5 subject to any prior written variation as approved by the Waste Planning Authority.			The dDCO seeks to establish an increased limit of daily HGV movements of 416 to reflect the proposed waste tonnage throughput increase being sought.
4	~~Waste deliveries shall only take place between 07:00 and 18:00 hours Monday to Friday inclusive and 07:00 and 13:00 hours on Saturdays, no waste deliveries shall take place on Saturday afternoon, Sunday or Bank/Public Holidays save for those deliveries in accordance with condition (5) and subject to any prior written variation as approved by the Waste Planning Authority.~~	Condition deleted				The condition was deleted and no transfer to the dDCO is required.
5	Waste deliveries originating from and returning to the railway depot at Ridham Docks accessing and egressing the Application Site by the use of Ridham Dock Road shall not be subject to conditions (3) and (4) of the permission.		Waste deliveries originating from and returning to the railway depot at Ridham Docks accessing and egressing the Application Site by the use of Ridham Dock Road shall not be subject to condition 3 of the permission.			Requirement 10 transfers this condition to the dDCO.
6	Prior to the Commencement of Development a strategy to encourage the use of the railway in the vicinity of the Application Site as a means of transporting waste deliveries to the Development hereby permitted shall be submitted to and approved in writing by the Waste Planning Authority and thereafter implemented in accordance with the approved strategy.		The rail strategy approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.			Requirement 6 requires the K3 facility to be operated in accordance with the K3 Rail and Water Transportation Strategy [Document 4.8] which sets out how the use of rail as a delivery method is to be encouraged.
7	With the exception of construction using the concrete slip-forming method, construction using constant pore methods for concrete laying and internal process works relating to mechanical and/or electrical equipment installation, construction activities shall only take place between 07:00 and 19:00 hours Monday to Friday inclusive and 07:00 and 16:00 hours Saturday and Sunday with no construction activities to take place on Bank or Public Holidays subject to any prior written variation as approved by the Waste Planning Authority.					This condition has not been transferred as the K3 facility is largely complete and will be operational by the time any DCO is granted, with no construction required in practice to implement the K3 elements of the dDCO.

Condition	Original – SW/10/444 6th March 2012	Variation of Conditions 2 and 4 - SW/14/506680 21st April 2015	Variation of Condition 16 – SW/17/502996 23rd August 2017	Variation of Condition 3 – SW/18/503317 11th October 2018	Removal of Condition 11 – SW/19/501345 14th June 2019	Status within DCO
8	All piling shall be by way of Auger other than where an alternative method is required for structural reasons. In such circumstances the prior written consent of the Waste Planning Authority shall be required which shall only be given if it has been demonstrated that there is no resultant unacceptable risk to groundwater and that impact piling will not take place between 1 April and 31 August in any given year, subject to any prior written variation as approved by the Waste Planning Authority.					This condition has not been transferred as the K3 facility is largely complete and will be operational by the time any DCO is granted, with no construction required in practice to implement the K3 elements of the dDCO.
9	Noise levels as measured at the residential locations as set out in Figure 12.1 of Chapter 12 (Noise and Vibration) of the Environmental Statement (March 2010) attributable directly to the Development hereby permitted shall not exceed the background levels as set out in Appendix 12.5 of the Environmental Statement (March 2010) (Operational Noise Assessment) dated 24 November 2009.					This level of mitigation is not considered necessary as the ES concludes that detailed design will be the primary mitigation for noise. In the case of WKN Requirement 14 states that noise mitigation measures will be built into the design.
10	Prior to the commencement of development the following components of a scheme to deal with the risks associated with contamination of the Application Site shall each be submitted to and approved in writing by the Waste Planning Authority and thereafter implemented in accordance with the approved scheme:- 1.1 A preliminary Risk Assessment which has identified:- (a) All previous uses; and (b) Potential contaminants associated with those uses; and (c) A conceptual model of the Application Site indicating sources, pathways and receptors; and (d) Potentially unacceptable risks arising from contamination at the Application Site. 1.2 A site Investigation Scheme based on the Preliminary Risk Assessment under 1.1 above shall identify those receptors which are most likely to be affected by contamination. 1.3 A Detailed Risk Assessment shall be undertaken of those receptors identified in the Site Investigation Scheme. 1.4 A Detailed Risk Assessment shall inform an Options Appraisal and Remediation Strategy for those receptors identified in the Site Investigation Scheme and shown by the detailed Risk Assessment to require remediation. Details of the required remediation measures recommended for implementation shall be included in the Detailed Risk Assessment. 1.5 The recommendations of the Detailed Risk Assessment shall be undertaken in accordance with the provisions therein. 1.6 A Verification Plan shall present data and evidence to show that the recommendations in the Detailed Risk Assessment have been undertaken. The Verification Plan shall set out details of any long term monitoring of pollutant linkages that is required and shall provide mechanisms for ongoing maintenance arrangements and contingency actions. Following the commencement of Development any long term monitoring or maintenance arrangements and contingency actions identified shall be undertaken as provided for subject to any prior written variation as approved by the Waste Planning Authority.		The scheme to deal with the risks associated with contamination of the Application Site approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 23 September 2013 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.			This condition has not been transferred as the K3 facility is largely complete and will be operational by the time any DCO is granted, with no construction required in practice to implement the K3 elements of the dDCO.

Condition	Original – SW/10/444 6th March 2012	Variation of Conditions 2 and 4 - SW/14/506680 21st April 2015	Variation of Condition 16 – SW/17/502996 23rd August 2017	Variation of Condition 3 – SW/18/503317 11th October 2018	Removal of Condition 11 – SW/19/501345 14th June 2019	Status within DCO
11	Prior to the Commencement of Development a scheme for the provision and management of a buffer zone alongside and including the ditch within the west of the application area as shown on Figure 4.2 of the Planning Application Supporting Statement shall be submitted to and approved in writing by the Waste Planning Authority. Thereafter the Development shall be carried out in accordance with the approved scheme subject to any written variation as approved by the Waste Planning Authority. The Scheme shall include the following: (a) Plans showing the extent and layout of the buffer zone; and (b) Details demonstrating how the buffer zone will be protected during construction of the Development and managed/maintained over the longer term.		The scheme for the provision and management of a buffer zone alongside and including the ditch within the west of the application area as shown on Figure 4.2 of the Planning Application Supporting Statement approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.		Condition Deleted	This condition has been deleted and does not therefore need to be transferred.
12	Prior to the Commencement of Development a detailed Environmental Management Plan including Construction Method Statement to incorporate the proposed migration as outlined in the document entitled 'Appendix 9.6 Information for an Appropriate Assessment' for suppression of dust, construction noise, lighting and visual disturbance shall be submitted to and approved in writing by the Waste Planning Authority and thereafter be implemented as approved.		The detailed Environmental Management Plan including Construction Method Statement approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.			This condition has not been transferred as the K3 facility is largely complete and will be operational by the time any DCO is granted, with no construction required in practice to implement the K3 elements of the dDCO.
13	Prior to the Commencement of Development a programme of archaeological work shall be submitted to the Waste Planning Authority for approval which shall include details of specification and timetables. The programme shall thereafter be implemented as approved.		The programme of archaeological work approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 23 September 2013 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.			This condition has not been transferred as the K3 facility is largely complete and will be operational by the time any DCO is granted, with no construction required in practice to implement the K3 elements of the dDCO.
14	Prior to the Commencement of Development details of a scheme of landscaping and tree planting shall be submitted to the Waste Planning Authority for approval and shall thereafter be implemented as approved.		The scheme of landscaping and tree planting approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.			This condition has not been transferred, but the landscaping and tree planting scheme referred to is included in the dDCO as an approved K3 works plan.
15	All trees and shrubs planted under the scheme as approved under condition (14) above shall be maintained for a period of 5 years. Any trees or shrubs that either die, are lost, damaged or become diseased during this 5 year period shall be replaced with a tree or shrub of the same species within the next available planting season.		All trees and shrubs planted under the scheme as approved under condition 14 above shall be maintained for a period of 5 years. Any trees or shrubs that either die, are lost, damaged or become diseased during this 5 year period shall be replaced with a tree or shrub of the same species within the next available planting season.			This condition has been transferred to the dDCO in the form of Requirement 11.
16	The Development hereby permitted shall be carried out strictly in accordance with the Flood Risk Assessment (FRA) submitted in support of the application and which includes the following detailed mitigation measures:- 1.1 The surface water management scheme outlined within Appendix 4 of the FRA (Surface Water Management and Foul Drainage Philosophy Statement) and the storage areas shown on drawings 16315 AO 0600 and 16315 AO 0301 within Appendix B shall be constructed and operational prior to the acceptance of waste by the Development. 1.2 A safe route into and out of the Application Site to an appropriate safe haven shall be identified and provided. 1.3 Finished floor levels are to be set in accordance with the FRA.		The Development hereby permitted shall be carried out strictly in accordance with either: A. The Flood Risk Assessment (FRA) submitted in May 2017 which includes the following detailed mitigation measures: 1. The Surface Water Management and Foul Drainage Philosophy (including the drainage layout and surface water storage pond as shown on drawing referenced 16315 / A0 / 0301 Rev H and site section referenced 16315 / A0 / 0250 Rev G at Appendix B) which shall be constructed and operational prior to the acceptance of waste by the development; 2. A safe route into and out of the Application Site to an appropriate safe haven shall be identified and provided; and 3. Finished floor levels are to be set in accordance with the FRA. or B. A Flood Risk Assessment and Surface Water Drainage Philosophy submitted to and approved by the Waste Planning Authority in writing.			The Surface Water Management and Foul Drainage Philosophy referred to in the Condition is certified within the DCO.

Condition	Original – SW/10/444 6th March 2012	Variation of Conditions 2 and 4 - SW/14/506680 21st April 2015	Variation of Condition 16 – SW/17/502996 23rd August 2017	Variation of Condition 3 – SW/18/503317 11th October 2018	Removal of Condition 11 – SW/19/501345 14th June 2019	Status within DCO
17	All surface water drainage from the Application Site discharging to a local water course shall be attenuated for a 1:100 year return storm with a limited discharge of 7 litres per second per hectare or the equivalent run off from a Greenfield site for a 1:2 year storm.					This condition has been transferred to the dDCO through Requirement 12.
18	Work on the proposed drainage outfall to the Swale (as shown on Figure 4.25 Proposed Drainage Layout of the Planning Application Site Supporting Statement) shall only take place between 1 April and 31 September in any given year.					The outfall has now been constructed, so there is no need to transfer this condition.
19	All fuels, oils and other liquids with the potential to contaminate the Application Site shall be stored in a secure bunded area in order to prevent any accidental or unauthorized discharge to the ground. The area for storage shall not drain to any surface water system. Where it is proposed to store more than 200 litres of any type of oil on the Application Site it must be stored in accordance with the provisions of the Control of Pollution (Oil Storage) (England) Regulations 2001. Where a drum or barrel has a capacity of less than 200 litres a drip tray capable of retaining 25% of the maximum capacity of the drum or barrel may be used in lieu of storing the drum or barrel in the secure bunded area.					This condition has been transferred to the dDCO through Requirement 5.
20	Prior to their installation/construction on the Application Site details of the storage bunkers (as shown on Figure 4.2 of the Planning Application Supporting Statement) into which waste would initially be tipped shall be submitted to the Waste Planning Authority for approval and then subsequently installed/ constructed in accordance with such approved details.	The storage bunkers into which waste would initially be tipped approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be installed / constructed as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.				The details of the waste storage bunkers are included as an approved plan within the dDCO. As such this condition does not need to be transferred.
21	Details of an external lighting strategy which follows best practice to reduce the impact of light spillage on the adjacent SPA and Ramsar site shall be submitted to the Waste Planning Authority for approval prior to the installation of external lighting on the Application Site. External lighting shall only be installed on the Application Site in accordance with the approved lighting strategy.					The condition was discharged on 14th June 2019. The approved landscaping scheme is included in the approved drawings certified within the dDCO.
22	Other than waste arising from within Kent all waste used as a fuel in the Sustainable Energy Plant hereby permitted shall be pre-treated. Unless otherwise agreed in writing by the Waste Planning Authority no less than 20% of the annual waste throughput shall be pre-treated waste sourced from within the area defined as Hinterland shown on the plan attached to the letter from RPS dated 17 March 2011 entitled KENT & HINTERLAND and which includes Kent, Tandridge, Thurrock and Medway.					As documented in the Planning Statement [Document 4.2], the level of control imposed by this condition is not considered to be justified and it is not proposed for it to be transferred to the DCO.
23	In the event that Kemsley Paper Mill no longer requires heat and/or power from the Sustainable Energy Plant hereby permitted, the operator of the plant shall submit a scheme to the Waste Planning Authority for approval setting out details of the steps that will be taken to identify alternative users of the heat and/or power generated.					This condition has been transferred to the dDCO through Requirement 13.

APPENDIX F

WKN – S35 Direction

DIRECTION BY THE SECRETARY OF STATE UNDER SECTION 35 OF THE PLANNING ACT 2008 RELATING TO THE WHEELABRATOR KEMSLEY NORTH GENERATING STATION

By email to the Secretary of State received on 1 June 2018, Wheelabrator Technologies Inc formally requested that the Secretary of State exercise the power vested in him under section 35 of the Planning Act 2008 ("the Act") to direct that the proposed Wheelabrator Kemsley North Generating Station, an Energy from Waste plant of up to 42MW total generating capacity, as set out in the Direction request, be treated as development for which development consent is required.

The Secretary of State is satisfied that:

- The proposed development is in the field of energy and will be wholly within England when completed;
- The development does not currently fall within the definition of a "nationally significant infrastructure project" and therefore it is appropriate to consider use of the power in section 35 of the Act; and
- Wheelabrator Technologies Inc's request constitutes a "qualifying request" in accordance with section 35ZA(11) of the Act.

Having considered the details of Wheelabrator Technology Inc's proposals as set out in their letter of 1 June 2018, the Secretary of State is of the view that this development when considered with other projects in the same field, is nationally significant, for the reasons set out in the Annex below.

Accordingly, the Secretary of State is satisfied that the proposed Wheelabrator Kemsley North Generating Station is nationally significant.

The Secretary of State has taken the decision within the primary deadline, as required by sections 35A(2) and (5) of the Act, and issues this Direction accordingly under section 35(1) of the Act.

THE SECRETARY OF STATE DIRECTS that the development, together with any matters associated with it is to be treated as development for which development consent is required.

The Secretary of State further directs in accordance with s.35ZA(3)(b) and (5)(b) of the Act that:

- An application for a consent or authorisation mentioned in section 33(1) or (2) of the Act for development similar to that described in the Request to the Secretary of State for Business, Energy and Industrial Strategy for a Direction under Section 35 of the Planning Act 2008 made by Wheelabrator Technologies Inc in respect of the Wheelabrator Kemsley North Generating Station on 1 June 2018 is to be treated as a proposed application for which development consent is required; and

- To the extent that any consultation carried out by the applicant prior to the date of this direction complies with the requirements of Part 5 of the Act (or any

legislation made under that Part), those consultation requirements shall be treated as having been complied with notwithstanding that the consultation was carried out prior to the date of this direction.

This direction is given without prejudice to the Secretary of State's consideration of any application for development consent which is made in relation to the Wheelabrator Kemsley North Generating Station.

Signed by

[redacted]

Gareth Leigh
Head of Energy Infrastructure Planning
For and on behalf of the Secretary of State for Business, Energy and Industrial Strategy

27 June 2018

ANNEX

REASONS FOR THE DECISION TO ISSUE THE DIRECTION

The Secretary of State is of the opinion that the Wheelabrator Kemsley North Generating Station ("WKN") is of national significance having taken into account in particular that:

- WKN sits on the same site as two other projects of national significance which are or will be the subject of applications for development consent namely Wheelabrator's K4 replacement Combined Heat and Power ("CHP") plant (accepted for examination by the Planning Inspectorate on 26 April 2018) and the proposed upgrade to Wheelabrator's K3 Energy from Waste ("EfW") plant to be submitted to the Planning Inspectorate early in 2019. K3 will be applied for at the same time as an application for consent will be sought for WKN. Cumulatively these developments located on the same site, will comprise a significant facility of national sustainable energy supply, with up to 174MW combined capacity when all plants are operational.

- In addition, the project will benefit from K3 and WKN being assessed comprehensively at the same time, through the same streamlined process and in a consistent manner by the same decision maker, avoiding duplication of work and reducing the burden on the local planning authority. It will also simplify the consideration of any likely significant environmental effects for both projects.

- It will remove the need to apply for separate consents from the Marine Management Organisation and local planning authorities.

APPENDIX G

Hinterland Plan

Thurock

Medway

Tandridge

Kent

Key

- Kent Administrative Area (Source of untreated, non-municipal contract waste)
- Neighbouring Districts
- Counties, Metropolitan Districts and Unitary Authorities
- Districts and Unitary Authorities
- Combined Counties

RPS

3RD FLOOR
34 LISBON ST.
LEEDS
LS1 4LX
TEL: 0113 220 6190
FAX: 0113 243 9161

PROJECT
KEMSLEY SEP

TITLE
KENT & HINTERLAND

SCALE	DRAWN BY
NTS @ A3	DC
DATE	CHECKED
MARCH 2011	JS
CAD FILE	
CAD FILE	

PROJECT NUMBER	DRAWING NUMBER	REV
DLE1726	****	

RPS

APPENDIX H

KCC Minerals Safeguarding Plan

Kent Minerals and Waste Local Plan
Swale Borough Council - Mineral Safeguarding Areas

North Sea

Medway

Canterbury

Maidstone

Shepway

Ashford

Tunbridge Wells

Legend

- Swale Borough Council land allocations
- Swale Borough Council urban boundary/village confines
- Sub - Alluvial River Terrace Deposits
- Storm beach gravel
- River Terrace Deposits
- Brickearth (Faversham - Sittingbourne Area)
- Brickearth (Other Areas) - Ashford,Canterbury,Dover,Shepway
- Sandstone - Ardingly Sandstone
- Sandstone - Ashdown Formation
- Sandstone - Upper Tunbridge Wells Sand Formation
- Sandstone - Wadhurst Clay Formation
- Ironstone - Wadhurst Clay Formation
- Limestone - Pauldina Limestone, Weald Clay Formation
- Sandstone - Tunbridge Wells Sand Formation
- Limestone - Calcareous Tufa
- Sandstone - Sandgate Formation
- Limestone Hythe Formation (Kentish Ragstone)
- Sandstone - Cuckfield Stone Bed, Tunbridge Wells Sand Formation
- Silica Sand/Construction Sand - Sandstone: Folkestone Formation

1:56,000 at A1 paper size

0 1 2 Kilometres

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