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Your Ref:

Our Ref: EN010083

Date: 8 October 2019

Dear Sir

## **Planning Act 2008 (as amended) – Section 51**

### **Application by WTI/EFW Holdings Ltd for an Order Granting Development Consent for the Wheelabrator Kemsley (K3) Generating Station and the Wheelabrator Kemsley North (WKN) waste to energy facility**

#### **Advice following issue of decision to accept the application for examination**

On 8 October 2019 the Secretary of State decided that the application for the above project satisfied the acceptance tests under section 55 of the Planning Act 2008 (PA2008). The Planning Inspectorate's acceptance checklist and the application documents have been published and made available on the project page of our website.

In undertaking checks at the acceptance stage, the Inspectorate has made some initial observations in relation to the application. This letter comprises advice to the Applicant provided under section 51 of the PA2008 in respect of these initial observations. The Applicant should pay attention to its content and consider how appropriate action might be taken in response.

#### **Consultees identified on a precautionary basis**

As detailed in the published s55 checklist ('the checklist') (**Box 6**), there are a few potentially relevant bodies which, on the basis of the information provided by the Applicant do not appear to have been consulted at the pre-application stage. These are:

- Harlaxton Energy Networks Limited; and
- Murphy Gas Networks Limited

Unless there is a good reason in each case why the Applicant considers that these bodies are not relevant to the proposed development, the Applicant is advised to include these bodies, or their appropriate successors, in the notification process of the accepted application. This should highlight the opportunities to become involved in the

examination of the application. It should explain the process by which they may make relevant representations during the advertised period.

### **The Land Plans and Book of Reference (BoR)**

It is noted in the checklist (**Box 30**, Regulation 5(2)(i)) that there are some discrepancies in Part 1-5 of the BoR in relation to 'Description of Land'. Further guidance on this issue can be found in DCLG's Planning Act 2008 [Guidance related to procedures for the compulsory acquisition of land](#) (Annex C and D). The Applicant should carry out a full check of the BoR to ensure all information provided is complete and accurate.

Please provide updated Land Plans which include:

- A Key consistent with the Plan and descriptions as provided in the **BoR (Doc 2.4)**;
- All relevant landmarks as described in Column 1 ('Description of Land') of the BoR e.g. Barge Way, Kemsley Paper Mill, construction site car park, site offices and the Swale to be reflected on relevant Land Plan.

### **Works Plans**

Upon review of the plans, which the Applicant identifies as Works Plans in **Box 12** of the **Application Form (Doc 1.3)**, it is noted (from the Application Form) that the following Plans are provided under the requirements of Regulation 5(2)(j) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP):

- K3 Works Plan (Doc 5.5a);
- WKN Works Plan (Doc 5.5b); and
- WKN Parameter Plan (Doc 5.6)

It is however unclear, which plans in those listed under Schedule 3 of the draft Development Consent Order (dDCO) the Applicant is seeking to rely on as the "K3 Approved Plan set" (as referred to in the Application Form), to show the limits within which the development and works may be carried out.

Schedule 3 of the draft DCO provides a list of documents and plans and therefore it would be useful if the Applicant could identify precisely which plans they are relying on to meet the requirements under Reg 5(2)(j)(ii). This request is made, also bearing in mind that a series of applications were made to Kent County Council under section 73 Town and Country Planning Act 1990 which may have resulted in one or more planning permissions relied on by the Applicant.

### **Plans under Regulation 5(2)(o) of the APFP**

The Applicant's Application Form, **Box 23** refers to the "K3 Approved Plan set", which are listed under Schedule 3 of the draft DCO, as per advice provided above, it would be useful if the Applicant could identify the specific documents and/or plans, they are relying on to meet the requirements under Reg 5(2)(o) of the APFP.

### **Draft Development Consent Order**

The Applicant should undertake a full check of the draft DCO and other application documents, in particular the Land Plan and those plans the Applicant considers to be Works Plans submitted under Reg 5(2)(j) of the APFP, to ensure consistency.

The Applicant should also review Article 16 (Certification of Plans) of their draft DCO and ensure consistency when referencing application documents associated to the proposed development. This will be helpful, and avoid any uncertainty during the Examination.

### **Statement of Reason (SoR) and Funding Statement**

**Box 13** of the Application Form confirms that no compulsory acquisition has been applied for, for this proposed development. However, it is noted that the Applicant has submitted, as part of their application documents, documents entitled 'Statement of Reasons' and 'Funding Statement', both of which are only required under Reg 5(2)(h) of the APFP if the Applicant is applying for Compulsory Acquisition (CA).

The Applicant has provided their reasons for submitting these application documents despite stating that no CA is required. However, if these documents have not been submitted under Reg 5(2)(h) of the APFP, then their titles as a "Statement of Reasons" and "Funding Statement" could be misinterpreted. We would advise the Applicant to consider this matter further.

### **Submission of updated documents**

With regard to the issues identified above, it would be helpful and assist the examination process if any other information, clarification documents or amendments made to the application documents were submitted to the Planning Inspectorate prior to the Applicant notifying persons under s56 of the accepted application, to enable them to be published on the project page of our website before the opening of the relevant representation period.

Please pay close attention to the advice set out in this letter and act on it accordingly. This will contribute towards a more efficient examination and give any future Examining Authority comfort that the documentation is complete and accurate.

We trust you find this advice helpful, however if you have any queries on these matters please do not hesitate to contact our office using the contact details at the head of this letter.

Yours Sincerely

*Emré Williams*

**Emré Williams**  
**Case Manager**

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