



Mr E Williams
Major Applications and Plans
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Our ref: 7.1 - Covering Letter S51
Your Reference: EN010083

18th October 2019

Dear Mr Williams,

EN010083: APPLICATION FOR THE WHEELABRATOR KEMSLEY (K3 GENERATING STATION) AND (WKN WASTE-TO-ENERGY FACILITY) ORDER, THE WHEELABRATOR K3 AND WKN FACILITIES, BARGE WAY, KEMSLEY, SITTINGBOURNE, KENT, ME10 2TD

PLANNING ACT 2008 (AS AMENDED) – SECTION 51 SUBMISSION

I write further to your letter of the 8th October 2019 providing advice to the applicant with reference to the above application under S51 of the Planning Act 2008.

This letter accompanies a submission of amended documents which address the points raised in the S51 advice and summarises which documents have been amended and the changes made to them, to provide clarity for any interested party reviewing the application.

The following documents have been submitted:

- 1.2 – S51 Application Guide, October 2019
- 1.3 – S51 Application Form, October 2019
- 2.1 – S51 Draft Development Consent Order, October 2019
- 2.3 – S51 DCO Validation Report
- 2.4 – S51 Book of Reference
- 2.5 – S51 Summary of Land Interests and Rights (replaces Statement of Reasons)
- 2.6 – S51 Summary of Applicant’s Structure and Standing (replaces Funding Statement)
- 4.1 – Consultation Report, October 2019
- 5.4 – S51 Land Plan (9812-0057-005)

planning transport design environment infrastructure

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Document 1.2 – S51 Application Guide, October 2019

The Application Guide has been updated to reflect the documents which form part of this S51 submission.

Document 1.3 – S51 Application Form, October 2019

For completeness, and to avoid any confusion for interested parties, a revised version of the Application Form has been submitted to reflect the documents amended following the S51 advice. Two sections have been amended; Section 12 – Works Plans has been altered to ensure reference is now made to the specific K3 approved plans which are considered to form the K3 Works Plans for the purposes of the application. Section 23 of the Application Form has also then been amended to clarify the reference to the K3 Approved Plan set.

The date of the Application Form has not been amended and therefore reflects the date of the submission of the application.

Document 2.1 – S51 Draft Development Consent Order, October 2019

The following changes have been made to the draft DCO:

- Part 1 Article 2(2) – the article in question, which originally referred to rights over land, has been removed;
- Article 16 has been updated to reflect the current references of the documents and plans intended to be certified;
- Specific K3 plans, which will form the K3 works plans, have been listed within Article 16. Those plans comprise the approved K3 site layout, elevation drawings of the K3 facility and the approved landscape masterplan.

Document 2.3 – S51 DCO Validation Report

A revised Validation Report relating to the amended dDCO has been provided.

Document 2.4 – S51 Book of Reference

An amended version of the Book of Reference has been submitted with the following amendments made;

- Plot descriptions have been repeated throughout, where relevant, rather than reference being made to other entries in the BoR;
- Dashes have been removed, in accordance with the published Guidance relating to the BoR;
- Schedule 1, which was a list of relevant statutory undertakers, has been deleted as the Guidance states it is not necessary.

Document 2.5 – S51 Summary of Land Interests and Rights (replaces Statement of Reasons) and Document 2.6 – S51 Summary of Applicant’s Structure and Standing (replaces Funding Statement)

We note the concern raised by the Inspectorate that the presence of a Statement of Reasons and Funding Statement within the application could lead to confusion given no



compulsory acquisition has been applied for. Those documents have now been retitled to reflect their purpose within the application, and reference to APFP Regulation 5(2)(h) has been removed. Other documents, such as the Application Form and the Application Guide, have been updated to reflect that change.

Document 4.1 – Consultation Report, October 2019

Paragraph 19.2.1 has been amended to make specific reference to a consultation response received during the 2019 consultation. The response was from a party who raised the same issues in the 2018 consultation, but specific reference is being made to their 2019 response for the avoidance of doubt.

Document 5.4 – S51 Land Plan (9812-0057-005)

The Land Plan has been amended to include specific reference to the landmarks referred to within the Book of Reference, namely the Kemsley Paper Mill, Barge Way and The Swale. A key has been added to clarify that the numbers shown on the Land Plan relate to the entries within the Book of Reference.

Other Matters

Additional Consultees Identified

We note the two parties identified; our records show that Harlaxton Energy Networks Limited were consulted at the pre-application stage but regardless we will ensure the two bodies identified are notified as to the acceptance of the application.

Works Plans 5.5a and 5.5b

The S55 Checklist requests clarification on the approach taken to Works 1C and 1E on Works Plan 5.5a (K3) and Works 4 and 7 on Works Plan 5.5b (WKN).

Following pre-application discussions with PINS the draft Development Consent Order takes a structure which keeps K3 and WKN separate, in terms of elements such as requirements, unless it is appropriate to treat them jointly such as in the General Requirements. The Works Plans reflect that same approach.

Work 1C relates to the access road for the construction and operation of K3. Work 4 makes provision for WKN to use the same access road for its construction and operation, but in that case Work 4 extends to the southern boundary of the WKN site, rather than to the southern boundary of the K3 site in the case of Work 1C.

The work to install the surface water outfall for K3 has been completed but is shown within Work 1E for completeness. Further works would be needed to install an additional surface outfall pipe at the same point for WKN which is therefore the subject of Work 7.

The DCO makes provision for the benefit of the K3 and WKN DCO to be transferred to



separate parties and the identification of separate Works areas for the K3 and WKN access road and outfall areas would ensure clarity should the benefits of different elements of the Order be transferred.

Any other Plans under Reg5(2)(o)

For the avoidance of doubt the plans and documents listed at Schedule 3 of the draft DCO reflect the applicant's understanding of the full suite of approved plans and documents relating to the K3 planning permission. The intention is for the DCO to replace the K3 planning permission as the controlling consent for the K3 facility and in that respect Requirement 9 states that the K3 authorised development would be carried out in accordance with the approved plans and documents listed in Schedule 3. It is therefore considered appropriate that Schedule 3 comprise a comprehensive list of all the plans and documents which the applicant, and Kent County Council, consider to be the approved plans and documents relating to the K3 facility. Six of those plans have now been identified as the K3 Works Plans, specifically the layout, elevations and landscape masterplan. The applicant intends to confirm the position regarding the K3 plans through a Statement of Common Ground with Kent County Council.

I would be grateful if the application can be amended to include the documents which accompany this letter, which supersede their previous versions. Please do not hesitate to contact me if you have any queries regarding this S51 submission.

Yours sincerely,

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

David Harvey
Director

Direct email: david.harvey@dhaplanning.co.uk

Enc.