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Phone: 03000 415981
Ask for: Barbara Cooper
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BY EMAIL ONLY

Your reference: EN010083

26 September 2019

Dear Sara,

Re: Application by Wheelabrator Technologies Holdings Inc. for an Order Granting Development Consent for the Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility – Adequacy of consultation request

Thank you for your letter dated 12 September 2019, providing Kent County Council (KCC) with the opportunity to confirm whether, in progressing the scheme, the applicant has complied with the following duties:

- Duty to consult – Planning Act 2008 (as amended) – Section 42
- Duty to consult the local community – Planning Act 2008 (as amended) – Section 47
- Duty to publicise – Planning Act 2008 (as amended) - Section 48

Duty to consult - Section 42

Wheelabrator Technologies Holdings Inc. undertook a statutory consultation under Section 42 of the Planning Act 2008. As part of the Statutory Consultation, a Preliminary Environmental Impact Report (PEIR) was submitted to help consultees understand the likely significant effects of the proposed development on the environment. KCC was invited to respond to the consultation, which was held from Thursday 1 November 2018 to Thursday 10 January 2019 and the County Council subsequently provided a response on Thursday 10 January.

The County Council was also provided with the opportunity to comment on a separate Section 42 consultation in response to a change in the description of development. With agreement from the applicant, KCC provided a response on Tuesday 10 September 2019.

KCC is satisfied that it was given the opportunity to comment during the various consultation processes, and the applicant has generally engaged with County Council.

The County Council as Local Highway Authority is content that sufficient consultation has taken place, however, a number of concerns raised through both statutory consultations have not received satisfactory resolution from the applicant.

The applicant had also submitted a sequence of smaller applications to the County Council, as Minerals and Waste Planning Authority, which did not explicitly demonstrate the cumulative impact. This led to a lack of clarity as to what was being applied for. This appears to have been addressed in the Development Consent Order application, which includes the Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility in their entirety.

As Minerals and Waste Planning Authority, the County Council would like to take the opportunity to draw the Planning Inspectorate's attention to the County Council's comments expressed during the pre-application stage. The County Council has expressed its concerns with the scheme and its conflict with the Kent Minerals and Waste Local Plan¹ within its responses to the scoping consultation and both statutory consultations, which are appended to this letter.

The County Council would like to continue to raise significant concerns relating to the conflict between the proposed scheme and the County Council's adopted waste strategy¹, which is predicated upon the principle of net self-sufficiency and the Waste Hierarchy; and the promotion of two additional waste-to-energy plants. The points raised within the attached responses remain pertinent and the County Council requests that the Planning Inspectorate gives very careful consideration to these concerns when assessing the merits of the proposal. Should any further information be required in respect of this matter, please do not hesitate to contact the Minerals and Waste Planning Policy Team at mwlp@kent.gov.uk.

Duty to consult the local community - Section 47

KCC was consulted on the draft Statement of Community Involvement (SoCC) on Wednesday 12 September 2018 and subsequently provided a response on Wednesday 10 October 2018.

The County Council was made aware that the Statement of Community Consultation was not to be updated to take account of the second statutory consultation in August 2019. The applicant did however make the County Council aware of the consultation process in advance of this further statutory consultation at a meeting between the County Council and

¹ <http://consult.kent.gov.uk/file/4073744>

the applicant on Tuesday 16 July 2019. The County Council is content that the approach to consultation undertaken for the second statutory consultation was proportionate.

The County Council has no concerns in relation to the consultation process, as set out in Section 47 of the Planning Act 2008.

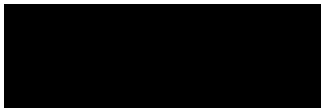
Duty to publicise - Section 48

KCC has no comments to make in relation to the applicant's compliance with Section 48 of the Planning Act 2008.

Overall, KCC considers that the applicant has generally complied with its duties under Sections 42, 47 and 48.

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

Yours sincerely,



Barbara Cooper
Corporate Director – Growth, Environment and Transport

Enc.

- [Appendix 1](#): KCC response to Scoping Consultation dated 5 October 2018
- [Appendix 2](#): Statutory Consultation response dated 10 January 2019
- [Appendix 3](#): Statutory Consultation response (2) dated 10 September 2019



Ms Alison Down
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5 October 2018

Dear Ms Down,

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

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

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

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

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

Chapter 3. Environmental Impact Assessment

3.8 Other related legislation

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

Chapter 6. K3 Proposed Development

6.1 K3 – Traffic and Transport

Background – Paragraph 6.1.5

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

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

Proposed Assessment Methodology – Paragraphs 6.1.20 to 6.1.22

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

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

Proposed Assessment Methodology – Paragraph 6.1.30

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

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

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

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

6.2 K3 – Air Quality

Currently Known Baseline - Paragraph 6.2.3

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

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

Proposed Assessment Methodology – Paragraphs 6.2.8 to 6.2.10

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

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

6.5 K3 – Human Health

Currently Known Baseline – Paragraphs 6.5.3 to 6.5.6

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

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

6.8 K3 – Archaeology and Cultural Heritage

Paragraph 6.8.1

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

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

6.9 K3 – Ecology

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

K3 - Risk of accidents and disasters

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

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

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

Paragraph 6.11.10

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

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

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

Chapter 7. Wheelabrator Kemsley North Proposed Development

7.7 WKN – Landscape and Visual Effects

Visual Amenity – Paragraph 7.7.10

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

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

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

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

7.8 WKN – Archaeology and Cultural Heritage

Currently Known Baseline – Paragraph 7.8.5

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

Proposed Assessment Methodology – Paragraphs 7.8.9 to 7.8.13

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

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

7.9 WKN – Ecology

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

7.10 WKN – Water Environment

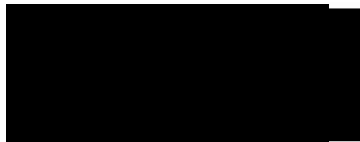
Potential Significant Effects – Paragraph 7.10.7

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

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

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

Yours sincerely,



Katie Stewart

Director for Environment, Planning and Enforcement

Encs:

- Appendix 1: Extract of Network Map



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

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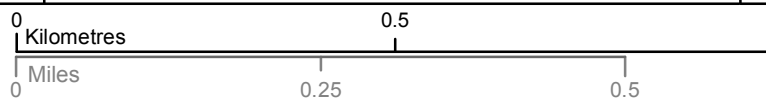
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10 January 2019

BY EMAIL ONLY

Dear Mr Harvey

Re: Proposed application for the granted of a Development Consent Order (DCO) for Wheelabrator Kemsley Generating Station and Wheelabrator Kemsley North Waste to Energy Facility

Thank you for providing Kent County Council (KCC) with the opportunity to comment on the documents submitted as part of the Statutory Consultation under Section 42 of the Planning Act 2008, which includes the Preliminary Environmental Impact Report (PEIR), draft Environmental Statement (ES) and draft Development Consent Order (DCO), relating to the proposed Wheelabrator Kemsley Generating Station and Wheelabrator Kemsley North (WKN) Waste to Energy Facility.

The County Council has reviewed the documents and for ease of reference, provides a commentary structured around the published documents, under the chapter headings used within the reports.

Draft Environmental Statement

Chapter 2 Site Description and Proposed Development

The County Council is concerned that the proposal as set out in the DCO is in conflict with the Council's adopted waste strategy, which is predicated upon the principle of net self-sufficiency and the Waste Hierarchy. In assessing the merits of the DCO proposal, attention is drawn to this conflict and the applicant is asked to consider the implications upon waste planning policy in the County and also to note the concern regarding the conjoining of the two plants into one DCO proposal. These concerns will be shared with the Planning Inspectorate, should the proposal be submitted as a DCO application.

KCC is the Waste Planning Authority for Kent and so is responsible for planning the management of waste within the County. In July 2016, KCC adopted the Kent Minerals and

Waste Local Plan 2013-30 (KMWLP) that sets out the strategic and development management policy framework to be used in determining planning applications for waste management facilities in Kent. This policy framework is predicated on an approach of 'net self-sufficiency' and the management of waste in accordance with the Waste Hierarchy. This approach was found sound following independent examination by the Planning Inspectorate.

The KMWLP commits KCC to preparing a Waste Sites Plan, which would identify and allocate land considered suitable for waste development to accommodate specific types of facilities to meet the evidenced capacity gap identified in the adopted KMWLP. As part of the work to develop the evidence base for the subsequent Waste Site Plan, a review has been undertaken to confirm the predicted capacity gap for waste arising in Kent. This reassessment indicates, amongst other matters, that with the commissioning of the original consented 550,000 tonne facility at Kemsley (referred to as K3), 'net self-sufficiency' for the management of non-hazardous residual waste will be achieved and maintained to the end of the Plan period (2031).

As a result, there is no evidenced need for further waste capacity in Kent to 2030. In terms of its waste plan making responsibilities, KCC now proposes to remove the commitment from the adopted KMWLP to prepare a Waste Sites Plan. Draft proposals for modifications to the KMWLP were published in early 2018 and objections were received from Wheelabrator Technologies Inc (WTI) - the proposer of this DCO application. According to WTI predictions, future requirements for waste management would still justify the preparation of a Waste Sites Plan, and therefore the County Council should include the allocation of land at Kemsley, which WTI promoted in response to the Call for Sites conducted in 2017. KCC has considered the representations made by WTI and is unpersuaded that evidence exists to justify allocation of the site and the provision of additional waste capacity within the County.

The County Council is intending to publish its Pre-Submission Draft of the Early Partial Review of the Kent Minerals and Waste Local Plan for public consultation in early 2019 (Regulation 19) prior to submission to the Secretary of State for examination in the Summer. It will be a matter for the Inspector examining the Early Partial Review to establish the merits or otherwise of providing additional waste capacity within the County as proposed by WTI. As such, the DCO proposal appears to potentially undermine the Local Plan process.

The DCO proposal being considered at Kemsley ('K3' and 'WKN' taken together) would result in approximately a further half million tonnes of waste (497ktpa) recovery capacity being built in Kent. This is far in excess of the requirements indicated by the adopted Plan and by the latest Waste Needs Assessment for Kent to maintain net self-sufficiency to 2031 i.e. throughout the Plan period. Once the original consented capacity at Kemsley of 550ktpa is taken into account (SW/10/444), this identifies no additional need for 'Other Recovery' capacity. Provision of this additional 497ktpa of capacity is likely to mean that management of waste will be locked into incineration for the next 25 to 30 years at least, thus compromising its management by methods further up the Waste Hierarchy – for instance, by being prevented in the first place or recycled/composted. This would be contrary to national and local policy on waste management.

The additional capacity may also draw waste in from beyond the boundaries of Kent. This could result in a substantial imbalance being created between waste planning areas and

disrupting the move towards net self-sufficiency being pursued by authorities around the wider South East. This supports the achievement of the Waste Framework Directive proximity principle for mixed waste.

Whilst the DCO proposal seeks to conjoin the planning consideration of the two waste plants, there is no justification for considering the applications for the K3 facility upgrade and the new free-standing Energy from Waste (EfW) facility WKN as a single DCO application in the manner proposed. The reasons presented in the Secretary of State's (SoS) initial decision do not appear to amount to legitimate grounds to circumvent the established mechanism through which such applications ought properly to be considered. In this regard, it should be noted that the County Council has demonstrated a capability of assessing applications positively in the past - having granted permission to Kemsley K3, an EfW facility at Allington and an EfW facility at Ridham dock. KCC understands that the reasons put forward by the applicant to conjoin the two developments into one DCO application are:

- They are on the same site, which is understood to mean both K3 and WKN are located on land owned by the same company i.e. WTI; (*KCC however notes that there is no connection between the two proposals, nor a direct connection between WKN and the adjacent Paper Mill, unlike for K3 which is to supply steam to the Mill*)
- If the applications were made separately, they would be made at the same time;
- The applications are being considered at the same time as a separate DCO application (K4) for a gas fired powerplant; (*KCC however considers that it should be noted that this proposal has no relationship with WKN, and is not located on the land owned by the promoter of these schemes, WTI*)
- There would be benefits to 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; and
- Consideration of any likely significant environmental effects will be simplified.

None of the above criteria justify that the WKN proposal is one that should be considered 'nationally significant'. Similarly, the energy output of the WKN proposal falls below the threshold for a DCO application. This proposal should therefore fall to the County Council to determine on the basis of its individual merits by KCC as the local planning authority for the area.

It should also be noted that the first-ever National Infrastructure Assessment for the United Kingdom, published by the National Infrastructure Commission in July 2018, favours increases to recycling rates for both household and commercial waste (the waste streams targeted by the proposed developments), bolstered by separate food waste collection, over express support for expansion of EfW capacity. This follows extensive modelling of scenarios involving the development of EfW capacity. It should also be noted that the Government's Resource & Waste Strategy is due to be published by Defra before the end of the year and this will be informed by the National Infrastructure Assessment.

As recognised in the submitted documentation, the County Council granted planning permission for an EfW facility with the capacity to produce 49.5MW (application reference SW/10/444). This plant is the subject of the K3 proposal, as it seeks to increase the waste feed tonnages with a resultant increase in power output. The County Council has also positively determined a number of non-material amendments and Section 73 applications in relation to the baseline planning permission. In doing so, the County Council imposed a number of planning conditions, so as to render the development acceptable in planning terms. Given the inter-relationship of the K3 plant with the planning permissions granted by the County Council, this response encloses copies of the relevant reports to Planning Applications Committee and planning decisions (Appendix 1-18) to aid the Inspector on the matters that were considered during the planning application process and how they were resolved.

In light of the above, the County Council as Waste Planning Authority draws attention to the apparent conflict between national and local waste planning policy and seeks very careful consideration of this matter by the applicant and the Planning Inspectorate in examining the merits of the DCO proposal. KCC will also be requesting that the Planning Inspectorate satisfies itself that the planning considerations addressed in the planning consent granted by KCC are an appropriate basis for the decisions now sought.

Chapter 4 Traffic and Transport

Appendix 4.1 Transport Assessment (TA)

2 Existing Situation

Traffic Flows

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

3 Development Proposal

Access and Site Layout

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

Timescales

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

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

The timing of the works raises some concern, as delivery would be in direct conflict with Highways England's announced M2 J5 improvement scheme delivery. The proposed build

timeline and peak for construction vehicles and staff for the construction of WKN would take place at the same time that the junctions would be expected to be under construction. During highways construction, capacity constraints or route diversion are always likely. The proposed K3/WKN build timeline would therefore increase volumes of traffic at a time when the network is planned to be constrained. Additionally, and subject to development contributions, the County Council as Local Highway Authority is seeking to secure grant funding to improve the Grovehurst junctions. In order to meet with the grant requirements, construction of the road improvements is expected to commence Q3 2021.

4 Compatibility with Transport Policies

National Policy Statements

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

The fact that the surrounding highway network is over capacity at both the M2 J5 and Grovehurst junctions adds significant weight to the need to seek alternative means of waste delivery to reduce the potential of highway delays caused by congestion.

Without investigations on the use of the available and alternative methods of delivery, it is considered that the application is not in full compliance with paragraph 108 of the NPPF.

5 Future Year Traffic Flows

Future Assessment Year

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

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

6 Trip Generation, Mode Share and Assignment

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

staff and 409 WKN construction staff, of which a percentage would be expected to hit the junctions in peak periods.

K3 Proposed Development

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

The assessment states that the HGV movements would be spread equally in terms of hourly movements. In paragraph 6.5 it is stated that “*typically HGV movements would not be in the night time periods*”. However, as shown in table 6.1, eleven of the movements are during night time hours. KCC requests that these movements are reprofiled within daylight hours to give a more accurate representation as to how the plant will operate.

WKN Proposed Development

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

WKN Operation

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

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

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

WKN Construction

The TA demonstrates that a peak of 482 staff would be on site during months 24-40 of construction - 45 HGV deliveries or 90 movements. The County Council requests evidence from the existing K3 construction programme to understand the level of HGV movements and to confirm that the application is robust in this respect. The County Council also requests that the hourly number of deliveries is demonstrated through traffic count evidence for one week. The information will provide evidence that the assumptions made are justifiable.

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

Operational Trip Distribution and Assignment

The HGV distribution assumes all traffic accessing the site would come via M2 J5 and the Grovehurst junction, which is considered robust.

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

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

7 Transport Assessment

Junction Assessment

On the assessment provided for this application, there would be expected 59 peak hour movements through the A249/Swale Way corridor - 32 in the AM and 27 in the PM. However, this assumes an even spread of HGV movements. Traffic flow counts supplied for the previous Incinerator Bottom Ash (IBA) facility assessment (KCC/0625/2018), along with KCC's own data, shows that the peaks for the M2/A249 and A249/Grovehurst junctions are spread over a three-hour shoulder between 06:00 and 09:00 in the AM and 15:00 and 18:00 in the PM.

Although a general spread of deliveries could be assumed, it could equally be assumed that up to 50% of HGV deliveries come through the affected junctions during the peak shoulders. This assumption would result in 208 deliveries from the K3 operation, 125 from the WKN

operation and 45 for the WKN construction, totally a plausible 378 movements through the peak shoulders. The 2017 observed data records 245 through the eastern A249/Grovehurst roundabout in the AM. Assessing a single peak hour would produce approximately 63 HGV movements accounting for 26% of the total HGV movements through a junction that is already operating over capacity.

Site Access

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

Barge Way between Northern Access & Fleet End

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

Swale Way/Barge Way Roundabout

The assessment demonstrates that the roundabout currently operates above operational capacity at the 2024 assessment, and includes the proposal's operational traffic in both the AM and PM peaks. In the AM peak, the Swale Way West arm reaches an RFC of 1.12 with 94 queueing vehicles. In the PM peak, the Swale Way South arm reaches its operational capacity with an RFC of 0.87. The applicant should note if that proposal is progressed, it should be expected that appropriate mitigation by way of a left turn lane facility off the Swale West arm may be required, which may potentially be delivered under a s278 agreement, depending on land ownership. The approach is currently of single carriageway width and mitigation will be required for the dominant HGV left turning movements resulting from this application.

A249/Grovehurst Junction

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

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

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

Car Parking

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

Summary

The proposed development would be required to provide mitigating measures for the Swale Way/Barge Way roundabout and A249/Grovehurst roundabouts. These junctions are over capacity and it is considered unacceptable to route the proposed amounts of traffic through the junctions until such a time as mitigation measures are secured.

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

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

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

Chapter 10 Water Environment

Appendix 10.2 Drainage Design Philosophy

The County Council supports the Drainage Strategy as proposed in Appendix 10.2. Suitable levels of surface water treatment have been proposed, including interceptors and attenuation ponds.

However, the County Council recommends that additional cross-sectional drawings of the proposed attenuation pond are provided within the Drainage Strategy report when the final ES is submitted. The drawings should include the available freeboard of the pond.

Chapter 11 Ecology

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

The area that WKN is proposed to be built on, currently a construction compound, was intended to be restored to grassland and scrub. However, the submitted information has confirmed that the applicant will assess the impact on the site based on the habitats

previously within the site prior to it being used as a construction compound. Therefore, the County Council is satisfied that appropriate mitigation for the continued loss of habitat from WKN can be properly demonstrated.

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

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

Appendix 11.2 Habitats Regulations Assessment Report

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

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

Chapter 12 Landscape and Visual Effects

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

The County Council is pleased to see that the PRoW network and its users are being considered as receptors when assessing the potential impacts of this development. The

County Council notes the applicant has considered the potential landscape and visual impacts for users of these routes. Whilst these visual impacts may on balance be considered negligible, due to the existing industrial nature of the landscape, the proposed development may have a detrimental impact on path users, due to deteriorating air quality and noise effects arising from the development.

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

Chapter 13 Archaeology and Cultural Heritage

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

Preliminary Environmental Impact Report

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

KCC also recommends that the applicant actively seeks to promote employment opportunities that arise during construction and operation of K3 and WKN, in the local labour market. This should include training and development opportunities, developed in collaboration with local educational providers e.g. construction apprenticeships.

KCC would welcome further opportunity to engage throughout the progression of the DCO. If you require further information or clarification on any matter in this letter, then please do not hesitate to contact KCC.

Yours sincerely



Barbara Cooper
Corporate Director – Growth, Environment and Transport

Encs:

- [Appendix 1](#): Overview of Planning Applications at Land at Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD
- [Appendix 2](#): SW/10/444 – Committee Report 12 April 2011
- [Appendix 3](#): SW/10/444 – Decision Notice 6 March 2012
- [Appendix 4](#): SW/10/444/R – Decision Notice 2 September 2013
- [Appendix 5](#): SW/10/444/RA – Decision Notice 18 December 2015
- [Appendix 6](#): SW/10/444/RB – Decision Notice 27 March 2017
- [Appendix 7](#): SW/10/444/RVAR – Decision Notice 23 September 2013
- [Appendix 8](#): SW/10/444/RVAR – Decision Notice 27 June 2017
- [Appendix 9](#): SW/12/1001 – Decision Notice 5 November 2012
- [Appendix 10](#): SW/13/1257 – Decision Notice 4 February 2014
- [Appendix 11](#): SW/13/1257/R – Decision Notice 21 December 2018
- [Appendix 12](#): SW/14/506680 – Decision Notice 21 April 2015
- [Appendix 13](#): SW/16/507687 – Decision Notice 9 February 2017
- [Appendix 14](#): SW/17/502996 – Decision Notice 23 August 2017
- [Appendix 15](#): SW/18/503317 – Committee Report 10 October 2018
- [Appendix 16](#): SW/18/503317 – Decision Covering Letter 11 October 2018
- [Appendix 17](#): SW/18/503317 – Decision Notice 11 October 2018
- [Appendix 18](#): SW/18/503317/R – Decision Notice 21 December 2018
- [Appendix 19](#): KCC Response to Wheelabrator K3 and WKN Scoping Report dated 5 October 2018
- [Appendix 20](#): Extract of Public Rights of Way Network Map – ZU1

SW/10/444 - 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 (90 metres high), transformer, bottom ash facility, steam pipe connection, office accommodation, vehicle parking, landscaping, drainage and access at Land to the East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD

GRANTED – 6 March 2012

SW/12/1001 - Formation of improved access road and associated development to serve Kemsley Sustainable Energy Plant at Land at Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD

GRANTED – 5 November 2012

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 at Land at Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD

DETAILS APPROVED – 23 September 2013

SW/10/444/R - Application for a non-material amendment to the site layout at Land at Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD

DETAILS APPROVED – 2 September 2013

SW/13/1257 - Variation of condition 6 to provide the formation of improved access road and associated development to serve Kemsley sustainable Energy Plant (SW/12/1001) at Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD

GRANTED – 4 February 2014

SW/14/506680 - 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 at Land at Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD

GRANTED – 21 April 2015

SW/10/444/RA - Non-material amendment to building footprint and elevation and site layout as shown on amended plans at Land at Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD

DETAILS APPROVED – 18 December 2015

SW/10/444/RB - Non-material amendments to site layout, building footprints, elevations and appearance of planning permission SW/10/444 at Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD

DETAILS APPROVED – 27 March 2017

SW/10/444/RVAR - 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 at Land to the East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD

DETAILS APPROVED – 27 June 2017

SW/16/507687 - The construction and operation of an Incinerator Bottom Ash (IBA) Recycling Facility on land adjacent to the Kemsley Sustainable Energy Plant at Kemsley IBA Recycling Facility, Ridham Avenue, Sittingbourne, Kent, ME10 2TD

GRANTED – 9 Feb 2017

SW/17/502996 - Section 73 application to vary the wording of condition 16 of planning permission SW/10/444 (as amended by SW/14/506680) to allow an amended surface water management scheme at the Sustainable Energy Plant to serve Kemsley Paper Mill at Land North East of Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD

GRANTED - 23 August 2017

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 Energy Plant at Land North East of Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD

GRANTED – 11 October 2018

SW/13/1257/R - Application for non-material amendment relating to access road layout to serve Kemsley Sustainable Energy Plant at Kemsley Paper Mill, Ridham Avenue, Kemsley, Sittingbourne, Kent ME10 2TD

APPROVED – 21 December 2018

SW/18/503317/R (INITIALLY SUBMITTED UNDER SW/10/444/R) - Application for non-material amendments relating to built elevations, appearance and site layout at Kemsley Sustainable Energy Plant, Land North East of Kemsley Paper Mill, Ridham Avenue, Kemsley, Sittingbourne, Kent ME10 2TD

DETAILS APPROVED – 21 December 2018

(0113) 243 9161

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 Mill, 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

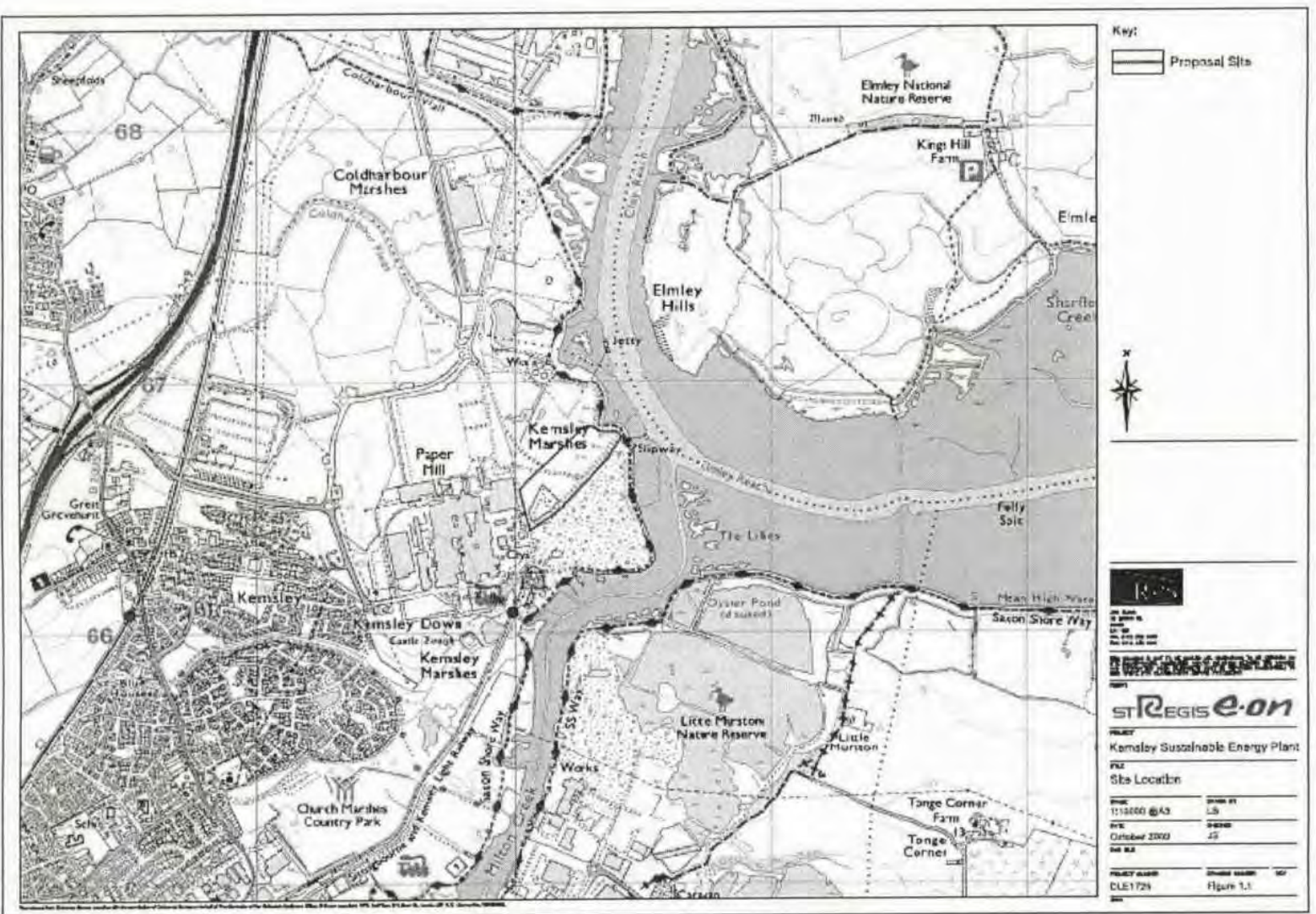
Unrestricted

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

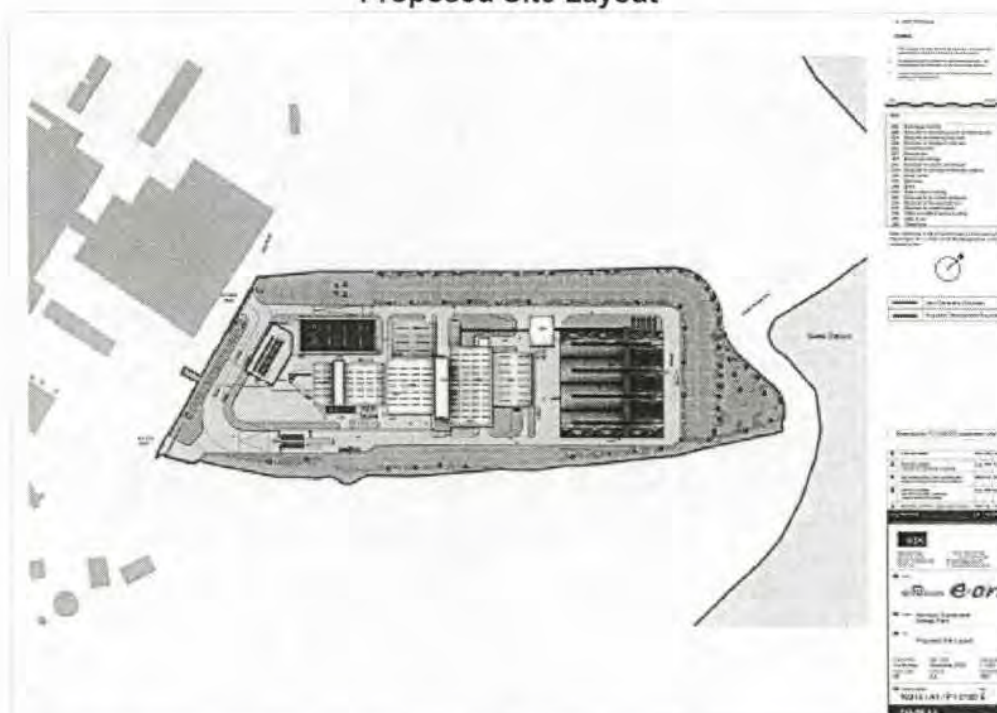


SW/10/444 - Development of a Sustainable Energy Plant to serve Kemsley Paper Mill. Land to the East of Kemsley Paper Mill, Kemsley, Sittingbourne, Kent

Proposal

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



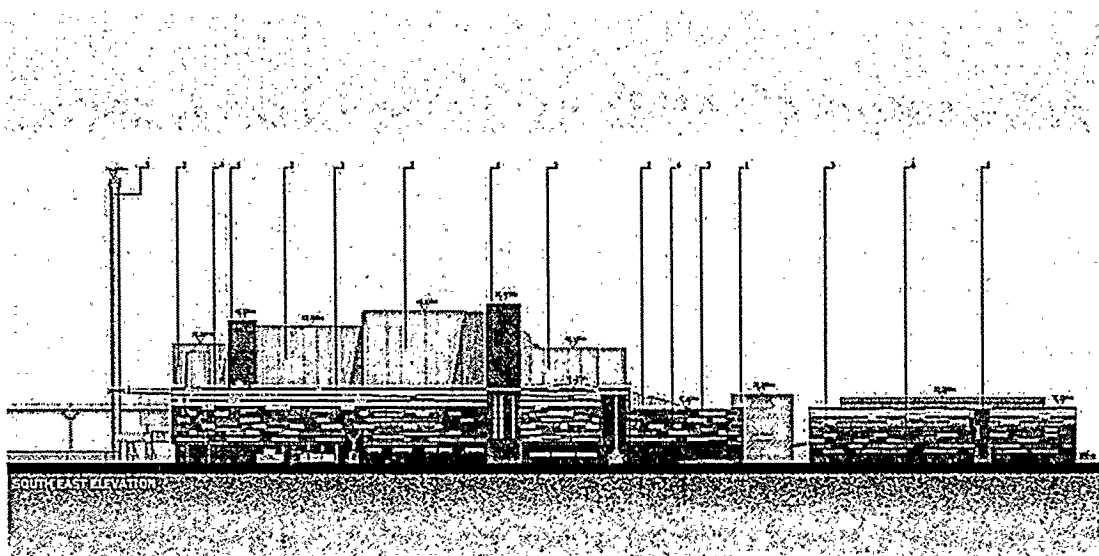
4. The application site has previously been found to contain protected species. Although there would be a net loss of the existing habitat on site it is proposed that as part of the development new habitat would be created around the outside of the development footprint consisting of attenuation lagoons 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

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

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.

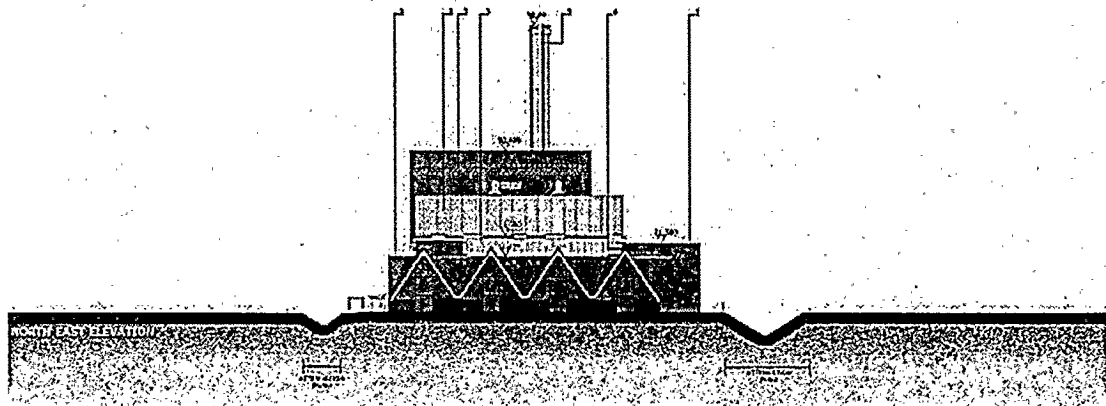
6. The energy requirements at Kemsley paper mill are currently met on site by a Combined Heat and Power (CHP) plant which is fuelled by natural gas, a fossil fuel based energy source, and by a Waste to Energy plant which burns rejects from the paper making process. The applicants state that the mill's 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 deregulated 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

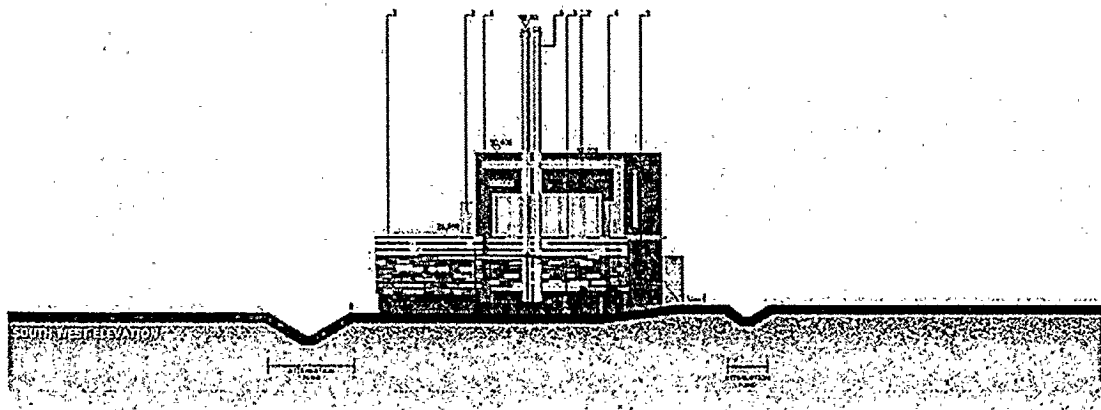


**SW/10/444 - Development of a Sustainable Energy Plant to serve
Kemsley Paper Mill. Land to the East of Kemsley Paper Mill,
Kemsley, Sittingbourne, Kent**

North East Elevation

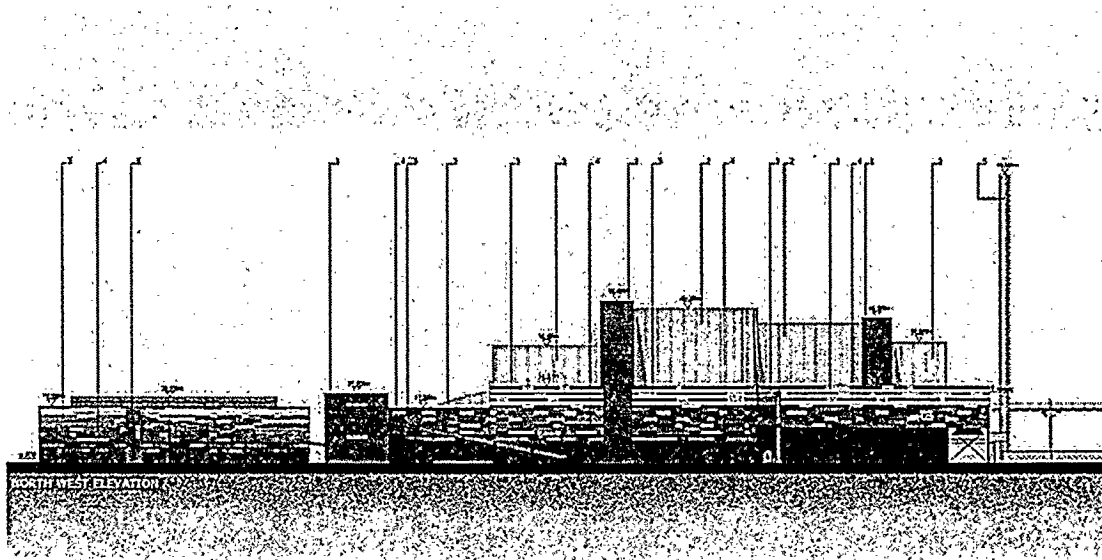


South West Elevation



**SW/10/444 - Development of a Sustainable Energy Plant to serve
Kemsley Paper Mill. Land to the East of Kemsley Paper Mill,
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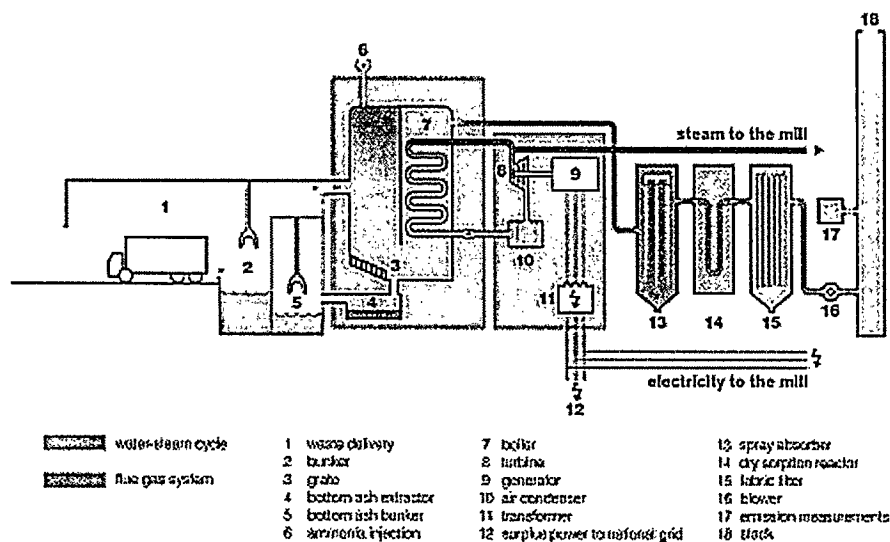
North West Elevation

*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.

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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 °C 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.

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14. The steam generation system is located above the grate. The steam generating environment operates within a pressure of 48bar and 410°C. 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 unburnt 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.

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

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

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

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

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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 granted 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

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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.

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- 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

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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,

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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.

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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 main 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.

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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 objection 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

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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 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:

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- 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 lowering 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.

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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

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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.

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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.

48!

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

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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.

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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. I do not therefore consider there are any overriding landscape objections to the proposal.

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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

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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 NO_x 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 NO_x 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 NO_x 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.

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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 noise 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.

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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

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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 term 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.

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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.

(82)T(84)

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

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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	

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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

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years. For this reason, St Regis intended to diversify 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.

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(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.

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(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.

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Kemsley, Sittingbourne, Kent**

Appendix 2

DRAFT HEADS OF TERMS

For Agreement in connection with ~~Planning~~ ~~with Planning~~ ~~Application~~
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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.

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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, Vehicle Parking, Landscaping Drainage and Access. The Waste Fuel would comprise Solid

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

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

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

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 unlikely 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:

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) 
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



D S Smith & EEW (UK)
c/o RPS planning & Development
3rd Floor
34 Lisbon Street
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West Yorkshire
LS1 4LX

Planning Applications Group
First Floor, Invicta House
County Hall
Maidstone
Kent ME14 1XX
Fax: 01622 221072
Tel: 08458 247303

For the attention of Mr J Standen

Website: www.kent.gov.uk/planning
Email: planning.applications@kent.gov.uk
Direct Dial/Ext: 01622 221054
Textbox: 08458 247905 (hearing impaired)
Ask for: Mike Clifton
Your ref:
Our ref: PAG/MC/SW/10/444/R
Date: 2 September 2013

Dear Sir/Madam

APPLICATION NO: SW/10/444/R

PROPOSAL: Application for a non-material amendment to the site layout

LOCATION: Sustainable Energy Plant, Kemsley Paper Mill, Sittingbourne, Kent,

The County Council as County Planning Authority has considered the amended details submitted by you in respect of the above proposal.

The Authority hereby approves the non-material amendment details dated 5 August 2013 and received with accompanying Planning Statement and accompanying drawing numbers:

Figure 4.1 A - Permitted Site Location Plan
Figure 4.2 A - Proposed Building Layout
Figure 4.3 A - Proposed Site Layout
Figure 4.4 A - South East Elevation
Figure 4.5 A - North East Elevation
Figure 4.6 A - South West Elevation
Figure 4.7 A - North West Elevation
Figure 4.8 A - Main Building Proposed South East Elevation
Figure 4.9 A - Main Building Proposed North East Elevation
Figure 4.10 A - Main Building Proposed South West Elevation
Figure 4.11 A - Main Building Proposed North West Elevation
Figure 4.12 A - Site Layout and Access
Figure 4.13 A - Proposed Structure for Air Cooled Condenser (URC) Elevations
Figure 4.14 A - Switchgear Building (UBA) Floor Plans
Figure 4.17 A - Turbine Building Layout
Figure 4.18 A - Fire Water Supply Station Layout
Figure 4.19 A - Office and Staff Amenities Building (UYA) Floor Plans
Figure 4.20 A - Proposed Gatehouse Floor Plan and Elevation
Figure 4.21 A – Landscape Masterplan

As part of the Council's commitment to equalities if you have any concerns or issues with regard to access to this information please contact us for assistance.

Figure 4.22 A - Boundary Treatment
Figure 4.24 A - Site Sections
Figure 4.25 A - Proposed Drainage Layout
Figure 4.26 A - Proposed Levels/Site Plan
Figure 4.27 A - Fuel Bunker Level -6.5 m, Level + 0.00 m
Figure 4.28 A - Fuel Bunker Level +21.25 m, Level +27.5 m
Figure 4.29 A - Fuel Bunker Section A-A
Figure 4.30 A - Fuel Bunker Section B-B & C-C
Figure 4.31 A - Tipping Hall Layout Level + 0.00 m
Figure 4.32 A - Tipping Hall Section A-A
Figure 4.33 A - Overall Roof Layout Comparison Drawing
Figure 4.34 A - Illustrative Visualisation 1 of 7
Figure 4.35 A - Illustrative Visualisation 2 of 7
Figure 4.36 A - Illustrative Visualisation 3 of 7
Figure 4.37 A - Illustrative Visualisation 4 of 7
Figure 4.38 A - Illustrative Visualisation 5 of 7
Figure 4.39 A - Illustrative Visualisation 6 of 7
Figure 4.40 A - Illustrative Visualisation 7 of 7

to allow for revisions to the site layout as a formal amendment pursuant to condition 2 of the details previously approved under the consent reference SW/10/444 granted on 6 March 2012.

In addition please be advised of the following informative:

You are advised that all other conditions imposed under planning permission SW/10/444 remain in effect and that those details previously approved pursuant to that permission shall be complied with unless superseded by the details hereby approved.

Yours faithfully



Head of Planning Applications Group



Wheelabrator Technologies and DS Smith
PLC
C/o Mr Andrew Stevenson
RPS Planning & Development
Suite D10
Josephs Well
Hanover Walk
Leeds
West Yorkshire
LS3 1AB

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 413350
Text relay: 18001 03000 417171
Ask for: Mr Mike Clifton
Your ref:
Our ref: SW/10/444/RA
Date: 18 December 2015

**TOWN AND COUNTRY PLANNING ACT 1990 (as amended)
PLANNING ACT 2008**

Dear Mr Stevenson

APPLICATION NO: SW/10/444/RA

PROPOSAL: Non material amendment to building footprint and elevation and site layout as shown on amended plans

LOCATION: Land at Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD

The County Council as County Planning Authority has now considered the amended details submitted in respect of the above proposal.

The Authority hereby approves the application for a non-material amendment dated 19 November 2015 as set out in the letter from RPS dated 19 November 2015 with accompanying drawing numbers:

- Figure 4.1B – Permitted Site Location
- Figure 4.3B – Proposed Site Layout
- Figure 4.4B – South East Elevation
- Figure 4.5B – North East Elevation
- Figure 4.6B – South West Elevation
- Figure 4.7B – North West Elevation
- Figure 4.12B – Site Layout & Access
- Figure 4.13B – Proposed Structure for Air Cooled Condenser Elevations
- Figure 4.18B – Proposed Structure for Fire Water Supply Elevation
- Figure 4.20B – Proposed Gatehouse Floor Plan and Elevation
- Figure 4.21B - Landscape Masterplan
- Figure 4.22B – Boundary Treatment
- Figure 4.34B – Illustrative Visualisation 1 of 7
- Figure 4.35B – Illustrative Visualisation 2 of 7

- Figure 4.36B – Illustrative Visualisation 3 of 7
- Figure 4.37B – Illustrative Visualisation 4 of 7
- Figure 4.38B – Illustrative Visualisation 5 of 7
- Figure 4.39B – Illustrative Visualisation 6 of 7
- Figure 4.40B – Illustrative Visualisation 7 of 7

to allow for revisions to the building footprint and elevation and site layout as a formal amendment pursuant to condition (2) of the details previously approved on 2 September 2013 under the consent reference SW/10/444/R.

In addition you are advised that all other conditions imposed under planning permission SW/10/444 remain in effect and that those details previously approved pursuant to that permission shall be complied with unless superseded by the details hereby approved.

Yours faithfully



Head of Planning Applications Group



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C/o Mr Andrew Stevenson
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Suite D10
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First Floor, Invicta House
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Tel: 03000 411200

Website: www.kent.gov.uk/planning
Email: planning.applications@kent.gov.uk
Direct Dial/Ext: 03000 413350
Text relay: 18001 03000 417171
Ask for: Mr Mike Clifton
Your ref: OXF 8693
Our ref: SW/10/774/RB
Date: 27 March 2017

**TOWN AND COUNTRY PLANNING ACT 1990 (as amended)
SECTION 96A**

Dear Mr Stevenson,

APPLICATION NO: SW/10/444RB

PROPOSAL: Non-material amendment to approved building footprint, elevations, appearance and site layout.

LOCATION: Land at Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent ME10 2TD.

The County Council as County Planning Authority has now considered the amended details submitted in respect of the above proposal.

The Authority hereby approves the application for a non-material amendment as set out in your application dated 2 March 2017 and accompanying letter of the same date along with drawing numbers:

- 4.1C Site Location Plan
- 4.2C Proposed Building Layout
- 4.3C Proposed Site Layout
- 4.4C SE Elevation & Section
- 4.5C NE Elevation & Section
- 4.6C SW Elevation & Section
- 4.7C NW Elevation & Section
- 4.8C SE Elevation b/w
- 4.9C NE Elevation b/w
- 4.10 SW Elevation b/w
- 4.11C NW Elevation b/w
- 4.12C Site Layout & Access
- 4.13C Proposed Structure for Air Cooled Condenser Elevations
- 4.19C Typical Office and Staff Amenities Building Floor Plans
- 4.20C Proposed Gatehouse Floor Plan and Elevations

- 4.21C Landscape Masterplan
- 4.22C Boundary Treatment
- 4.24C Site Sections
- 4.25C Proposed Drainage Layout
- 4.26C Proposed Levels
- 4.27C Fuel Bunker Level +2.0m
- 4.28C Fuel Bunker Level +20.0m and Level +36.0m
- 4.29C Fuel Bunker Section A-A
- 4.30C Fuel Bunker Section B-B
- 4.31C Tipping Hall Layout Level +0.0m
- 4.32C Tipping Hall Section A-A
- 4.33C Overall Roof Layout Comparison Drawing
- 4.34C Illustration 1 of 7
- 4.35C Illustration 2 of 7
- 4.36C Illustration 3 of 7
- 4.37C Illustration 4 of 7
- 4.38C Illustration 5 of 7
- 4.39C Illustration 6 of 7
- 4.40C Illustration 7 of 7
- 4.41C Western Ditch

to allow for revisions to the building footprint, elevations, appearance and site layout as a formal amendment pursuant to condition (2) of the details previously approved on 18 December 2015 under the No-Material Application reference SW/10/444RA

In addition please be advised that all other conditions imposed under planning permission SW/10/444 remain in effect and that those details previously approved pursuant to that permission shall be complied with unless superseded by the details hereby approved.

Yours faithfully



Head of Planning Applications Group



DS Smith & EEW (UK)
C/o RPS Planning & Development
34 Lisbon Street
Leeds
LS1 4LX

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

Email: planning.applications@kent.gov.uk

Direct Dial/Ext: 01622 221054

Textbox: 08458 247905 (hearing impaired)

Ask for: Mr Mike Clifton

Your ref:

Our ref: PAG/SW/10/444/RVAR

Date: 23 September 2013

Dear Sir/Madam

PROPOSAL: SW/10/444/R6,10,11,12,13,14 &20 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. LAND AT KEMSLEY PAPER MILL, KEMSLEY, SITTINGBOURNE, KENT, ME10 2TD

The County Council as County Planning Authority has now considered 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 reference SW/10/444, granted on 6 March 2012.

The Authority hereby approves the details set out in 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 drawing number 16315/A1/4.21A Rev E received with accompanying RPS letter dated 17 September 2013 and as further amended by drawing number 16315/A1/4.21A Rev F entitled '*Landscape Masterplan*' as satisfying the requirements of the aforementioned conditions (6), (10), (11), (12), (13), (14) & (20).

In addition, please be advised of the following informative(s):

1. Please also be advised that all other conditions attached to permission reference SW/10/444 remain unchanged by this notice.
2. 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 21st November 2012 submission of details pursuant to conditions attracts an application fee of £97**

Yours faithfully



Sharon Thompson
Head of Planning Applications Group



Wheelabrator Technologies
c/o RPS Planning and Development
Suite 10 Josephs Well
Hanover Walk
Leeds
LS3 1AB

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
DirectDial/Ext: 03000 413484
Text relay: 18001 03000 417171
Ask for: Mr Jim Wooldridge
Your ref: OXF9812
Our ref: SW/10/444/RVAR
Date: 27 June 2017

Dear Sir / Madam

APPLICATION NO: SW/10/444/RVAR

PROPOSAL: 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

LOCATION: LAND TO THE EAST OF KEMSLEY PAPER MILL, KEMSLEY, SITTINGBOURNE, KENT, ME10 2TD

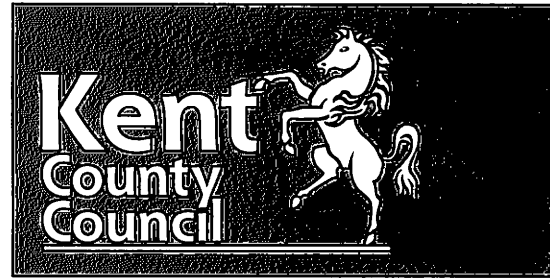
The County Council as County Planning Authority has now considered the details submitted pursuant to conditions 6 (Rail Strategy), 11 (Buffer Zone alongside the Western Ditch), 12 (Environmental Monitoring & Mitigation Plan), 14 (Landscaping Scheme) and 20 (Storage Bunkers) imposed on planning permission reference SW/10/444 granted on 6 March 2012.

The Authority hereby approves the 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), as satisfying the requirements of the aforementioned conditions 6, 11, 12, 14 and 20 of planning permission reference SW/10/444.

Yours faithfully

A solid black rectangular box used to redact the signature of the sender.

Head of Planning Applications Group



CC1 (Detailed)

Reference Code
of Application: SW/12/1001

KENT COUNTY COUNCIL

**TOWN AND COUNTRY PLANNING ACTS
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)
(ENGLAND) ORDER 2010**

Notification of Grant of Permission to Develop Land

To: DS Smith PLC & E.ON Energy from Waste Ltd
C/o RPS
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 Acts, HAS GRANTED PERMISSION for development of land situated at Kemsley Paper Mill, Kemsley, Sittingbourne, Kent and being the formation of improved access road and associated development to serve Kemsley Sustainable Energy Plant referred to in your application for permission for development dated the twentieth day of June 2012, with the letter from RPS dated 20 June 2012, 'Planning Application Supporting Statement' dated June 2012 (Ref: DLE2410) together with additional supporting information as set out in the e mail from Jonathan Standen sent on 19 September 2012, with attached 'Reptile Survey Report' dated 5 September 2012 (Ref: JPP1804) and 'Flood Risk Assessment' (Ref: JER5440), SUBJECT TO THE CONDITIONS SPECIFIED hereunder:-

- (1) The development to which this permission relates shall be commenced 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 approved details required to be submitted for approval by the County Planning Authority.

Reason: For the avoidance of doubt and to maintain control over the development.

- (3) During construction provision shall be made on the site, to the satisfaction of the Local Planning Authority, to accommodate operative's and construction vehicles loading, off-loading or turning on the site.

Reason: In the interest of highway safety.

- (4) Prior to the works commencing on site details of parking for site personnel / operatives / visitors shall be submitted to and approved by the County Planning Authority and thereafter shall be provided and retained throughout the construction of the development.

Reason: In the interest of highway safety.

- (5) As an initial operation on site, precautions shall be taken during the progress of the works to guard against the deposit of mud and similar substances on the public highway in accordance with proposals to be submitted to and approved by the County Planning Authority. Such proposals shall include washing facilities by which vehicles have their wheels, chassis and bodywork cleaned and washed free of mud and similar substances.

Reason: In the interest of highway safety.

- (6) Surface water run-off from the site shall be restricted to a maximum of 5 litres/second, with on-site storage provided for the 1 in 100 year event (+CC).

Reason: In order to ensure that the development is consistent with the objectives of the National Planning Policy Framework (NPPF) and to ensure that surface and ground water resource interests are protected pursuant to policy W19 of the Kent Waste Local Plan 1998.

- (7) Prior to the commencement of the development details of a management and maintenance plan of the drainage system shall be submitted to and approved by the County Planning Authority and thereafter shall be implemented as approved.

Reason: In order to ensure that the development is consistent with the objectives of the NPPF and to ensure that surface and ground water resource interests are protected pursuant to policy W19 of the Kent Waste Local Plan 1998.

- (8) Prior to the commencement of the development a scheme for the provision and management of a buffer zone alongside and including the ditch within and to the east of the application area as shown on Figure 4 Rev C of the planning application supporting statement, shall be submitted to and approved in writing by the County Planning Authority. The scheme shall provide for a strategy to improve the ditch and associated banking for water vole. Thereafter the development shall be carried out in accordance with the approved scheme subject to any written variation as approved by the County Planning Authority. The scheme shall include the following:

- (a) Plans showing the extent and layout of the buffer zone.
- (b) Details demonstrating how the buffer zone will be protected during construction of the development and managed/maintained over the longer term.
- (c) The strategy shall include provision for an updated water vole survey to be carried out prior to works commencing.

Reason: In order to conserve and enhance biodiversity interests consistent with the objectives set out in the NPPF and policy W21 of the Kent Waste Local Plan.

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, including those referred to under the specific conditions above.

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 fifth day of November 2012


(Signed).....
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



RPS Planning & Development
3rd Floor
34 Lisbon Street
Leeds
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
Email: planning.applications@kent.gov.uk
Direct Dial/Ext: 01622 221058
Textbox: 08458 247905 (hearing impaired)
Ask for: Mr Harry Burchill
Your ref:
Our ref: SW/13/1257
Date: 4 February 2014

TOWN AND COUNTRY PLANNING ACT 1990

Dear Sir/Madam

APPLICATION: SW/13/1257

PROPOSAL: Variation of condition 6 to provide the formation of improved access road and associated development to serve Kemsley sustainable Energy Plant (SW/12/1001)

LOCATION: 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 as set out in the attached formal notification.

Please note the conditions imposed and the informative as described.

Yours faithfully


Sharon Thompson
Head of Planning Applications Group



Reference Code of
Application: SW/13/1257

KENT COUNTY COUNCIL

TOWN AND COUNTRY PLANNING ACTS TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2010 (as amended)

NOTIFICATION OF GRANT OF PERMISSION TO DEVELOP LAND

To: DS Smith & EEW (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 at Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD and being the variation of condition 6 to provide the formation of improved access road and associated development to serve Kemsley sustainable Energy Plant (SW/12/1001), referred to within the application for permission for development dated 16 September 2013, received on 19 September 2013, as amplified and amended by details referred to in the attached schedule, SUBJECT TO THE CONDITIONS SPECIFIED hereunder:

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. The development hereby permitted shall be carried out and completed in all respects strictly in accordance with the submitted details, documents and plans submitted with application SW/12/1001, SW/12/1001/R and approved pursuant to the subsequent conditions approved under SW/12/1001/RVAR.

Reason: For the avoidance of doubt and to maintain planning control over the development

3. During construction provision shall be made on the site, to the satisfaction of the Local Planning Authority, to accommodate operatives and construction vehicles loading, off-loading or turning on site.

Reason: In the interest of highway safety

4. Details of parking for site personnel/operatives/visitors submitted and approved under application SW/12/1001/RVAR shall be implemented and maintained throughout the construction of the development.

Reason: In the interests of highway safety

5. The scheme to guard against the deposit of mud and debris on the highway approved under SW/12/1001/RVAR shall be implemented in accordance with the approved details.

Reason: In the interests of highway safety

6. There shall be on site storage provided for a 1 in 100 year event +CC. The drainage channel into which the permitted site drains shall be maintained in accordance with the details set out within table 1 of the approved Drainage Management and Maintenance plan (September 2013).

Reason: In order to ensure the development is consistent with the objectives of the National Planning Policy Framework (NPPF) and to ensure that surface and groundwater resource interests are protected pursuant to policy W19 of the Kent Waste Local Plan 1998.

7. The Drainage system shall be implemented as per details approved under application SW/12/1001/RVAR

Reason: In order to ensure the development is consistent with the objectives of the National Planning Policy Framework (NPPF) and to ensure that surface and groundwater resource interests are protected pursuant to policy W19 of the Kent Waste Local Plan 1998.

8. The Scheme for the provision of a buffer zone submitted under SW/12/1001/RVAR shall be carried out in accordance with the approved details.

In order to conserve and enhance the biodiversity interests consistent with the objectives set out in the NPPF and policy W21 of the Kent Waste Local Plan.

Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended)

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, together with the relevant Development Plan policies, including those referred to under the specific conditions above.

Where necessary the planning authority has engaged with the applicant 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, 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 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.

Dated this Fourth day of February 2014

(Signed) 
Head of Planning Applications Group

KENT COUNTY COUNCIL
PLANNING APPLICATIONS GROUP
FIRST FLOOR, INVICTA HOUSE
COUNTY HALL
MAIDSTONE
KENT ME14 1XX

Schedule 1

Schedule of Documents Permitted Under Planning Permission: SW/13/1257

Document Title / Description / Reference / Author	Received/Dated
<p>Application for Planning Permission (Town and Country Planning Act 1990)</p> <p>Planning Application Supporting Statement dated (Ref: DLE2410)</p> <p>Email from Jonathan Standen 19 September 2012 with attached "Reptile Survey Report" (Ref: JPP1804)</p> <p>Flood Risk Assessment (Ref: JER6045)</p> <p>As amended and/or amplified by:</p> <p>Letter from RPS</p> <p>Letter from Jonathan Standen dated 16 September 2013 (Ref OXF7883)</p> <p>Email from Jonathan Standen to Harry Burchill sent 10 December 2013 11:09</p>	<p>Dated June 2012</p> <p>Dated 5 September 2012</p> <p>Received 19 September 2013</p> <p>dated 20 June 2012</p> <p>Received 19 September 2013</p>

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 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.

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.
- Appeals must be made using a form which you can get from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) 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 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.



Wheelabrator Technologies
c/o RPS Planning & Development
RPS P&D
Suite D10
Josephs Well
Hanover Walk
Leeds
LS3 1AB

FAO: Andrew Stevenson

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: OXF 9812
Our Ref: SW/13/1257/R
Date: 21 December 2018

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING ACT 2008**

Dear Sir / Madam

APPLICATION NO: SW/13/1257/R

PROPOSAL: Application for non-material amendment relating to access road layout to serve Kemsley Sustainable Energy Plant

LOCATION: Kemsley Paper Mill, Ridham Avenue, Kemsley, Sittingbourne, Kent ME10 2TD.

The County Council as County Planning Authority has now considered the amended details submitted in respect of the above proposal.

The Authority hereby approves the application for a non-material amendment dated 21 November 2018 as a formal amendment to the details previously permitted under planning permission reference SW/13/1257 (dated 4 February 2014) as set out in the letter from Andrew Stevenson of RPS Planning & Development Ltd dated 19 November 2018 and as set out in Schedule 1 attached.

Yours faithfully


Head of Planning Applications Group

As part of the Council's commitment to equalities if you have any concerns or issues with regard to access to this information please contact us for assistance.

Schedule 1

Schedule of Documents considered under the Non-Material Amendment: SW/13/1257/R

Drawings and Documents

- Letter from Andrew Stevenson of RPS Planning & Development Ltd dated 19 November 2018.
- Surface Water Drainage Design Statement Addendum (ref: NK016315/RP02) dated 21 February 2018.
- Proposed Access Road Drainage Layout Alterations (ref: NK016315-RPS-XX-OODR-D-3300 Rev P02).
- Proposed Internal Access Layout (ref: 9163-0135-01 JNY9060-01).



RPS Planning & Development
34 Lisbon Street
Leeds
LS1 4LX

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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 413350
Text relay: 18001 03000 417171
Ask for: Mr Mike Clifton
Your ref:
Our ref: SW/14/506680
Date: 21 April 2015

TOWN AND COUNTRY PLANNING ACT 1990

Dear Sir/Madam

APPLICATION: SW/14/506680

PROPOSAL: 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

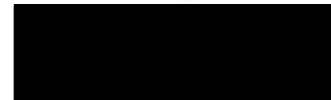
LOCATION: Land at Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD

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 as set out in the attached formal notification.

Please note the conditions imposed and the informatives as described.

Yours faithfully



Sharon Thompson
Head of Planning Applications Group



Reference Code of
Application: SW/14/506680

KENT COUNTY COUNCIL

TOWN AND COUNTRY PLANNING ACTS TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (ENGLAND) ORDER 2015

NOTIFICATION OF GRANT OF PERMISSION TO DEVELOP LAND

To: D S Smith & Wheelabrator Technologies
c/o RPS Planning & Development
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 at Land at Kemsley Paper Mill, Kemsley, Sittingbourne, Kent, ME10 2TD and being the 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, referred to within the application for permission for development dated 11 November 2014, received on 13 November 2014, as amplified in the Email from Jonathan Standen (RPS) dated 12 February 2015. Accordingly condition (4) of planning permission SW/10/444 shall be deleted and condition (2) shall now read:

2. 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.

Reason: For the avoidance of doubt and to maintain planning control over the development

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, together with the relevant Development Plan policies., including the following, and those referred to under the specific conditions above:-

- Where necessary the planning authority has engaged with the applicant(s) *[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, is in accordance with the development plan and that there are no material considerations that indicate that the decision should be made otherwise.

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 all other conditions imposed on planning permission SW/10/444 remain in effect.

Dated this Twenty first day of April 2015

(Signed).....
Head of Planning Applications Group

KENT COUNTY COUNCIL
PLANNING APPLICATIONS GROUP
FIRST FLOOR, INVICTA HOUSE
COUNTY HALL
MAIDSTONE
KENT ME14 1XX

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 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 must be made using a form which you can obtain from the Secretary of State at Temple Quay House, 2 The Square, Temple Quay, Bristol BS1 6PN (Tel: 0303 444 5000) 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 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.



H & C Consultancy Ltd
15 Sherbourne Road
West Bridgford
Nottingham
NG2 7BN

Fao: Mrs J Holland

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 413350
Text relay: 18001 03000 417171
Ask for: Mr Mike Clifton
Your ref:
Our ref: SW/16/507687
Date: 9 February 2017

TOWN AND COUNTRY PLANNING ACT 1990

Dear Sir/Madam

APPLICATION: SW/16/507687

PROPOSAL: The construction and operation of an Incinerator Bottom Ash (IBA) Recycling Facility on land adjacent to the Kemsley Sustainable Energy Plant

LOCATION: Kemsley IBA Recycling Facility, Ridham Avenue, 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 as set out in the attached formal notification.

Please note the conditions imposed and the informatives as described.

Yours faithfully



Sharon Thompson
Head of Planning Applications Group



Reference Code of
Application: SW/16/507687

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 (UK) Ltd
c/o H & C Consultancy Ltd
15 Sherbourne Road
West Bridgford
Nottingham
NG2 7BN

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 Kemsley IBA Recycling Facility, Ridham Avenue, Sittingbourne, Kent, ME10 2TD and being the The construction and operation of an Incinerator Bottom Ash (IBA) Recycling Facility on land adjacent to the Kemsley Sustainable Energy Plant, referred to within the application for permission for development dated 23 September 2016, received on 23 September 2016, as amplified and amended by details referred to in the attached schedule 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. The development hereby permitted shall be carried out and completed in all respects strictly in accordance with the submitted details, documents and plans referred to in Schedule 1 (attached) and/or as otherwise approved pursuant to the conditions below.

Reason: For the avoidance of doubt and to maintain planning control over the development.

3. Within 6 months prior to commencement of development a detailed sustainable surface water drainage scheme for the site shall be submitted to the County Planning Authority for approval. The detailed drainage scheme shall be based on the recommendations of the approved Drainage Design Philosophy (NK018570/DDP01) and shall demonstrate that the surface water generated by this development for all rainfall durations and intensities up to and including the climate change adjusted critical 100 year storm can be accommodated and disposed without an increase to on or off site flood risk.

Reason: To ensure that the principles of sustainable drainage are incorporated into the development and to ensure the ongoing efficacy of the drainage provisions.

4. No building hereby permitted shall be occupied until details of the implementation, maintenance and management of the sustainable drainage scheme have been submitted to and approved by the County Planning Authority. Thereafter the scheme shall be implemented and managed in accordance with the approved details. Such details shall include:
 - i) A timetable for implementation
 - ii) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public body or statutory undertaker, or any other arrangements to secure the operation of the sustainable drainage system throughout its lifetime

Reason: To ensure that the principles of sustainable drainage are incorporated into the development and to ensure the ongoing efficacy of the drainage provisions.

5. Prior to the commencement of the development hereby permitted the following shall be undertaken:
 - i) Based on the submitted Desk Top Study and Preliminary Risk Assessment (Reference 160916 Phase 1 DTS and PRA Kemsley Mill IBA Area Final), to provide information for further assessment of the potential risk posed from contamination to controlled water receptors and site end users.
 - ii) The results of the further assessment referred to in i) above and based on these, an options appraisal and remediation strategy (if required), giving full details of any remediation measures required and how they are to be undertaken.
 - iii) If a Remediation Strategy is required following the further assessment referred to in ii) above, a verification plan of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in ii) above are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written approval of the County Planning Authority. The scheme shall be implemented as approved.

Reason: To prevent pollution of controlled waters and to comply with the National Planning Policy Framework.

6. If a Remediation Strategy is required no occupation of any part of the development hereby permitted shall take place until a verification report demonstrating completion of works sets out in the approved remediation strategy and the effectiveness of the remediation has been submitted to and approved by the County Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a long-term monitoring and maintenance plan) for longer term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The longer-term monitoring and maintenance plan shall thereafter be implemented as approved.

Reason: To prevent pollution of controlled waters and to comply with the National Planning Policy Framework.

7. The external finish and colour of the buildings and structures hereby permitted shall be as set out in Section 3.2 of the Planning Application Supporting Statement; details of further scrub planting along the eastern boundary of the site in the vicinity of the proposed attenuation swale and settlement lagoon shall be submitted to and approved by the County Planning Authority and shall thereafter be implemented as approved.

Reason: In order to help assimilate the proposed development into the landscape and to soften views from the Saxon Shore Way.

8. Parking for site personnel/operatives and visitors as shown on the Site Layout Plan Figure Number 9163-0012-17 and retained throughout the duration of the development.

Reason: In the interest of highway safety.

9. During construction provision shall be made on site to accommodate operatives' and construction vehicles loading, off-loading and turning on site.

Reason: In the interest of highway safety.

10. Precautions shall be taken during the construction of the site and throughout the duration of the development to prevent the deposit of mud and debris on the public highway.

Reason: In the interest of highway safety.

11. The area shown on the submitted Site Layout Plan Figure Number 1963-0012-17 as vehicle parking and turning space shall be provided, surfaced and drained before the use is commenced or the premises occupied, and shall be retained for the use of the occupiers of and visitors to the premises, and no permanent development, whether or not permitted by the Town and Country Planning (General Permitted Development) Order 1995 (as amended) shall be carried out on the area of land or in such a position as to preclude vehicular access to this reserved parking space.

Reason: In the interest of highway safety.

12. The habitat proposed within the application site as shown on Figure Number 801 shall be incorporated and managed as part of the wider site management plan as set out in the Ecological Mitigation and Management Plan (Ref. JPP1804-MP-001d July 2013) which was approved under planning permission Ref. SW/10/444. The approved plan shall be updated accordingly.

Reason; In order to protect and enhance ecological interests.

13. The development hereby permitted shall only process Incinerator Bottom Ash from the adjoining Sustainable Energy Site permitted under planning permission Ref. SW/10/444.

Reason: In order to maintain proper planning control over the development.

14. HGVs shall only enter and leave the site between 0700 and 2300 hours.

Reason: In order to maintain proper planning control over the development.

15. The maximum number of HGV movements entering and leaving the site shall not exceed a combined total of 84 movements per day.

Reason: In order to maintain proper planning control over the development.

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, together with the relevant Development Plan policies.

- Where necessary the planning authority has engaged with the applicant *[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, 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 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. Your attention is drawn to the informatives set out in the attached letter from the Environment Agency dated 11 November 2016.

Dated this Ninth day of February 2017

(Signed) 
Head of Planning Applications Group

KENT COUNTY COUNCIL
PLANNING APPLICATIONS GROUP
FIRST FLOOR, INVICTA HOUSE
COUNTY HALL, MAIDSTONE, KENT ME14 1XX

Schedule 1

Schedule of Documents Permitted Under Planning Permission: SW/16/507687

Document Title / Description / Reference / Author	Dated
Application for Planning Permission (Town and Country Planning Act 1990)	
Planning Application Form	23/09/2016
Planning Application Supporting Statement	23/09/2016
Transport Assessment	22/09/2016
Noise Assessment (jae9063_A0_20160616)	8/09/2016
Ecology Impact Assessment	August 2016
Flood Risk Assessment RV2	11/10/2016
Desk Study and Preliminary Risk Assessment	September 2016
Drainage Design Philosophy (Ref. NK018570/DDP01) Rev D	7/10/2016
Groundsure Enviro Insight	31/05/2016
Site Investigation Report	December 2015
Fugitive Emissions Risk Assessment and Management Plan	July 2016
External Lighting Strategy	9/09/2016
Letter from h & c Consultancy	11/10/2016
 Drawings / Number / Title:	
IBA Application Boundary (Figure Number 9163-0012-03)	
Site Layout Plan (Figure Number 9163-0012-20)	
Site Elevations (Figure Number 9163-0020-05)	

IBA Storage Building (Figure Number 9163-0018-10)

Proposed Site Plan Impermeable Area (Document Number NK01857—RPS-00-ZZ-DR-1305 Rev C)

Proposed Drainage Layout (Document Number NK018570-RPS-00-ZZ-DR-D-1300 Rev C)

As amended and/or amplified by:

Email from Joanna Holland (h&c Consultancy)

12/12/2016

Email from Joanna Holland (h&c Consultancy) with attached(Document Number NK018570-RPS-00-ZZ-DR-D-1300)

12/12/2016

Email from Joanna Holland (h&c Consultancy) with attached Ecologist comments and Figure Number 801 (January 2017)

4/01/2017

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 must be made using a form which you can obtain from the Secretary of State at Initial Appeals, The Planning Inspectorate, Temple Quay House, 2 The Square, Bristol, BS1 6PN (Tel: 0303 444 5000) 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 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.

creating a better place

Mr Mike Clifton
Kent County Council
Planning Applications Unit
County Hall (Invicta House)
Maidstone
Kent
ME14 1XX



Environment
Agency

Our ref: KT/2016/121936/01-L01
Your ref: KCC/SW/0265/2016
Date: 11 November 2016

Dear Mr Clifton

THE CONSTRUCTION AND OPERATION OF AN INCINERATOR BOTTOM ASH (IBA) RECYCLING FACILITY ON LAND ADJACENT TO THE KEMSLEY SUSTAINABLE ENERGY PLANT

KEMSLEY IBA RECYCLING FACILITY, RIDHAM AVENUE, SITTINGBOURNE, KENT, ME10 2TD

Thank you for consulting us on the above application. We have reviewed the information submitted and consider that planning permission could be granted to the proposed development as submitted if the following planning conditions are included as set out below. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

Condition: No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:
 - all previous uses
 - potential contaminants associated with those uses
 - a conceptual model of the site indicating sources, pathways and receptors
 - potentially unacceptable risks arising from contamination at the site.
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
4. A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reasons: To prevent pollution of controlled waters and comply with the National Planning Policy Framework.

Condition: No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation

Environment Agency
Orchard House Endeavour Park, London Road, Addington, West Malling, Kent, ME19 5SH
Customer services line: 03708 506 506
Email: enquiries@environment-agency.gov.uk
www.gov.uk/environment-agency



strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reasons: To prevent pollution of controlled waters and comply with the NPPF.

Condition: If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reasons: To prevent pollution of controlled waters and comply with the NPPF.

Informatives

Drainage

From the information submitted, we understand that there will be no infiltration to ground. We have no objection to the drainage strategy in principle, but may require more detailed information to be provided at the permitting stage (such as confirmation of impermeable and permeable areas).

Environmental Permit

We will require more information through the permit application process for the proposed activity. The applicant will need to apply to amend their Environmental Permit. As the treatment of residues falls under the definition of a Schedule 5.1 Part A(1) activity, we will write to you under separate cover regarding the most suitable option to do this.

Since the original facility was permitted, operators consigning treated IBA off-site as a non-hazardous waste, are required to have analytical evidence from an agreed sampling plan in place before the material can be consigned off site. As such, storage capacities need to reflect the need to retain material on-site until sample results are obtained. As the size and design of the buildings is a material consideration under planning, we recommend that Kent County Council assures itself proposed storage capacities for routine and non-routine operations are sufficient.

Further pre-application advice on Environmental Permitting Regulations is available to the applicant if needed.

Although not strictly related to the planning application, we would re-iterate the opportunity this development offers to support the development of APC recovery markets, through the suitable use of construction products recovering APC Residues. There are drivers in the current permit for applying the waste hierarchy to residues from incineration, and the current derogation on Waste Acceptance Criteria which many incineration plant rely to landfill APC residues, maybe removed in the future. The current K2 facility operated by E.On UK CHP Ltd, are currently recovering large volumes of APC residues in this manner.

Above ground storage of oils, fuels or chemicals

Any facilities for the storage of oils, fuels or chemicals shall be provided with secondary

Page 2 of 4
Environment Agency

Orchard House Endeavour Park, London Road, Addington, West Malling, Kent, ME19 5SH
Customer services line: 03708 506 506

Email: enquiries@environment-agency.gov.uk

www.gov.uk/environment-agency

containment that is impermeable to both the oil, fuel or chemical and water, for example a bund, details of which shall be submitted to the local planning authority for approval. The minimum volume of the secondary containment should be at least equivalent to the capacity of the tank plus 10%. If there is more than one tank in the secondary containment the capacity of the containment should be at least the capacity of the largest tank plus 10% or 25% of the total tank capacity, whichever is greatest.

All fill points, vents, gauges and sight gauge must be located within the secondary containment. The secondary containment shall have no opening used to drain the system. Associated above ground pipework should be protected from accidental damage. Below ground pipework should have no mechanical joints, except at inspection hatches and either leak detection equipment installed or regular leak checks. All fill points and tank vent pipe outlets should be detailed to discharge downwards into the bund.

All precautions must be taken to avoid discharges and spills to the ground both during and after construction. For advice on pollution prevention, the applicant should refer to our advice online, which can be found at:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/290124/LIT_1404_8bdf51.pdf

Waste

The CLAIRE Definition of Waste: Development Industry Code of Practice (version 2), provides operators with a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste or have ceased to be waste.

Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore its handling, transport, treatment and disposal is subject to waste management legislation which includes:

- i. Duty of Care Regulations 1991
- ii. The Waste (England and Wales) Regulations 2011
- iii. Hazardous Waste (England and Wales) Regulations 2005
- iv. Pollution Prevention and Control Regulations (England and Wales) 2000
- v. Environmental Permitting (England and Wales) Regulations 2010

Additional information

Flood Risk

Based on the Flood Risk Assessment submitted with this application (RPS / JER6933 / October 2016), we have no objection to the proposal. The application has proved that adequate finished floor levels can be achieved. The site manager should ensure that the new Recycling Facility will receive Flood Warnings from the Environment Agency should they be issued.

We have no comments to make with regards to the surface water drainage. We recommend that the Lead Local Flood Authority, Kent County Council be consulted accordingly.

Contamination

We have reviewed the Desk Study and Preliminary Risk Assessment report produced by RPS, dated September 2016 (ref: JER6846). The reported actions and analysis of risks and liabilities detailed in the submitted report are agreed in principle as being in accordance with relevant guidance and good practice. The recommendations for further investigation should be undertaken. The findings from such investigations may also be useful for any potential

Page 3 of 4

Environment Agency

Orchard House Endeavour Park, London Road, Addington, West Malling, Kent, ME19 5SH

Customer services line: 03708 506 506

Email: enquiries@environment-agency.gov.uk

www.gov.uk/environment-agency

Site Condition Report required when an Environmental Permit is sought.

National Planning Policy Framework (NPPF) paragraph 109 states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. Government policy also states that planning policies and decisions should also ensure that adequate site investigation information, prepared by a competent person, is presented (NPPF, paragraph 121).

Please note: the submitted reports are sufficient to satisfy part 1 of the above condition.

Decision notice request

We record the outcome of planning decisions and request the decision notice is emailed to kslplanning@environment-agency.gov.uk

We trust this is of use. Please do not hesitate to contact us if we can provide any further information.

Yours sincerely,

Miss Ghada S. Mitri
Sustainable Places Planning Specialist
Kent and South London
Direct dial 01732 223181
Direct e-mail kslplanning@environment-agency.gov.uk



RPS Planning and Development.
Suite D10 Josephs Well
Hanover Walk
Leeds
LS3 1AB

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/17/502996
Date: 23 August 2017

TOWN AND COUNTRY PLANNING ACT 1990

Dear Sir/Madam

APPLICATION: SW/17/502996

PROPOSAL: 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

LOCATION: Land North East of Kemsley Paper Mill, Ridham Avenue, 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 as set out in the attached formal notification.

Please note the conditions imposed and the informatives as described.

Yours faithfully



Sharon Thompson
Head of Planning Applications Group



Reference Code of
Application: SW/17/502996

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 and Development.
Suite D10 Josephs Well
Hanover Walk
Leeds
LS3 1AB

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 vary the wording of condition 16 of planning permission SW/10/444 [i.e. 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] (as amended by SW/10/506680 [i.e. the variation of 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]) to allow an amended surface water management scheme at the Sustainable Energy Plant to serve Kemsley Paper Mill, referred to within the application for permission for development dated 18 May 2017, received on 18 May 2017, as amplified and amended by the email from Andrew Stevenson of RPS Planning & Development dated 6 June 2017 (09:33 hours) with attached details, 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, 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)] 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 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 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 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. 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.

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 Plant 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, 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:-

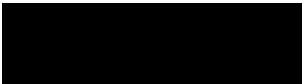
The County Council is of the opinion that the proposed development gives rise to no material harm or significant environmental effects, is in accordance with the development plan and that there are no material considerations that indicate that the decision should be made otherwise. The County Council 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 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 non-material amendment to planning permission SW/10/444 relating to building footprint, elevations, appearance and site layout approved under planning reference SW/10/444/RB on 27 March 2017; and
 - (d) 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 Twenty Third day of August 2017



(Signed).....
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
<p>Planning permission SW/10/444</p> <p>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.</p> <ul style="list-style-type: none"> • Application dated 23 March 2010, as amplified in the letters from RPS dated: <ul style="list-style-type: none"> ○ 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; and ○ 26 November 2010; and 17 March 2011 enclosing a plan entitled Kent & Hinterland. 	<p>6 March 2012</p>
<p>Planning approval SW/10/444/RVAR</p> <p>Details pursuant to conditions <u>6 (Rail Strategy)</u>, 10 (Contamination Risk), <u>11 (Buffer Management Zone)</u>, 12 (Environmental Management Plan), 13 (Archaeology), <u>14 (Landscaping)</u> and <u>20 (Details of the Waste Bunker)</u> of planning permission SW/10/444.</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> ○ Drawing number 16315/A1/4.21A Rev E received with accompanying RPS letter dated 17 September 2013 and as further amended by: ○ Drawing number 16315/A1/4.21A Rev F entitled “Landscape Masterplan”. 	<p>23 September 2013</p>

<p>Planning permission SW/14/506680</p> <p>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.</p> <ul style="list-style-type: none"> • Application dated 11 November 2014, as amplified in: <ul style="list-style-type: none"> ○ The email from Jonathan Standen (RPS) dated 12 February 2015. 	<p>21 April 2015</p>
<p>Non-Material amendment approval SW/10/444/RB</p> <p>Non-material amendments to site layout, building footprints, elevations and appearance of planning permission SW/10/444.</p> <ul style="list-style-type: none"> • Application and letter dated 2 March 2017 with drawing numbers: <ul style="list-style-type: none"> ○ 4.1C Site Location Plan ○ 4.2C Proposed Building Layout ○ 4.3C Proposed Site Layout ○ 4.4C SE Elevation & Section ○ 4.5C NE Elevation & Section ○ 4.6C SW Elevation & Section ○ 4.7C NW Elevation & Section ○ 4.8C SE Elevation b/w ○ 4.9C NE Elevation b/w ○ 4.10 SW Elevation b/w ○ 4.11C NW Elevation b/w ○ 4.12C Site Layout & Access ○ 4.13C Proposed Structure for Air Cooled Condenser Elevations ○ 4.19C Typical Office and Staff Amenities Building Floor Plans ○ 4.20C Proposed Gatehouse Floor Plan and Elevations ○ 4.21C Landscape Masterplan ○ 4.22C Boundary Treatment ○ 4.24C Site Sections ○ 4.25C Proposed Drainage Layout ○ 4.26C Proposed Levels ○ 4.27C Fuel Bunker Level +2.0m ○ 4.28C Fuel Bunker Level +20.0m and Level +36.0m ○ 4.29C Fuel Bunker Section A-A ○ 4.30C Fuel Bunker Section B-B ○ 4.31C Tipping Hall Layout Level +0.0m ○ 4.32C Tipping Hall Section A-A ○ 4.33C Overall Roof Layout Comparison Drawing ○ 4.34C Illustration 1 of 7 ○ 4.35C Illustration 2 of 7 ○ 4.36C Illustration 3 of 7 ○ 4.37C Illustration 4 of 7 ○ 4.38C Illustration 5 of 7 ○ 4.39C Illustration 6 of 7 	<p>27 March 2017</p>

<ul style="list-style-type: none"> ○ 4.40C Illustration 7 of 7 ○ 4.41C Western Ditch <p><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) and 2 September 2013 (under planning reference SW/10/444/R) which are not listed here.</p>	
<p>Planning approval SW/10/444/RVAR</p> <p>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.</p> <ul style="list-style-type: none"> • 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) 	<p>27 June 2017</p>

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.

SECTION C
MINERALS AND WASTE DISPOSAL

Background Documents - the deposited documents; views and representations received as referred to in the reports and included in the development proposals dossier for each case; and also as might be additionally indicated.

Item C1

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 on Land North East of Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD – SW/18/503317 (KCC/SW/0103/2018)

A report by Head of Planning Applications Group to Planning Applications Committee on 10 October 2018.

Application by Wheelabrator Technologies 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 on Land North East of Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD – SW/18/503317 (KCC/SW/0103/2018).

Recommendation: Permission be granted subject to conditions.

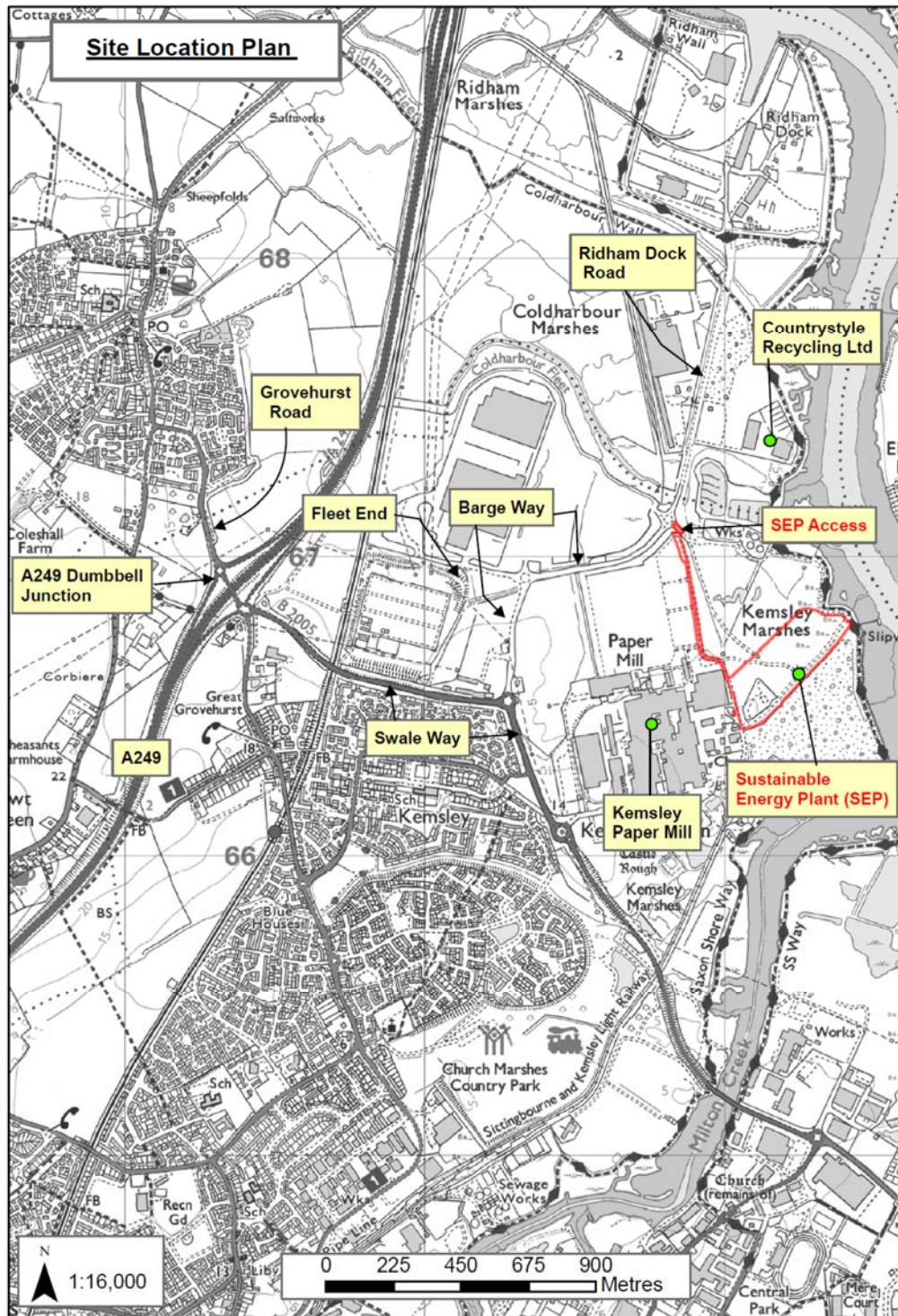
Local Member: Mrs S Gent

Unrestricted

Site description

1. The Kemsley Sustainable Energy Plant (SEP) is currently under construction and is expected to become operational around August 2019. The Kemsley SEP is located on land immediately to the east of the Kemsley Paper Mill (a key local employer) about 3km north of Sittingbourne. The Swale Estuary lies just to the east, Coldharbour Marshes to the northwest and the Isle of Sheppey to the north.
2. The Kemsley SEP is accessed from the A249 (Dumbbell Junction) to the south of Iwade via Grovehurst Road (B2005), Swale Way (part of the Sittingbourne Northern Perimeter Road linking the A249 with the Eurolink Industrial Estate to the east and providing access to other industrial and residential areas in Sittingbourne), Barge Way and an internal access road (the Northern Site Access). The nearest residential properties (Kemsley) lie to the south of Swale Way. Land to the north of Swale Way contains a variety of existing and committed employment uses (including the Morrisons Distribution Depot at Fleet End). The A249 provides access to the A2, M2, M20 and beyond.

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 on Land North East of Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD - SW/18/503317 (KCC/SW/0103/2018)



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 on Land North East of Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD - SW/18/503317 (KCC/SW/0103/2018)

3. The Swale Special Protection Area (SPA), Ramsar Site and Site of Special Scientific Interest (SSSI) covers the majority of the Swale Estuary (to the east and north of the site) and Coldharbour Marshes (to the north). The Medway Estuary and Marshes SPA, Ramsar and SSSI lies further north and to the northwest (primarily to the northwest of the A249).
4. The application site is safeguarded for waste management use by Policy CSW16 of the Kent Minerals and Waste Local Plan 2013-30.

Planning History and background

5. Planning permission (SW/10/444) was granted for the development of a SEP 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 by the County Council (KCC) as Waste Planning Authority on 6 March 2012 following completion of a Section 106 Agreement. The application (which was accompanied by an Environmental Statement) had been considered by KCC's Planning Applications Committee on 12 April 2011. The Section 106 Agreement (dated 5 March 2012) included owner / developer covenants (relating to reedbed habitat creation, an employment strategy setting out a strategy to maximise the use of locally employed personnel at the site, commencement and relocation of species) and RSPB covenants (relating to a land maintenance scheme). The applicant and prospective operator at that time were the St Regis Paper Co. Ltd and E.ON Energy from Waste UK Ltd. Wheelabrator Technologies subsequently took over these interests.
6. KCC approved a non-material amendment (NMA) (SW/10/444/R) relating to the site layout on 2 September 2013.
7. KCC approved details relating to conditions 6 (rail strategy), 10 (contamination risk), 11 (buffer management zone for ditch), 12 (environmental management plan), 13 (programme of archaeological work), 14 (scheme of landscaping) and 20 (waste bunkers) of planning permission SW/10/444 (SW/10/444/RVAR) on 23 September 2013.
8. KCC granted planning permission (SW/14/506680) for the variation of conditions 2 (amendment) and 4 (deletion) of planning permission SW/10/444 (relating to the permitted hours of delivery) on 21 April 2015. The variation enabled the Kemsley SEP to receive waste 24 hours per day / 7 days a week. Given the wording of the Section 106 Agreement dated 5 March 2012 (which meant that its obligations continued to apply in the event of the approval of reserved matters and any variation or modification to planning permission SW/10/444), there was no need to require a further Section 106 Agreement to ensure that the obligations contained therein remained effective.

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 on Land North East of Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD – SW/18/503317 (KCC/SW/0103/2018)

9. KCC approved a NMA (SW/10/444/RA) relating to the building footprint, elevation and site layout on 18 December 2015. This superseded the NMA dated 2 September 2013.
10. KCC approved a NMA (SW/10/444/RB) relating to the building footprint, elevations, appearance and site layout on 27 March 2017. This superseded the NMA dated 18 December 2015.
11. KCC confirmed in writing that the majority of the Owner / Developer obligations contained in the Section 106 Agreement dated 5 March 2012 had been satisfied on 24 June 2016. The current position is as follows:
 - (a) Schedule 1 (Owner / Developer Obligations): Clauses 1.1 and 1.2 (Reedbed Habitat Creation – Site 2), 1.4 (Commencement Notice) and 1.5 and 1.6 (Relocation of Species) have been fully addressed. Clause 1.3 (Employment Strategy) has been partially addressed. Whilst the obligations in the Employment Strategy relating to the construction of the plant have been met by virtue of the “Meet the Buyer” event held on 12 May 2016, those associated with the operation of the plant remain to be addressed. The Employment Strategy requires a second open day focussing on goods and services likely to be needed at the plant and for job vacancies to be advertised in (amongst other places) the local media.
 - (b) Schedule 2 (RSPB Obligations): Clause 1.2 (Full implementation of the Scheme in Site 2) has been addressed, clause 1.1 (the maintenance of Site 2 in accordance with the provisions of the Maintenance Scheme) is ongoing and clauses 1.3 and 1.4 (relating to an alternative Maintenance Scheme) have not yet been triggered.
 - (c) Schedule 3 (The Scheme): The Scheme has been fully implemented (see clauses 1.1 and 1.2 of Schedule 1 and clause 1.2 of Schedule 2 above).
 - (d) Schedule 4 (The Maintenance Scheme): It is understood that the Maintenance Scheme is being implemented (see clause 1.1 of Schedule 2 above) and that no changes to this have been made (see clauses 1.3 and 1.4 of Schedule 2 above).
 - (e) Schedule 5 (Employment Strategy): The obligations associated with the construction of the plant have been met (by virtue of the “Meet the Buyer” event held on 12 May 2016). However, those associated with the operation of the plant remain to be addressed (see clause 1.3 of Schedule 1 above).
 - (f) Schedule 6 (The Relocation Scheme): The Relocation Scheme has been fully implemented (see clauses 1.5 and 1.6 of Schedule 1 above). However, it is understood that ongoing management remains to be completed.
12. KCC approved details relating to conditions 6 (rail strategy), 11 (buffer zone alongside western ditch), 12 (environmental monitoring and mitigation plan), 14 (landscaping scheme) and 20 (storage bunkers) of planning permission SW/10/444 (SW/10/444/RVAR) on 27 June 2017.

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 on Land North East of Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD - SW/18/503317 (KCC/SW/0103/2018)

13. KCC granted planning permission (SW/17/502996) for the variation of condition 16 (relating to a flood risk assessment) of planning permission SW/10/444 on 23 August 2017. This planning permission reflects the latest position by incorporating the variation proposed and all previous amendments to or approvals given under planning permission SW/10/444 (i.e. all planning permissions, approvals and the most recent NMA).
14. KCC has also granted planning permission or approved details or non-material amendments relating to the Kemsley SEP Site Access Road. Planning permission (SW/12/1001) was granted for an improved access road and associated development to serve Kemsley SEP on 5 November 2012. A NMA (SW/12/1001/R) relating to a surface water drainage pond associated with the site access road was approved on 29 August 2013 and details relating to conditions 4, 5, 7 and 8 of planning permission SW/12/1001 (SW/12/1001/RVAR) were approved on 5 February 2014. KCC also granted planning permission SW/13/1257 for the variation of condition 6 of planning permission SW/12/1001 (relating to the formation of an improved access road and associated development to serve Kemsley SEP) on 4 February 2014.
15. KCC has also granted planning permission or approved details or non-material amendments for a number of other facilities or operations related to Kemsley Paper Mill. Planning permission (SW/12/167) was granted for the refurbishment and use of the existing rail sidings and site infrastructure for the importation and transfer of containers of waste to the proposed Kemsley Mill SEP for use as a fuel on 22 May 2012. This permission was not implemented and has lapsed. Planning permission (SW/16/507687) was granted for an Incinerator Bottom Ash (IBA) Recycling Facility on land adjacent to the Kemsley SEP on 9 February 2017. This permission has not yet been implemented but remains live. Planning permission (SW/11/1291) was granted for an anaerobic digestion (AD) plant and associated ground reprofiling and landscaping on 16 July 2012. KCC also approved details relating to reptile mitigation pursuant to Schedule 1 of the associated Section 106 Agreement on 19 September 2016, condition 7 of planning permission SW/11/1291 (relating to ground contamination) on 30 November 2016, conditions 3, 5 and 11 of planning permission SW/11/1291 (relating to vehicle parking, wheel washing and dust control) on 27 January 2017, conditions 4, 9 and 10 of planning permission SW/11/1291 (relating to vehicle parking, surface water drainage and external finish) on 18 April 2017 and condition 8 of planning permission SW/11/1291 (relating to foundation piling design) on 18 April 2017 and approved a non-material amendment relating to the site layout and elevations on 7 March 2017. Planning permission SW/11/1291 has been implemented and it is understood that the AD plant is nearing operation. KCC has also granted planning permissions for various waste disposal / landfill and related infrastructure associated with the Kemsley Paper Mill since 1977 (i.e. SW/76/453, SW/91/793, SW/93/626, SW/98/1026 and SW/12/1069). With the exception of the permissions relating to the refurbishment and use of the existing rail sidings (SW/12/167) and IBA

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 on Land North East of Kemsley Paper Mill, Ridham Avenue, Sittingbourne, Kent, ME10 2TD – SW/18/503317 (KCC/SW/0103/2018)

Recycling Facility (SW/16/507687) these have no bearing on the Kemsley SEP.

16. Once operational, the Kemsley SEP will be capable of receiving between 500,000 and 550,000 tonnes per annum (tpa) of pre-treated waste comprising Solid Recovered Fuel Waste, Commercial and Industrial (C&I) Waste and pre-treated Municipal Solid Waste (MSW). The heat generated from the combustion of that waste would create high pressure steam which would drive a steam turbine and in turn a generator to produce electricity which would be exported to the grid. The resulting low-pressure steam would be fed to the adjacent Kemsley Paper Mill, for use within the paper production process. At least 20% of the waste (fuel) was expected to arise from within Kent, Medway, Thurrock and Tandridge with the rest sourced from London, the South East and elsewhere in the UK subject to commercial viability.
17. Condition 3 of planning permission SW/17/502996 (previously condition 3 of planning permission SW/10/444) states:
 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 interests of highway safety.

18. Condition 5 of planning permission SW/17/502996 states that 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.
19. As noted in paragraph 15 above, planning permission SW/12/167 provided for the refurbishment and use of the existing rail sidings and site infrastructure (at Ridham Docks) for the importation and transfer of containers of waste to the Kemsley SEP. Since this permission has lapsed, waste will not now be delivered by rail unless a further planning permission is obtained for the refurbishment. On this basis, the second part of condition 3 is no longer of direct relevance at this stage.
20. Notwithstanding this, it should also be noted that condition 6 of planning permission SW/10/444 required the submission, approval and implementation of a strategy to encourage the use of the railway as a means of delivering waste to the site, that a rail strategy was first approved in September 2013 and a revised rail strategy approved in June 2017 and that condition 6 of planning permission SW/17/502996 requires the revised 2017 rail strategy to be implemented as approved. The 2013 rail strategy was based on upgrading the Ridham Docks rail sidings and securing the North London Fuel Use contract from the North London Waste Authority. As the North London Fuel Use contract was subsequently withdrawn (and the waste managed more locally at the

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North London Heat and Power project at Edmonton Eco Park) it became necessary for alternative waste sources to be secured for the Kemsley SEP. In the absence of a similar waste (fuel) source(s) which could viably be transported by rail to the Kemsley SEP, the rail sidings at Ridham Docks were not upgraded and it is understood that the option to acquire the site for the upgrading lapsed and the land was developed for other purposes. On that basis, the rail strategy was amended. The 2017 revised rail strategy acknowledges the desirability of non-road transport where environmentally advantageous, feasible and viable and provides for 5-yearly reviews being submitted to KCC for approval. Ultimately, whether or not non-road transportation is to be used is likely to depend on waste (fuel) sources, quantities and contractual arrangements.

21. The Kemsley SEP (as permitted) is capable of providing a maximum gross electrical power output of 49.9 Megawatts electrical (MWe). However, the applicant has identified an opportunity to increase this to an estimated 75MWe. In order to be able to increase the power output above 50MWe gross, a Development Consent Order (DCO) is required from the Secretary of State (SoS) for the Department for Business Energy and Industrial Strategy (BEIS) under the Planning Act 2008 as it would represent a Nationally Significant Infrastructure Project (NSIP). The applicant formally initiated this process in July 2016 when it held a Project Meeting with the Planning Inspectorate (PINS). It subsequently submitted an EIA Scoping Report to PINS in December 2016, received a Scoping Opinion from the SoS BEIS in January 2017 and published a Preliminary Environmental Information Report (PEIR) for consultation in March 2017. At that stage, the applicant stated that there would be no need for the DCO application to alter the design or other restrictions imposed on the planning permission (including those relating to the types and quantity of fuel input) or alter emissions. However, on 1 June 2018 the applicant sought a direction from the SoS under Section 35 of the Planning Act in respect of another proposal for a new waste-to-energy plant known as Wheelabrator Kemsley North (WKN) capable of processing 390,000tpa of waste with a generating capacity of 42MWe. The SoS confirmed that WKN could be treated as a DCO on 27 June 2018. The applicant subsequently submitted a Scoping Report to the SoS on 7 September 2018 in which it set out proposals for both WKN and the upgrade of the Kemsley SEP (also known as the K3 Project). The Scoping Report proposes that as well as the power upgrade for the K3 Project, the DCO application would include proposals for the Kemsley SEP to process an additional 107,000tpa of waste. On that basis, it is proposed that K3 and WKN would process up to a combined total quantity of waste of 1,047,000tpa (i.e. 550,000 + 107,000 + 390,000tpa). The PINS website states that the DCO application for K3 and WKN is expected to be submitted in April 2019.
22. Although not directly connected to K3 Project, DS Smith Paper Ltd (which operates Kemsley Paper Mill) has also submitted a DCO application for a Combined Heat and Power (CHP) Plant comprising a gas turbine (52MW), waste heat recovery boilers (105MWth steam) and steam turbine (16MW). This project (known as the K4 Project) is intended to provide a replacement for the existing natural gas fuelled energy plant at

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Kemsley Paper Mill. The existing natural gas fuelled energy plant known as the K1 Project would be decommissioned when the K4 Project is fully operational. The power demands of the Paper Mill necessitate both the K3 and K1 or K4 Projects. The K4 Project was formally initiated with the submission of a Scoping Request to PINS in August 2017 and is the subject of an Examination which must end by 17 January 2019 (i.e. 6 months beginning with the day after the close of the Preliminary Meeting).

The Proposal

23. The application proposes the variation of condition 3 of planning permission SW/17/502996 to increase the permitted number of HGV movements by 90 per day (the equivalent of 45 in / 45 out) from 258 (the equivalent of 129 in / 129 out) to 348 (the equivalent of 174 in / 174 out). The applicant states that the proposed increase in HGV movements reflects a change in the type of HGVs that will deliver waste to the site rather than any increase in the operational capacity or generation output and that no other changes are proposed.
24. The 258 HGV movements a day (i.e. 129 in / 129 out) were originally considered sufficient to enable the importation of waste, the export of ash / aggregate arising from the combustion process and the delivery of reagents. The figure was derived from a waste throughput of 550,000tpa, waste being delivered in 20 tonne (t) loads (equating to a total of 27,500 loads or 55,000 movements each year) and the Kemsley SEP receiving waste 5.5 days a week (i.e. Monday to Friday and Saturday mornings). Based on a 5.5 day week, an average of 192 movements (96 in / 96 out) were expected to be related to waste deliveries on weekdays (reduced to 96 movements or 48 in / 48 out on Saturday mornings). A further 58 movements (29 in / 29 out) per weekday (reduced to 29 movements on Saturday mornings) were expected for the export of ash / aggregate and 8 movements (4 in / 4 out) a day were assumed for reagent transport.
25. The applicant notes that although SW/10/444 was amended to allow deliveries on a 24/7 basis, no change was made to the maximum number of HGVs permitted per day such that the 258 HGV movement would be spread over a full 7-day week. It also notes that the IBA recycling facility (SW/16/507687) makes provision for a maximum of 84 HGV movements per day (42 in / 42 out) and that these are additional to 258 movements per day provided for by the Kemsley SEP.
26. The applicant states that it now expects approximately 50,000tpa of waste to be delivered to the Kemsley SEP by Countrystyle Recycling Ltd which operates a recycling facility to the north of the site in Ridham Dock Road. It also states that unless additional HGV movements are permitted, Countrystyle's Refuse Collection Vehicles (RCVs) would need to travel to its own recycling facility to bulk up the waste prior to it being transported to the Kemsley SEP. The applicant would like Countrystyle to be able to deliver waste directly to the SEP in RCVs or similar size

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vehicles instead. In addition, the applicant now also anticipates more generally that a larger proportion of the 550,000tpa of waste will be delivered directly to the Kemsley SEP in RCVs with a capacity of less than the 20t bulk loads originally assumed and that an increase in the permitted number of HGV movements per day is necessary to accommodate this. The RCVs would typically carry an average payload of about 8t.

27. The applicant estimates that the proposed increase in the number of HGVs would generate 7 to 8 extra HGV movements (around 4 in / 4 out) per hour between 07:00 and 19:00 hours Monday to Friday and 07:00 and 13:00 hours on Saturdays. It states that the proposed additional 90 HGV movements (45 in / 45 out) would provide an appropriate level of flexibility in respect of both the size of source of HGVs to ensure that the Kemsley SEP can function to its maximum operational capacity (as defined by the Environmental Permit). It further states that this would also reflect ongoing contractual discussions with waste providers regarding sources of waste for the Kemsley SEP. The applicant advises that the Kemsley SEP is a merchant facility and therefore not underpinned financially by a specific local authority contract such that the majority of waste is likely to be C&I waste from Kent and surrounding areas. It states that waste hauliers will try to minimise travel distances to ensure the most efficient and cost effective collection and disposal service and will aim to prioritise waste that is close to the plant, removing the need to bulk up and put additional road miles onto the road network.
28. In terms of potential alternatives to road transport, the applicant states that the movement of waste by rail or water requires an appropriate contract for a significant volume of waste with loading facilities at the waste source and an appropriately long contract period to allow depreciation of the rail / water capital infrastructure. It states that opportunities to use these modes typically relate to local authority tenders, but that these are limited and only occur occasionally due to the long term nature of the contracts. It further states that it is not currently involved in any suitable tender opportunities that would allow the delivery of waste by rail or water but points out that alternatives to road transport will continue to be reviewed under the approved Revised Rail Strategy.
29. The application is supported by a Planning Statement and an Environmental Statement Addendum which includes a Transport Assessment and an Air Quality Impact Report, as well as the original Environmental Statement and subsequent supplementary reports.

Planning Policy Context

30. **National Planning Policies** – the most relevant National Planning Policies are set out in the National Planning Policy Framework (July 2018), the National Planning Policy for Waste (October 2014) and the National Planning Practice Guidance. These are all material planning considerations.

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31. **Kent Minerals and Waste Local Plan 2013-30 (July 2016)** – Policies CSW1 (Sustainable Development), CSW2 (Waste Hierarchy), CSW4 (Strategy for Waste Management Capacity), CSW6 (Location of Built Waste Management Facilities), CSW7 (Waste Management for Non-Hazardous Waste), CSW8 (Recovery Facilities for Non-Hazardous Waste), CSW16 (Safeguarding of Existing Waste Management Facilities), DM1 (Sustainable Design), DM2 (Environmental and Landscape Sites of International, National and Local Importance), DM3 (Ecological Impact Assessment), DM5 (Heritage Assets), DM8 (Safeguarding Waste Management Facilities), DM10 (Water Environment), DM11 (Health and Amenity), DM12 (Cumulative Impact), DM13 (Transportation of Minerals and Waste), DM14 (Public Rights of Way), DM15 (Safeguarding of Transport Infrastructure) and DM16 (Information Required in Support of an Application).
32. **Bearing Fruits 2031: The Swale Borough Local Plan (July 2017)** – Policies ST1 (Delivering sustainable development in Swale), CP1 (Building a strong, competitive economy), CP2 (Promoting Sustainable Transport), CP7 (Conserving and enhancing the natural environment), DM6 (Managing transport demand and impact), DM14 (General development criteria), DM21 (Water, flooding and drainage) and DM28 (Biodiversity and geological conservation).
33. **Partial Review of the Kent Minerals and Waste Local Plan 2013-30 (December 2017)** – the Partial Review proposes changes to (amongst others) Policies CSW4, CSW6, CSW7, CSW8 and DM8. One of the reasons for the Partial Review was to update the assumptions about waste management capacity underlying Policies CSW7 and CSW8 to reflect the fact that the Kemsley SEP planning permission has been implemented and ensure that the permitted 550,000tpa capacity is not double counted. Since the application proposes no changes to the quantity of waste or waste sources, as the Kemsley SEP is already being constructed and as no other changes are proposed to the policies referred to in paragraph 31, the Partial Review is not considered to have any significant implications for the determination of this application.

Consultations

34. **Swale Borough Council** – No comments received.
35. **Iwade Parish Council** – Objects on the grounds that the application proposes a huge increase in lorry movements (90 vehicles per day).
36. **Bobbing Parish Council** – No comments received.
37. **Highways England** – No objection. Its response is set out below:

“Highways England has been appointed by the Secretary of State for Transport as

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

Highways England will be concerned with proposals that have the potential to impact on the safe and efficient operation of the Strategic Road Network (SRN), in this case particularly the A249.

We note from the Transport Assessment (contained in Appendix 1 of the Environmental Statement Addendum) that the variation of the condition would result in a potential additional 7-8 HGV movements per hour. These vehicles will primarily already be travelling on the wider network, however may induce additional turning movements at local junctions (estimated at up to 5 per hour at the Grovehurst Roundabout).

The junction modelling undertaken indicates that the A249 Grovehurst Roundabout will operating above design capacity in the future baseline (no proposals) without improvement. The impact of the additional vehicles due to the proposals are minimal, with predicted queues on the A249 increasing by a maximum of three.

It is noted that improvements for the mitigation of the junction as part of the Swale Local Plan are under discussion. It is therefore anticipated that the operation of the junction will improve in the future.

On the basis of the above, we can only conclude that the proposed variation will not have a severe impact on the safety, reliability and/or operation of the existing SRN. We therefore offer No Objection to the proposals.”

38. **KCC Highways and Transportation** – No objection. It states that it has reviewed the information provided and can find no reasonable justification for refusal and therefore recommends that permission be granted. Its response is set out below:

“Thank you for consulting the Highway Authority on the above application for which we have the following observations and comments on the submitted Transport Assessment.

Baseline conditions

The traffic and junction counts were completed in neutral dates in March 2017 and June 2016 and are agreed as valid. The resulting baseline junction assessments and queue lengths are as expected and therefore considered robust.

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Development proposals

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

Delivery times – An assumption has been made that the new “RCV” movements will be between 07:00 and 19:00. A quick assessment of the hours of opening of two local facilities operated by Countrystyle and East Kent Recycling would indicate that their operations cease at 18:00. The number of predicted movements would be expected to increase to 8.1 per hour however the submitted Appendix G (Development trips) already accounts for 8 movements and this difference is considered as inconsequential.

Future Year Traffic Flows

A date of 2023 has been assessed for the future operational test and is in accordance with the 5 year national guidance. The impact of existing committed development sites have been included and are agreed as demonstrated on table 5.3 of the assessment. Further cumulative assessments have been completed to take into consideration the anticipated growth attributed to allocated local plan development. The future assessments are therefore considered to be robust.

Trip Generation

The trip generation and junction assessments have been correctly modelled routing all traffic via Swale Way including those that may come direct from the adjoining Countrystyle recycling plant. If, as indicated, a proportion of the additional HGV movements come from the Countrystyle site, then any associated trips would reduce the assessed impact on the wider highway network. Appropriate weekday peak assessments of 07:30-08:30 and 16:30 – 17:30 have been submitted for the affected junctions including that at of the A249/Grovehurst Road.

Junction Assessments

Barge Way between Northern Access & Fleet End: This junction has been demonstrated to operate well within capacity at the future year scenarios. As such the Highway Authority has no concerns with the proposed development impact at this junction.

Swale Way/Barge Way roundabout: The assessment demonstrates that the roundabout currently operates within operational capacity although in the AM the Swale Way West arm has minimal reserve. The 2023 assessment unsurprisingly therefore demonstrates that the Swale Way West arm of the junction exceeds

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operational capacity at that time. It is however noted that the traffic generated is minimal; the development proposed represents a 4% HGV increase in the AM and 5% increase in the PM. The increase in delays directly attributed to the development would be 5 seconds which are agreed cannot be considered severe in respect of the NPPF tests. The assessment refers to a further DCO application being sought for the proposed K4 gas powered energy generating facility. The applicant should note that should that proposal be progressed, it should be expected that appropriate mitigation by way of a left turn lane facility off the Swale West arm may be required. The approach is currently of single carriageway width and improvements will be required for the dominant HGV left turning movements.

A249/Grovehurst Junction: The assessment demonstrates that this junction is already operating beyond its operational capacity and it is on that basis that the Highway Authority have submitted an application for “Housing Infrastructure Funding” in order that the proposed Local Plan Growth can be accommodated. That application is yet to be fully approved. Within the local plan however there are large allocated residential sites that at Iwade and North West Sittingbourne that will have far greater effect on the operations of this junction. The proposed development would decrease the operational effectiveness of the junction by 0.02% which is considered minimal compared to the other allocated local plan sites. It is appropriate that those sites having the greatest impact should provide the greater levels of mitigation. It could not therefore be considered reasonable to request mitigation from this application towards improvements at this junction.

Conclusion

Having reviewed the information provided I can find no reasonable justification for refusal and therefore recommend that the application be granted permission.”

39. **Environment Agency** – Has no comments to make.
40. **Natural England** – Has no comments to make.
41. **KCC Ecological Advice Service** – No objection. It is satisfied that the proposed variation would not result in a negative impact on the designated sites.
42. **KCC Noise and Air Quality Consultant** – No objection. It is satisfied that the proposal to increase the number of vehicles by 90 per day will not have an adverse effect on noise or air quality at any of the nearest sensitive human and ecological receptors and therefore sees no grounds for refusal resulting from changes to noise and air emissions.

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Representations

43. The application was publicised by site notice and newspaper advertisement and the occupiers of all properties within 250 metres of the site were notified in June 2018.

Local Member

44. County Council Member Mrs S Gent (Sittingbourne North) was notified in June 2018. Mr M Whiting (Swale West) was also notified as the adjoining Member.
45. Mr Whiting has commented that he raises no objection assuming the additional lorries will connect directly to the Strategic Road Network via a single agreed path and not use other local roads.

Discussion

46. The application is being reported to KCC's Planning Applications Committee for determination as Iwade Parish Council has raised objection. No objections have been received from any technical or other consultees and, with the exception of the comments from Mr Whiting (as adjoining KCC Member), no representations have been received.
47. 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. In the context of this application, the development plan policies outlined in paragraphs 31 and 32 are of most relevance. Material planning considerations include the national planning policies referred to in paragraph 30 and the draft policies referred to in paragraph 33.
48. The principle of the Kemsley SEP has already been established by the planning permissions referred to in paragraphs 5 to 13 inclusive and the related permission for the site access road referred to in paragraph 14. Given this and as the relevant permissions have already been implemented, it is therefore only necessary to consider whether the proposed increase in HGV movements would give rise to any significant adverse impacts and whether what is proposed accords with relevant planning policy.
49. Given the above, the issues that require consideration are as follows:
- Highways and Transportation;
 - Noise and Air Quality; and
 - Ecology.

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Highways and Transportation

50. Paragraph 108 of the National Planning Policy Framework (NPPF) states that when assessing applications for development it should be ensured that: (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; (b) safe and suitable access to the site can be achieved for all users; and (c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 states that development should only be prevented or refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Paragraph 7 of the National Planning Policy for Waste (NPPW) states (amongst other things) that Waste Planning Authorities (WPAs) should consider the likely impact of on the local environment and on amenity against the criteria set out in Appendix B of the NPPW. In terms of traffic and access, Appendix B states that considerations will include the suitability of the road network and the extent to which access would require reliance on local roads, the rail network and transport links to ports. The National Planning Policy Guidance (NPPG) contains guidance on the application of national planning transport policy in “Transport evidence bases in plan making and decision taking” (13 March 2015) and “Travel Plans, Transport Assessment and Statements” (6 March 2014).
51. Policy CSW1 of the Kent Minerals and Waste Local Plan (Kent MWLP) establishes the principle of taking a positive approach to waste development proposals which reflects the presumption in favour of sustainable development. Policy DM13 of the Kent MWLP states that minerals and waste development will be required to demonstrate that emissions associated with road transport movements are minimised so far as practicable and by preference being given to non-road modes of transport. It also states that where new development would require road transport, proposals will be required to demonstrate that: (1) the proposed access arrangements are safe and appropriate to the scale and nature of movements associated with the proposed development such that the impact of traffic generated is not detrimental to road safety; (2) the highway network is able to accommodate the traffic flows that would be generated, as demonstrated through a transport assessment, and the impact of traffic generated does not have an unacceptable adverse impact on the environment or local community; and emission control and reduction measures, such as deployment of low emission vehicles and vehicle scheduling to avoid movements in peak hours. Particular emphasis will be given to such measures where development is proposed within an AQMA.
52. Policy ST1 of the Swale Borough Local Plan (Swale BLP) seeks to deliver sustainable development in Swale by (amongst other things) managing emissions and conserving and enhancing the natural environment. Policy CP2 promotes sustainable transport and identifies a number of measures to be promoted by development proposals,

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including by making best use of capacity in the network and facilitating greater use of waterways for commercial traffic. Policy DM6 seeks to manage transport demand and impact, with development proposals generating a significant amount of transport movements to be supported by a Transport Assessment. Development proposals are expected to demonstrate that opportunities for sustainable transport modes have been taken up, and states that development will not be permitted where the residual cumulative impacts of development are severe. Proposals are expected to ensure they do not worsen air quality to an unacceptable degree. Policy DM14 sets out general development control criteria, including that proposals should achieve safe vehicular access.

53. The acceptability of 258 HGV movements (the equivalent of 129 in / 129 out) associated with the delivery of waste / fuel to the Kemsley SEP using the A249 (Dumbbell Junction), Grovehurst Road (B2005), Swale Way, Barge Way and the internal access road, together with an additional unspecified number of additional movements associated with the delivery of waste / fuel from a railway depot at Ridham Docks along Ridham Dock Road, has already been established.
54. The application is accompanied by an Environmental Statement Addendum and a Supplementary Transport Assessment which considers the potential impact of the proposed additional 90 HGV movements in the context of up to date information on traffic flows, road safety and new and other committed development (including cumulatively). In terms of the transport links between junctions / roundabouts, the Transport Assessment predicts that the proposed development would not have a significant impact on traffic flows between the Kemsley SEP and the M2 in 2023 (i.e. when all committed development and the proposed additional HGV movements are taken into account). In terms of junction assessment, it predicts that the Barge Way / Northern Site Access and Barge Way / Fleet End junctions would continue to operate within their design capacity in 2023, that the Barge Way / Swale Way junction (currently within capacity) would operate over capacity during the morning (07:30 to 08:30 hours) and afternoon (16:30 to 17:30 hours) peaks in 2023 and the A249 Dumbbell junction would continue to operate over capacity in 2023. It notes that significant vehicle queuing already occurs on Swale Way during the afternoon peak but that a mitigation scheme for the Grovehurst Road (A249) Dumbbell junction put forward at the recent Swale Local Plan Examination relating to housing development to the Southwest of Sittingbourne would improve the operation of the junction when future residential development moves forward. It should be noted that the Transport Assessment does not assume the implementation of the mitigation scheme for the purposes of assessing the development now proposed. Notwithstanding the above, the Transport Assessment also states that the proposed additional HGVs would not have a significant impact on the operation of any junction. Given this, the Transport Assessment (which adopts a worst-case approach) concludes that the impact of the proposed additional HGV movements on the local highway network would be negligible and would not result in any severe impacts on the link or junction operation

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nor on highway safety.

55. Whilst Iwade Parish Council has objected to the application as it proposes “a huge increase in lorry movements of 90 vehicles per day” and the applicant’s own Transport Assessment acknowledges that two of the junctions between the Kemsley SEP and the A249 would operate over capacity in 2023, neither KCC Highways and Transportation nor Highways England have objected. KCC Highways and Transportation has recommended that permission be granted. Highways England has advised that the proposed variation would not have a severe impact on the safety, reliability and / or operation of the existing Strategic Road Network. KCC Highways and Transportation has also specifically stated that the Transport Assessment is robust and accords with the relevant NPPF tests and that the additional impact of the proposed development is not sufficient to warrant a contribution towards the A249 / Grovehurst Road junction improvements. Given the highway responses, I am unable to recommend that the application be refused on highway capacity or safety grounds and am satisfied that the proposed development accords with relevant planning policies in respect of these issues.
56. Whilst the NPPF and several development plan policies promote the use of sustainable transport modes, they do not preclude road use. Indeed, there are circumstances where road use will be the most sustainable transport mode. The most sustainable mode of transport for importing waste / fuel to facilities such as the Kemsley SEP is likely to be determined by the geographical distribution of available sources of waste, the quantity and reliability of the waste source (related to contractual arrangements) and the proximity of both the facility and the source(s) of waste to the necessary rail or dock infrastructure. In the case of the Kemsley SEP, it was originally envisaged that a significant quantity of waste / fuel would be delivered to Ridham Docks by rail from London and then transferred to the facility along Ridham Dock Road. However, the applicant was unable to secure the waste / fuel contract on which the rail use depended and has had to establish alternative waste / fuel sources. In the absence of a similar large contract for the delivery of waste / fuel by rail (or water), the applicant has had no choice but to seek alternatives if the Kemsley SEP is to operate and provide power to Kemsley Paper Mill. In these circumstances, road transport is likely to be the most sustainable mode for the delivery of locally collected C&I Waste such as that proposed. Ensuring that the Kemsley SEP is able to accommodate waste collected locally from within Kent is also consistent with a number of the strategic objectives of the Kent MWLP. Whilst there is currently no specific obligation on the applicant relating to the use of water transport, the 2017 revised rail strategy requires potential rail use to be reviewed on a 5-yearly basis. I am satisfied that this remains an appropriate mechanism for encouraging alternatives to road use. I am also satisfied that if the applicant were able to secure an appropriate waste / fuel contract(s) which justified the use rail and / or water transport that it would take steps to enable use these alternative transport modes.

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57. Subject to condition 3 being reworded to refer to 348 rather than 258 HGV movements, the re-imposition of the other conditions imposed on planning permission SW/17/502996 and the proposed development being acceptable in terms of noise, air quality and ecology, I am satisfied that the proposed development would accord with the above policies and be acceptable in terms of highways and transportation.

Noise and Air Quality

58. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural environment by (amongst other things) preventing new and existing development from contributing to unacceptable levels of soil, air, water or noise pollution and that development should, wherever possible, help to improve local environmental conditions such as air and water quality. Paragraph 180 states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development and that in doing so they should (amongst other things) 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 the quality of life. Paragraph 181 states (amongst other things) that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas (AQMAs) and Clean Air Zones, and the cumulative impacts from individual sites. Paragraph 7 of the National Planning Policy for Waste (NPPW) states (amongst other things) that Waste Planning Authorities (WPAs) should consider the likely impact of on the local environment and on amenity against the criteria set out in Appendix B of the NPPW. In terms of noise and air quality, Appendix B states that considerations will include the proximity of sensitive receptors (human and ecological), including those associated with vehicle traffic movements to and from a site. The National Planning Policy Guidance (NPPG) contains guidance on the application of national planning policy for noise and air quality in “Noise” (6 March 2014) and “Air Quality” (6 March 2014).
59. Policy DM1 of the Kent MWLP states that proposals for minerals and waste development will (amongst other things) be required to demonstrate that they have been designed to minimise greenhouse gas emissions and other emissions. Policy DM11 states that minerals and waste development will be permitted if it can be demonstrated that it is unlikely to generate unacceptable adverse impacts from noise, dust, vibration, odour, emissions or exposure to health risks and associated damage to the qualities of life and wellbeing to communities and the environment. It also states that this may include production of an air quality assessment of the impact of the proposed development and its associated traffic movements.

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60. As noted in paragraph 52 above, Policy ST1 of the Swale BLP seeks to deliver sustainable development in Swale by (amongst other things) managing emissions and Policy DM6 seeks to minimise adverse air quality impacts associated with traffic. Policy DM14 states that development proposals should cause no significant harm to amenity and other sensitive uses or areas.
61. It has previously been established that the Kemsley SEP would be acceptable in terms of noise and air quality impacts based on condition 3 as currently worded. The proposed increase in HGV movements has the potential to increase off site road traffic noise and traffic generated pollution levels with consequential effects on ambient air quality.
62. The application is accompanied by an Environmental Statement Addendum (which considers the potential noise and vibration and air and climate impacts associated with the proposed additional 90 HGV movements) and a Supplementary Air Quality Assessment which considers air quality impacts in the context of up to date information on air quality (including cumulatively). The Environmental Statement Addendum concludes that significant noise (and vibration) effects associated with the proposed increase in HGV movements can (when considered alone and cumulatively) be screened out as not significant and that the conclusions of the original Environmental Statement remain valid. In terms of noise, the Environmental Statement Addendum points out that a 10dB(A) increase in noise is typically taken to represent a doubling of loudness, a 3dB(A) increase is generally just perceptible, that a halving or doubling of road traffic flow generally produces a 3dB(A) change in noise level and that the Transport Assessment demonstrates that the greatest increase in traffic levels on any road link would (when considered cumulatively with all existing and committed development) be 23%. In terms of air quality, the Environmental Statement Addendum and Supplementary Air Quality Assessment show that the concentrations of nitrogen dioxide (NO₂) and particulates (PM₁₀ and PM_{2.5}) at the facades of existing receptors would remain similar and negligible at all human receptors. The Environmental Statement Addendum and associated Supplementary Air Quality Assessment conclude that there would be a negligible effect on air quality and human health receptors that is not significant (when considered alone and cumulatively) and that the conclusions of the original air quality assessment remain valid. They also include information and conclusions on the potential impact on ecology which are addressed in the Ecology section below.
63. No objections have been received in respect of noise and air quality from KCC's Noise and Air Quality Consultant which is satisfied that the proposed increase in HGV movements would not have an adverse effect on noise or air quality at any of the nearest sensitive human receptors. It has advised that it sees no grounds for refusal resulting from changes to noise and air emissions. The Environment Agency has stated that it has no comments to make. I note that the Kemsley SEP is subject to an Environmental Permit which (amongst other things) regulates air emissions from the

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facility.

64. Subject to condition 3 being reworded to refer to 348 rather than 258 HGV movements, the re-imposition of the other conditions imposed on planning permission SW/17/502996 and the proposed development being acceptable in terms of ecology, I am satisfied that the proposed development would accord with the above policies and be acceptable in terms of noise and air quality.

Ecology

65. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural environment by (amongst other things) protecting and enhancing sites of biodiversity value (in a manner commensurate with their statutory status) and minimising impacts on and providing net gains for biodiversity. Paragraph 175 states that when determining planning applications, local planning authorities should (amongst others) apply the following principles: (a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused; (b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest; and (d) opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity. Paragraph 176 states (amongst other things) that listed or proposed Ramsar Sites should be given the same protection as habitats sites. Paragraph 7 of the National Planning Policy for Waste (NPPW) states (amongst other things) that Waste Planning Authorities (WPAs) should consider the likely impact of on the local environment and on amenity against the criteria set out in Appendix B of the NPPW. In terms of nature conservation, Appendix B states that considerations will include any adverse effect on a site of international importance for nature conservation (e.g. SPA, Ramsar Sites and Special Areas of Conservation), a site with a nationally recognised designation (e.g. SSSI) and ecological networks and protected species. The National Planning Policy Guidance (NPPG) contains guidance on the application of national planning policy for ecology in "Natural Environment" (21 January 2016).
66. Policy DM1 of the Kent MWLP states that minerals and waste proposals should demonstrate that they have been designed to protect and enhance the character and quality of the site's setting and its biodiversity interests or mitigate and if necessary compensating for any predicted loss. Policy DM2 states that proposals for minerals and waste development must ensure that there is no unacceptable adverse impact on

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sites of international, national or local importance unless it can be demonstrated that there is an overriding need for the development and any impacts can be mitigated or compensated for, such that there is a net planning benefit. Policy DM3 states that proposals will be required to demonstrate that they result in no unacceptable adverse impacts on Kent's important biodiversity assets and that proposals that are likely to give rise to such impacts will need to demonstrate that an adequate level of ecological assessment has been undertaken and will only be granted permission following (amongst other things): an ecological assessment of the site (including specific protected species surveys as necessary); the identification and securing of measures to mitigate any adverse impacts; the identification and securing of compensatory measures where adverse impacts cannot be avoided or mitigated for; and the identification and securing of opportunities to make a positive contribution to the protection, enhancement, creation and management of biodiversity.

67. As noted in paragraph 52 above, Policy ST1 of the Swale BLP seeks to deliver sustainable development in Swale by (amongst other things) conserving and enhancing the natural environment. As noted in paragraph 60 above, Policy DM14 states that development proposals should cause no significant harm to sensitive areas. Policy CP7 states that the Council will work with partners and developers to ensure the protection, enhancement and delivery of the Swale natural assets, in order to conserve and enhance the natural environment, including ensuring that there is no adverse effect on the integrity of a SAC, SPA or Ramsar site. Policy DM28 states (amongst other things) that development proposals will give weight to the protection of designated biodiversity sites equal to the significance of their status (with internationally designated sites receiving the highest level of protection).
68. As noted in the Noise and Air Quality section above, the application is accompanied by an Environmental Statement Addendum and a Supplementary Air Quality Assessment which address these issues. In terms of ecology, the Environmental Statement Addendum and Supplementary Air Quality Assessment show that the annual mean nitrogen oxide (NOx) concentration would not exceed 1% of the critical level at any modelled receptors (meaning that the air quality effects on the ecologically designated sites is not considered to be significant) and that there would be minimal change to modelled nutrient deposition rates (also not considered to be significant). In terms of the potential impact on ecology and nature conservation they conclude that no significant effects are likely to occur as a result of the proposed increase in HGV movements (when considered alone and cumulatively) and that the conclusions of the original ecology assessment remain valid.
69. No objections have been received from KCC's Noise and Air Quality Consultant, Natural England, KCC Ecological Advice Service or other consultees and no representations have been made in respect of ecological issues. KCC's Noise and Air Quality Consultant is satisfied that the proposed increase in HGV movements would not have an adverse effect on noise or air quality at any of the nearest sensitive

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ecological receptors. It has advised that it sees no grounds for refusal resulting from changes to noise and air emissions. KCC Ecological Advice Service is satisfied that the proposed variation would not result in a negative impact on the designated sites. As Natural England has stated that it has no comments on the proposed development I am satisfied that it must be content that the proposed increase in HGV movements would not have any significant effect on the designated sites.

70. Subject to condition 3 being reworded to refer to 348 rather than 258 HGV movements and the re-imposition of the other conditions imposed on planning permission SW/17/502996, I am satisfied that the proposed development would accord with the above policies and be acceptable in terms of ecology.

Conclusion

71. The application proposes the variation of condition 3 of planning permission SW/17/502996 to increase the permitted number of HGV movements by 90 per day (the equivalent of 45 in / 45 out) from 258 (the equivalent of 129 in / 129 out) to 348 (the equivalent of 174 in / 174 out). No other changes are proposed.
72. The principle of the Kemsley SEP has already been established by a series of planning permissions (most recently SW/17/502996) and as these have already been implemented it is only necessary to consider whether the proposed increase in HGV movements would give rise to any significant adverse impacts and whether what is proposed accords with relevant planning policy. In determining this, the key issues relate to highways and transportation, noise and air quality and ecology.
73. Whilst the proposed increase in HGV movements would result in additional traffic on the road network, KCC Highways and Transportation and Highways England have no objection. KCC Highways and Transportation has advised that it can find no reasonable justification for refusal and recommends that permission be granted. Highways England has advised that the proposed variation would not have a severe impact on the safety, reliability and / or operation of the existing Strategic Road Network.
74. KCC's Noise and Air Quality Consultant has raised no objection and advised that the proposed increase in HGV movements would not have an adverse effect on noise or air quality at any sensitive human or ecological receptors and sees no grounds for refusal from changes to noise and air emissions.
75. Neither Natural England nor KCC Ecological Advice Service have raised objections. KCC Ecological Advice Service has specifically stated that it is satisfied that the proposed variation would not result in a negative impact on designated sites.

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76. Given the proximity of the Kemsley SEP to potential rail and existing water transshipment facilities, it is disappointing that waste / fuel is unlikely to be delivered to the Kemsley SEP by rail or water in the near future. However, granting planning permission for the proposed variation would not preclude either delivery mode. As noted in paragraph 56 above, the most sustainable form of transport is likely to depend on factors that are largely outside the applicant's control. In the current circumstances, road transport is likely to be the most sustainable mode for the delivery of locally collected C&I Waste such as that proposed. The 2017 revised rail strategy requires potential rail use to be reviewed on a 5-yearly basis and I am satisfied that this remains an appropriate mechanism for encouraging alternatives to road use. However, it should be noted that unless the applicant is able to secure a major, long-term waste / fuel contract which can enable the viable use rail or water transport, it is likely that road transport will remain the main or only means of transporting waste / fuel to the Kemsley SEP. It should also be noted that ensuring that the Kemsley SEP is able to accommodate waste collected locally from within Kent is also consistent with a number of the strategic objectives of the Kent MWLP and that this would assist in providing a sustainable power supply for Kemsley Paper Mill. These and related issues are likely to be explored further as part of the Kemsley DCO application relating to the K3 power upgrade and throughput increase and WKN projects referred to in paragraph 21 above.
77. I am satisfied 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 application should be refused. I am also satisfied that any harm that would arise from the proposed development would reasonably be mitigated by the imposition of the proposed conditions. I therefore recommend accordingly.

Recommendation

78. I RECOMMEND that PERMISSION BE GRANTED SUBJECT TO:

- (a) Condition 3 of planning permission SW/17/502996 being reworded as follows:
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.*
- (b) All other conditions included on planning permission SW/17/502996 being re-imposed.

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Case Officer: Jim Wooldridge

Tel. no: 03000 413484

Background Documents: see section heading



DHA Planning
Eclipse House
Eclipse Park
Sittingbourne Road
Maidstone
Kent
ME14 3EN

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/18/503317
Date: 11 October 2018

TOWN AND COUNTRY PLANNING ACT 1990

Dear Sir/Madam

APPLICATION: SW/18/503317 (KCC/SW/0103/2018)

PROPOSAL: 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

LOCATION: Land North East of Kemsley Paper Mill, Ridham Avenue, 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. The County Council's Planning Applications Committee considered the application at its meeting on 10 October 2018.

I write to inform you that the County Planning Authority resolved that planning permission be GRANTED subject to conditions as set out in the attached formal notification.

Please note the conditions imposed and any informatives as described.

Yours faithfully

Sharon Thompson
Head of Planning Applications Group

As part of the Council's commitment to equalities if you have any concerns or issues with regard to access to this information please contact us for assistance.



Reference Code of
Application: SW/18/503317

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 DHA Planning
Eclipse House
Eclipse Park
Sittingbourne Road
Maidstone
Kent ME14 3EN

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 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, referred to within the application for permission for development dated 30 May 2018, received on 30 May 2018, as amplified by the details referred to in the attached schedule, 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, 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)] 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 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. 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.

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 non-material amendment to planning permission SW/10/444 relating to building footprint, elevations, appearance and site layout approved under planning reference SW/10/444/RB on 27 March 2017; and
 - (e) 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 Eleventh day of October 2018

(Signed).. 
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
<p>Planning permission SW/10/444</p> <p>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.</p> <ul style="list-style-type: none"> • Application dated 23 March 2010, as amplified in the letters from RPS dated: <ul style="list-style-type: none"> ○ 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; and ○ 26 November 2010; and 17 March 2011 enclosing a plan entitled Kent & Hinterland. 	<p>6 March 2012</p>
<p>Planning approval SW/10/444/RVAR</p> <p>Details pursuant to conditions <u>6 (Rail Strategy)</u>, 10 (Contamination Risk), <u>11 (Buffer Management Zone)</u>, 12 (Environmental Management Plan), 13 (Archaeology), <u>14 (Landscaping)</u> and <u>20 (Details of the Waste Bunker)</u> of planning permission SW/10/444.</p> <ul style="list-style-type: none"> • 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: <ul style="list-style-type: none"> ○ Drawing number 16315/A1/4.21A Rev E received with accompanying RPS letter dated 17 September 2013 and as further amended by: ○ Drawing number 16315/A1/4.21A Rev F entitled “Landscape Masterplan”. 	<p>23 September 2013</p>

<p>Planning permission SW/14/506680</p> <p>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.</p> <ul style="list-style-type: none"> • Application dated 11 November 2014, as amplified in: <ul style="list-style-type: none"> ○ The email from Jonathan Standen (RPS) dated 12 February 2015. 	<p>21 April 2015</p>
<p>Non-Material amendment approval SW/10/444/RB</p> <p>Non-material amendments to site layout, building footprints, elevations and appearance of planning permission SW/10/444.</p> <ul style="list-style-type: none"> • Application and letter dated 2 March 2017 with drawing numbers: <ul style="list-style-type: none"> ○ 4.1C Site Location Plan ○ 4.2C Proposed Building Layout ○ 4.3C Proposed Site Layout ○ 4.4C SE Elevation & Section ○ 4.5C NE Elevation & Section ○ 4.6C SW Elevation & Section ○ 4.7C NW Elevation & Section ○ 4.8C SE Elevation b/w ○ 4.9C NE Elevation b/w ○ 4.10 SW Elevation b/w ○ 4.11C NW Elevation b/w ○ 4.12C Site Layout & Access ○ 4.13C Proposed Structure for Air Cooled Condenser Elevations ○ 4.19C Typical Office and Staff Amenities Building Floor Plans ○ 4.20C Proposed Gatehouse Floor Plan and Elevations ○ 4.21C Landscape Masterplan ○ 4.22C Boundary Treatment ○ 4.24C Site Sections ○ 4.25C Proposed Drainage Layout ○ 4.26C Proposed Levels ○ 4.27C Fuel Bunker Level +2.0m ○ 4.28C Fuel Bunker Level +20.0m and Level +36.0m ○ 4.29C Fuel Bunker Section A-A ○ 4.30C Fuel Bunker Section B-B ○ 4.31C Tipping Hall Layout Level +0.0m ○ 4.32C Tipping Hall Section A-A ○ 4.33C Overall Roof Layout Comparison Drawing ○ 4.34C Illustration 1 of 7 ○ 4.35C Illustration 2 of 7 ○ 4.36C Illustration 3 of 7 ○ 4.37C Illustration 4 of 7 ○ 4.38C Illustration 5 of 7 ○ 4.39C Illustration 6 of 7 	<p>27 March 2017</p>

<ul style="list-style-type: none"> ○ 4.40C Illustration 7 of 7 ○ 4.41C Western Ditch <p><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) and 2 September 2013 (under planning reference SW/10/444/R) which are not listed here.</p>	
<p>Planning approval SW/10/444/RVAR</p> <p>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.</p> <ul style="list-style-type: none"> • 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) 	<p>27 June 2017</p>
<p>Planning permission SW/17/502996 dated 23 August 2017</p> <p>Section 73 application to vary condition 16 of planning permission SW/10/444 to allow an amended surface water management scheme.</p> <ul style="list-style-type: none"> • Application dated 18 May 2017, as amplified and amended by: <ul style="list-style-type: none"> ○ the email from Andrew Stevenson (RPS) dated 6 June 2017 (09:33 hours) with attached details. 	<p>23 August 2017</p>

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.



Wheelabrator Technologies
c/o RPS Planning & Development
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Leeds
LS3 1AB

FAO: Andrew Stevenson

Planning Applications Group

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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: OXF 9812
Our Ref: SW/18/503317/R
Date: 21 December 2018

**TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)
PLANNING ACT 2008**

Dear Sir / Madam

APPLICATION NO: SW/18/503317/R (initially submitted under SW/10/444/R)

PROPOSAL: Application for non-material amendments relating to built elevations, appearance and site layout at Kemsley Sustainable Energy Plant

LOCATION: Land North East of Kemsley Paper Mill, Ridham Avenue, Kemsley, Sittingbourne, Kent ME10 2TD.

The County Council as County Planning Authority has now considered the amended details submitted in respect of the above proposal.

The Authority hereby approves the application for a non-material amendment dated 7 November 2018 as a formal amendment to the details previously permitted under planning permission reference SW/18/503317 (dated 11 October 2018) as set out in the letter from Andrew Stevenson of RPS Planning & Development Ltd dated 7 November 2018 and as set out in Schedule 1 attached, as clarified by the email from Jon Brier of RPS Planning & Development dated 26 November 2018 which confirmed that the Non Material Amendments were intended to relate to planning permission SW/18/503317 rather than the earlier planning permission SW/10/444 (dated 6 March 2012).

Yours faithfully

Head of Planning Applications Group

As part of the Council's commitment to equalities if you have any concerns or issues with regard to access to this information please contact us for assistance.

Schedule 1

Schedule of Documents considered under the Non-Material Amendment SW/18/503317/R

Drawings and Documents

- 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:
 - 4.1D Permitted Site Location Plan (ref: 16315/A0/P/0060 Rev N);
 - 4.2D Proposed Building Layout (ref: 16315/A0/P/0105 Rev L);
 - 4.3D Proposed Site Layout(ref: 16315/A1/P/0100 Rev U);
 - 4.4D South East Elevation; (ref:16315/A1/P/0110 Rev U);
 - 4.5D North East Elevation; (ref: 16315/A1/P/0111 Rev T);
 - 4.6D South West Elevation; (ref: 16315/A1/P/0112 Rev U);
 - 4.7D North West Elevation; (ref: 16315/A1/P/0113 Rev T);
 - 4.8D Main Building: Proposed South East Elevation; (ref: 16315/A0/P/0125 Rev K);
 - 4.9D Main Building: Proposed North East Elevation; (ref: 16315/A1/P/0126 Rev K);
 - 4.10D Main Building: Proposed South West Elevation; (ref: 16315/A1/P/0127 Rev L);
 - 4.11D Main Building: Proposed North West Elevation; (ref: 16315/A0/P/0128 Rev K);
 - 4.12D Site Layout & Access; (ref: 16315/A1/P/0160 Rev K);
 - 4.13D Proposed Structure for Air Cooled Condenser Elevations; (ref: 16315/A1/P/0121 Rev N);
 - 4.19D Typical Office and Staff Amenities Building (UYA) Floor Plans; (ref: 16315/A1/P/0171 Rev H);
 - 4.20D Proposed Gatehouse Floor Plan and Elevation; (ref: 16315/A2/P/0172 Rev L);
 - 4.21D Landscape Masterplan (ref: 16315/A1/4.21 Rev M);
 - 4.22D Boundary Treatment (ref:16315/A0/P/0106 Rev R);
 - 4.24D Site Sections (ref: 16315/A0/0250 Rev J);
 - 4.25D Proposed Drainage Layout (ref: 16315/A0/0301 Rev J);
 - 4.26D Proposed Levels/Site Plan (ref: 16315/A1/0600 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).



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

BY EMAIL ONLY

Environment, Planning & Enforcement

Invicta House
County Hall
Maidstone
Kent
ME14 1XX

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

5 October 2018

Dear Ms Down,

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

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

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

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

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

Chapter 3. Environmental Impact Assessment

3.8 Other related legislation

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

Chapter 6. K3 Proposed Development

6.1 K3 – Traffic and Transport

Background – Paragraph 6.1.5

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

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

Proposed Assessment Methodology – Paragraphs 6.1.20 to 6.1.22

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

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

Proposed Assessment Methodology – Paragraph 6.1.30

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

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

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

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

6.2 K3 – Air Quality

Currently Known Baseline - Paragraph 6.2.3

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

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

Proposed Assessment Methodology – Paragraphs 6.2.8 to 6.2.10

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

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

6.5 K3 – Human Health

Currently Known Baseline – Paragraphs 6.5.3 to 6.5.6

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

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

6.8 K3 – Archaeology and Cultural Heritage

Paragraph 6.8.1

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

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

6.9 K3 – Ecology

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

K3 - Risk of accidents and disasters

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

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

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

Paragraph 6.11.10

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

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

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

Chapter 7. Wheelabrator Kemsley North Proposed Development

7.7 WKN – Landscape and Visual Effects

Visual Amenity – Paragraph 7.7.10

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

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

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

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

7.8 WKN – Archaeology and Cultural Heritage

Currently Known Baseline – Paragraph 7.8.5

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

Proposed Assessment Methodology – Paragraphs 7.8.9 to 7.8.13

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

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

7.9 WKN – Ecology

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

7.10 WKN – Water Environment

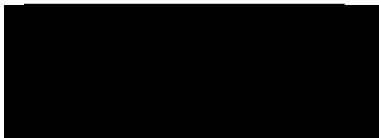
Potential Significant Effects – Paragraph 7.10.7

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

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

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

Yours sincerely,



Katie Stewart

Director for Environment, Planning and Enforcement

Encs:

- Appendix 1: Extract of Network Map



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

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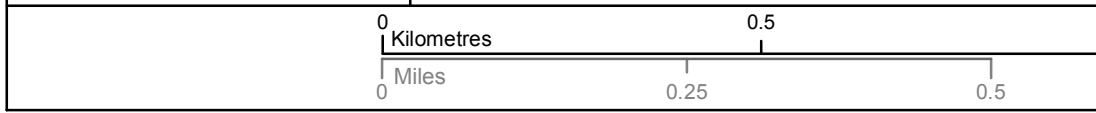
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Mr David Harvey
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Kent
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Growth, Environment & Transport

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Phone: 03000 415981
Ask for: Barbara Cooper
Email: Barbara.Cooper@kent.gov.uk

9 September 2019

BY EMAIL ONLY

Dear Mr Harvey,

Re: Proposed application for the granted of a Development Consent Order (DCO) for Wheelabrator Kemsley Generating Station and Wheelabrator Kemsley North Waste to Energy Facility

Thank you for providing Kent County Council (KCC) with the opportunity to comment on the documents submitted as part of the consultation under Section 42 of the Planning Act 2008. The County Council notes that this is a further consultation, following an amendment to the description of development.

The comments raised by the County Council in response to the previous consultation dated 10 January 2019 (Appendix 1) continue to be of relevance and should be considered by the Applicant accordingly. To avoid duplication, the County Council has not repeated those comments within this response.

The County Council has reviewed the documents for this consultation and would raise the following comments.

Minerals and Waste

As Minerals and Waste Planning Authority, it is understood that the revised consultation arises from advice received from the Planning Inspectorate that the description of the development should be revised to enable the project to be properly categorised and determined under the Planning Act 2008. Consent is now being sought for:

The construction and operation of a 75MW waste-to-energy facility, the 'Wheelabrator Kemsley Generating Station' ("K3"), and for the construction and operation of a 42MW waste-to-energy facility, 'Wheelabrator Kemsley North.

The consequence of this change is that the proposal will not be assessed as a power upgrade and increased throughput without the need for any construction works required, but rather as a consent for the construction of K3 at its total generating capacity of 75MW, together with a separate proposed total tonnage throughput of 657,000 tonnes of waste per annum.

The supporting information states that whilst the consent sought for the K3 development has altered, in respect of the practical effect of the DCO in environmental terms, the project remains unchanged. The DCO sought would allow K3 as consented and currently being built to operate to an upgraded power generation level of 75MW (an additional 25.1MW) and to process 657,000 tonnes of waste per annum (an additional 107,000 tonnes), above and beyond that permitted under its existing planning consent. The practical effect of the consent sought would not result in any additional external physical changes to K3 as permitted and the layout and appearance of the facility will remain as per its consented design.

Within the County Council's response to the original consultation (Appendix 1), attention was drawn to a number of concerns regarding the Draft Environmental Statement. In particular, there is a conflict between the DCO and the Council's adopted waste strategy, which is predicated upon the principle of net self-sufficiency and the Waste Hierarchy. These views remain pertinent in respect of the revised description of the development and KCC will be requesting that the Planning Inspectorate gives very careful consideration to the Council's concerns in assessing the merits of the DCO proposal.

The County Council as Waste Planning Authority considered the planning merits of the planning application for the K3 proposal with a feedstock of 550,000 tonnes a year and 49MW of energy. In granting conditional planning permission, the County Council was satisfied that the application was in accordance with planning policy and that it constituted sustainable development. The Waste Planning Authority has not considered the merits of the increase in waste feedstock, nor the planning merits of the new Wheelabrator Kemsley North plant.

Air Quality

Part of the A2 corridor, mainly Ospringe to Faversham, is declared as an Air Quality Management Area (AQMA). This AQMA has recorded the third highest levels of Nitrogen Dioxide (the main pollutant from vehicle exhausts) in the County. Therefore, from a strategic air quality perspective, the Applicant will need to have clear mitigation in place to demonstrate that the development will not have a negative impact on air quality.

KCC would welcome further opportunity to engage throughout the progression of the DCO. If you require further information or clarification on any matter in this letter, then please do not hesitate to contact KCC.

Yours sincerely,

Barbara Cooper

Corporate Director – Growth, Environment and Transport

Encs:

- KCC Response to Statutory Consultation – 10 January 2019