

Application by WTI/EFW Holdings Ltd for Wheelabrator Kemsley K3 and WKN

The Examining Authority's written questions and requests for information (ExQ1)

Issued on 26 February 2020

The following table sets out the Examining Authority's (ExA's) written questions and requests for information - ExQ1. If necessary, the examination timetable enables the ExA to issue a further round of written questions in due course. If this is done, the further round of questions will be referred to as ExQ2.

Questions are set out using an issues-based framework derived from the Initial Assessment of Principal Issues provided as Annexe B to the Rule 6 letter of 21 January 2020. Questions have been added to the framework of issues set out there as they have arisen from representations and to address the assessment of the application against relevant policies.

Column 2 of the table indicates which Interested Parties (IPs) and other persons each question is directed to. The ExA would be grateful if all persons named could answer all questions directed to them, providing a substantive response, or indicating that the question is not relevant to them for a reason. This does not prevent an answer being provided to a question by a person to whom it is not directed, should the question be relevant to their interests.

Each question has a unique reference number which starts with Q1 (indicating that it is from ExQ1) and then has an issue number and a question number. For example, the first question on *Principle and nature of the development, including waste recovery capacity and management of waste hierarchy* is identified as Q1.1.1. When you are answering a question, please start your answer by quoting the unique reference number.

If you are responding to a small number of questions, answers in a letter will suffice. If you are answering a larger number of questions, it will assist the ExA if you use a table based on this one to set out your responses. An editable version of this table in Microsoft Word is available on request from the case team: please contact WheelabratorKemsley@planninginspectorate.gov.uk and include 'Wheelabrator Kemsley K3 and WKN' in the subject line of your email.

Responses are due by **Deadline 2: 18 March 2020**.

Abbreviations used

PA2008	<i>The Planning Act 2008</i>	km	<i>kilometre</i>
µg.m-3	<i>Microgram per cubic meter</i>	KMWLP	<i>Kent Joint Municipal Waste Management Strategy</i>
AC	<i>Ambient Concentration</i>	LAQM.TG16	<i>Local Air Quality Management Technical Guidance</i>
APIS	<i>Air Pollution</i>	LSE	<i>Likely Significant Effects</i>
CEMP	<i>Construction Environment Management Plan</i>	LVIA	<i>Landscape and Visual Impact Assessment</i>
DCO	<i>Development Consent Order</i>	m	<i>metres</i>
dDCO	<i>draft DCO</i>	MCZ	<i>Marine Conservation Zone</i>
EA	<i>Environment Agency</i>	ME&M SPA	<i>Medway Estuary and Marshes Special Protection Area</i>
EAL	<i>Environmental Assessment Level</i>	MMO	<i>Marine Management Organisation</i>
EIA	<i>Environmental Impact Assessment</i>	NE	<i>Natural England</i>
ELV	<i>Emission Limit Value</i>	NH3	<i>Ammonia</i>
EMMP	<i>Environmental Mitigation and Management Plan</i>	NOx	<i>Nitrogen Oxide</i>
EPR	<i>Early Partial Review</i>	NPPF	<i>National Planning Policy Framework</i>
EM	<i>Explanatory Memorandum</i>	NSIP	<i>National Significant Infrastructure Project</i>
ES	<i>Environmental Statement</i>	SoS	<i>Secretary of State</i>
EU	<i>European Union</i>	PC	<i>Parish Council</i>
ExA	<i>Examining Authority</i>	PD	<i>Proposed Development</i>
ExQ1	<i>ExA's First Written Questions</i>	PEC	<i>Predicted Environmental Concentrations</i>
HE	<i>Highways England</i>	PEIR	<i>Preliminary Environmental Impact Report</i>
HGV	<i>Heavy Goods Vehicle</i>	PINS	<i>Planning Inspectorate</i>
HRA	<i>Habitats Regulation Assessment</i>	PRoW	<i>Public Right of Way</i>
HRAR	<i>Habitats Regulation Assessment Report</i>	RIS	<i>Ramsar Information Sheet</i>
IAQM	<i>Institute of Air Quality Management</i>	RR	<i>Relevant Representation</i>
IBA	<i>Incinerator Bottom Ash</i>	s	<i>Section</i>
IED	<i>Industrial Emissions Directive</i>	SAC	<i>Special Area of Conservation</i>
IP	<i>Interested Party</i>	SEWPAG	<i>South East Waste Planning Advisory Group</i>
IPPC	<i>Integrated Pollution Prevention and Control</i>	SO2	<i>Sulphur Dioxide</i>
ISH	<i>Issue Specific Hearing</i>	SPA	<i>Special Protection Area</i>
K3	<i>Kemsley 3</i>	SRN	<i>Strategic Road Network</i>
KCC	<i>Kent County Council</i>	SSSI	<i>Site of Special Scientific Interest</i>

KJMWMS	<i>Kent Joint Municipal Waste Management Strategy</i>	TA	<i>Transport Assessment</i>
TE&M	<i>Thames Estuary and Marshes Special Protection Area</i>		
WFD	<i>Water Framework Directive</i>		
WKN	<i>Wheelabrator Kemsley North</i>		
WR	<i>Written Representation</i>		
WSI	<i>Written Scheme for the Investigation</i>		
ZOI	<i>Zone of Influence</i>		

The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link:

[https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010083/EN010083-000533-Kemsley%20K3%20-%20Examination%20Library%20\(pdf%20version\).pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010083/EN010083-000533-Kemsley%20K3%20-%20Examination%20Library%20(pdf%20version).pdf)

It will be updated as the examination progresses.

Citation of Questions

Questions in this table should be cited as follows:

Question reference: issue reference: question number, eg ExQ1.1.1 – refers to question 1 in this table.

ExQ1	Question to:	Question:
Q1.1.	Principle and nature of the development, including waste recovery capacity and management of waste hierarchy	
Q1.1.1.	KCC	<p>KCC's Additional Submission of 4 December 2019 [AS-010] asserts a conflict in policy terms between the Proposed Developments and the Council's strategy for management of waste in the Kent Minerals and Waste Local Plan (KMWLP) proposed for modification by the Early Partial Review (EPR). The EPR Plan is said to be currently with the Planning Inspectorate for examination.</p> <p>Please identify which documents relating to the Local Plan examination available on the Council web site you consider to be important and relevant to this matter, explaining the significance of the alleged conflict(s) in each case, and provide copies not already submitted in this examination.</p>
Q1.1.2.	KCC and the Applicant	In view of the fact that the WKN Proposed Development is not an NSIP how if at all should this affect the consideration which the ExA should give to the NPSs in contrast to the K3 Proposed Development?
Q1.1.3.	KCC	Please supply, if not provided to the ExA, the Memorandum of Understanding of the South East Waste Planning Advisory Group (SEWPAG) that is said to commit the respective signatories to regional net self-sufficiency to be achieved and maintained as part of each authority's waste planning strategy, and comment on its planning status.
Q1.1.4.	The Applicant	Please comment on KCC's claim [AS-010] that the Proposed Development would result in waste being drawn into the SEWPAG area, contrary to the objectives of SEWPAG.

ExQ1	Question to:	Question:
Q1.1.5.	The Applicant	<p>The Applicant, in its response to the Planning Inspectorate’s Scoping Opinion, refers to KCC comments on p44:</p> <p>“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.”</p> <p>The Applicant replied that this is not deemed relevant to the EIA. Please justify why in your view this is not a matter relevant to the EIA.</p>
Q1.1.6.	The Applicant	<p>Surrey County Council in its RR [RR-007] state that it and other planning authorities in the south east are planning for waste on the basis of net self-sufficiency and not on the basis that Surrey’s requirements will be met by facilities in Kent. What are the implications of this policy for the Applicant’s strategy to take in a significant proportion of waste fuel from the south-east region?</p>
Q1.2.	Environmental Impact Assessment	
Q1.2.1.	The Applicant	<p>Information regarding the total site area of K3 and WKN has not been provided within the ES. The Applicant is asked to provide this along with an update regarding the current construction/operational status of K3 as consented.</p>

ExQ1	Question to:	Question:
Q1.2.2.	The Applicant	<p>The Work Nos shown on the WKN Parameter Plan contained in Figure 2.9 of ES Chapter 2 are not consistent with the Work Nos shown in dDCO Schedule 1, replicated in R14 Table 1. In addition, dDCO R14(4) defines the WKN Parameter Plan as that certified under Article 16, although it is not one of the plans listed therein.</p> <p>Please explain the discrepancies and provide corrected plans as necessary.</p>
Q1.2.3.	The Applicant	<p>The ES states that the design life of the operational Proposed Developments is up to and potentially beyond 50 years.</p> <p>Explain how this durational design change (which differs from that presented at the scoping stage) has influenced the Proposed Developments in terms of anticipated impacts from climate change?</p>
Q1.2.4.	The Applicant	<p>Table 2.3 of the ES presents a maximum height of 30m for Work No 2(i): administrative office, whereas it is shown as 15m in the dDCO Part 3 WKN Requirements.</p> <p>Please clarify the basis on which the assessments were made and correct the parameter details in the next iteration of the dDCO as necessary, to ensure that there is consistency between the ES and the DCO.</p>
Q1.2.5.	The Applicant	<p>Please provide an update regarding the status of the amended environmental permit for K3 and progress with the environmental permit for WKN.</p> <p>The update should provide evidence to confirm that the EA has no major permitting concerns and that the necessary environmental permit is capable of being granted (or signpost to where this information has been provided).</p>

ExQ1	Question to:	Question:
Q1.2.6.	The Applicant	The reason for a 3km and a 10km distance being selected for the ZOIs is not explained under Section 3.8 of the ES or within the relevant aspect chapters. Please justify the ZOIs selected.
Q1.2.7.	The Applicant	<p>The information contained in the ES in respect of cumulative plans and projects contain a number of errors, omissions and discrepancies. Study areas are not defined, the basis for the inclusion of the other developments in each technical assessment is not explicit, and their current planning status is not identified. It is not indicated if the list of developments was agreed with relevant consultees, such as local authorities.</p> <p>Please provide this information for each technical aspect considered in the ES. This could be in tabular form if the Applicant considers that would aid presentation.</p>
Q1.2.8.	The Applicant	Flood Risk and Surface Water Quality – The Surface Water and Foul Drainage Philosophy are included as an approved plan within Requirement 9 dDCO, see also drawing 16315/AO/0301 Rev H and 16315/AO/0250 Rev G at Appendix B. However Schedule 3 of the dDCO lists the revisions as REV J not H, and G. Please clarify and correct any discrepancies.
Q1.2.9.	The Applicant	<p>Impact on protected species: An Environmental Mitigation and Management Plan (EMMP) (Appendix 11.4) [APP-046] has been produced and agreed with KCC. It is indicated in ES Table 14.1 that it is secured by dDCO Requirement 6. However, Requirement 6 refers to a Rail and Water Transportation Strategy.</p> <p>Please correct such errors and clarify how the EMMP is secured in the DCO.</p>

ExQ1	Question to:	Question:
Q1.2.10.	The Applicant	<p>The EMMP [APP-046] refers to the planning permission for K3 granted in May 2011 to be subject to the satisfactory agreement of a Section 106, part of which related to the production of an EMMP for the site to address ecological impacts identified during the planning process.</p> <p>Please explain how the s106 relates to the Proposed Developments, consider whether the dDCO adequately reflects the position and whether any further s106 agreements are envisaged to be completed between the Applicant and KCC.</p>
Q1.2.11.	The Applicant	<p>Chapter 14 of the ES provides summary tables of likely effects and mitigation/monitoring measures. Please confirm which drawings are being referred to in ES Table 14.1.</p>
Q1.2.12.	The Applicant	<p>The landscaping and tree planting scheme is described in Chapter 14 of the ES as included as an approved drawing certified in the dDCO.</p> <p>Please confirm whether this refers to the Approved Landscape Masterplan 16315/A1/4.21 [APP-124] listed in Schedule 3 of the dDCO or, if not, identify where this document is located.</p>
Q1.2.13.	The Applicant	<p>Table 14.7 in ES Chapter 14 states there would be direct significant residual cumulative effects from the K3 and WKN Proposed Developments with other planned or proposed development on: the rural character of the Chetney and Greenborough Marshes character area; the Iwade Arable Farmland character; on walkers using the Saxon Shore Way/Footpath ZU1 south of the K3 and WKN sites and footpath ZU2 at Viewpoint 3 and 7, on views from the footpaths; and from the central high point of the Isle of Sheppey. Chapter 12 indicates that no significant residual effects have been identified.</p>

ExQ1	Question to:	Question:
		<p>Please clarify whether or not there would be a significant residual cumulative visual effect on these receptors.</p> <p>Where it is considered that mitigation is not practicable or possible please provide justification.</p>
Q1.3.	Air Quality	
Q1.3.1.	The Applicant	<p>It is explained in para 5.3.14 of ES Chapter 5 [APP-057] that construction dust effects on ecological receptors were scoped out on the basis that it was determined that there are no sensitive ecological receptors within 50m of the application site boundary or the site traffic routes, in line with the 2014 IAQM guidance.</p> <p>Please confirm whether agreement was reached to that effect with any relevant consultees. If so, please provide full details and reference relevant documentation. If not, please confirm whether agreement is being sought with relevant consultees.</p>
Q1.3.2.	The Applicant	<p>Please explain the basis for dismissing the potential for air quality effects on the Swale Marine Conservation Zone (MCZ) arising from WKN in ES Appendix 5.4 [APP-028]: Air Quality - Assessment of Impacts on Ecological Receptors.</p> <p>The MCZ is identified variously in ES Chapter 11 [APP-063] as 0.02km to the south, and 25m and 15m to the east, of the application site. Please can the Applicant confirm its correct location?</p>

ExQ1	Question to:	Question:
Q1.3.3.	The Applicant	<p>NE, in their RR [RR-006], welcomes the use of UK Air Pollution Information System (APIS) but state that the date of the last APIS update should be taken into account, and potential increases in concentrations resulting from other plans or projects that have become operational since the last APIS update need to be added to the APIS figures to ensure that potential impacts from all relevant plans and projects have been correctly assessed.</p> <p>Please consider whether the modelling results need updating as a result of any other developments becoming relevant to the assessment as a result of the latest APIS update, and if not, explain why not.</p>
Q1.3.4.	The Applicant	<p>NE advise in their RR [RR-006] that for the assessment of effects of the Proposed Developments on terns in the Medway Estuary & Marshes SPA the critical load (CL) for vegetated shingle habitat should be used rather than the CL for saltmarsh, as shingle is the habitat within the saltmarsh islands that terns use. Please respond to this point and explain what, if any, implications there are for the assessment findings in relation to the tern population in the SPA. This question is also relevant to the conclusions of the HRA.</p>
Q1.3.5.	The Applicant	<p>Several legislative and guidance documents referenced in the assessment have been superseded prior to the submission of the DCO application, ie 'The Environmental Permitting (England and Wales) Regulations 2016 were amended, most recently in 2018; the Air Quality Strategy for England, Scotland, Wales and Northern Ireland was replaced by the Clean Air Strategy in January 2019; British Standard 6069:Part 2 was replaced in 1994; and the 2016 Local Air Quality Management Technical Guidance (LAQM.TG16) was replaced in 2018. In each case please explain the implications of such changes for the assessments of effects in respect of</p>

ExQ1	Question to:	Question:
		WKN and the practical effect of K3 and if, in each case, there are no implications please explain why not.
Q1.3.6.	The Applicant	<p>The methodology used for the construction dust assessment is set out in ES Appendix 5.1 [APP-025] wherein it is stated that mitigation is required for all categories above 'negligible'. Appendix 5.5 [APP-025] sets out the methodology applied to assessing traffic-related emissions and Table 5.5.6 therein identifies thresholds for describing long-term air quality impacts at sensitive human-health receptors, with the scale of effects ranging from negligible to substantial. Para 1.28 states that professional judgement was applied to determine the level of significance of an effect. The methodology applied to the stack emissions assessment is set out in the chapter and describes the model that was used to predict dispersion.</p> <p>In relation to all construction dust and traffic-related emissions, please identify the categories of effect that were considered to constitute a significant effect.</p>
Q1.3.7.	The Applicant	The air quality modelling and assessments are based on 2021 being an opening year for the K3 Proposed Development and a construction year for WKN, and 2024 being an opening year for WKN. Please confirm whether these are still the anticipated timescales in the event that consent is granted, and if they are not, whether the modelling and assessments remain applicable, and if so why?
Q1.3.8.	The Applicant	ES Chapter 5 [APP-057] confirms that during operation the Environmental Assessment Level (EAL) for arsenic concentration is predicted to be exceeded in respect of the K3 Proposed Development, the K3 Practical Effect and WKN; the nickel concentration EAL is also predicted to be exceeded in

ExQ1	Question to:	Question:
		<p>respect of the K3 Practical Effect. It is stated that these would potentially represent significant effects.</p> <p>There then follows a standard interpretation of the modelling results for the various developments, for example in paragraph 5.6.13 [APP-057] that renders the effects not significant. Has this approach to interpreting the modelling results been agreed with relevant stakeholders and if not why not?</p>
Q1.3.9.	The Applicant	<p>In relation to IED short-term Emission Limit Values (ELVs) in respect of stack emissions from WKN during operation, Table 5.38 [APP-057] indicates that the 15-minute averaging period SO₂ PC would equate to 10% of the relevant EAL, which would be considered to represent a significant effect. However it is then stated that when the 15-minute mean SO₂ is added to the 'future AC' of 56.5 µg.m⁻³, the PEC is 82.3µg.m⁻³, which is below the relevant EAL of 266 µg.m⁻³, in which case the effect is stated not to be significant.</p> <p>It is unclear whence the future AC figure is derived as such data is not presented in this chapter or its appendices, and it is not stated whether this approach to interpreting the modelling results was agreed with relevant stakeholders. Please clarify the position.</p>
Q1.3.10.	EA	<p>Please explain the extent to which you are content that the methodology applied to determine the level of pollutants emitted during operation is appropriate to support the conclusions reached with regards to significant effects and the applicable EAL.</p>
Q1.3.11.	The Applicant	<p>Appendix 5.4 Air Quality, Assessment of Impacts on Ecological Receptors [APP-028] refers to interest features listed in Table 5.4.4, but not separated</p>

ExQ1	Question to:	Question:
		<p>out according to the individual designated sites so it is unclear to which site each feature is relevant. In addition, the CL is indicated as not available for a number of features, however no explanation is provided for these omissions.</p> <p>Please update Table 5.4.4, presenting the features (where they differ between sites) separately for each designated site, and explain the omissions.</p>
Q1.3.12.	The Applicant	<p>It is stated in Appendix 5.4 [APP-028] that wet acid deposition is not significant compared with dry deposition and that therefore it was not considered in the assessment. No further justification of this statement is provided, nor is it indicated if it was agreed with any relevant bodies, so the basis for scoping out wet deposition out is unclear.</p> <p>Please provide justification for this approach and explain why impacts associated with wet acid deposition are not assessed and the extent to which there is agreement with relevant consultation bodies to following this approach, and if not, why not.</p>
Q1.3.13.	The Applicant	<p>It is concluded that there would be no significant effects resulting from NO_x, SO₂ or NH₃ pollution, or acid deposition. The information in Appendix 5.4 [APP-028] on the significance criteria that was applied to the assessment states that no further assessment is needed where the long-term PC is less than 1% of the long-term environmental standard or where it is exceeded the PEC is less than 70%. However, the conclusions apply a PC threshold of an exceedance of/equal to 1%, and therefore conclude no LSE of the Proposed Developments (alone) on any designated sites. For NO_x concentrations at the Medway Estuary and Marshes SPA and Ramsar site, the K3 and WKN PC equate to 1% of the CL and the PEC equates to 83% of</p>

ExQ1	Question to:	Question:
		<p>the CL (Table 5.4.1 [APP-028]), suggesting further assessment is needed according to the stated methodology.</p> <p>Please clarify the basis for these conclusions and whether further assessment will be undertaken.</p>
Q1.3.14.	The Applicant	<p>Appendix 5.4 [APP-028] in relation to nutrient nitrogen deposition concludes that the PC exceeds 1% of the CL for several interest features (of a number of the designated sites), but that as the PECs are below the relevant CL thresholds the effects can be screened out as insignificant (except for the Eurasian reed warbler and Reed bunting). The PEC exceeds 70% of the relevant CL for several other features where the PC of the relevant CL is 1% or above.</p> <p>However it is not explained why a different PEC threshold to that specified in the methodology has been applied. Please explain the basis for this approach.</p>
Q1.3.15.	The Applicant	<p>The majority of the dimensions of the WKN buildings shown in Table 5.6 [APP-057] differ from the maximum dimensions specified in Table 1 of Requirement 14 of the dDCO; most of the dimensions in the dDCO are greater.</p> <p>Please explain this discrepancy and any implications it could have for the assessment.</p>
Q1.3.16.	The Applicant	<p>It is stated in paragraph 5.3.38 [APP-057] that the location of all buildings and the stack could vary by 5m, and suggested that such variations would cause a change in the location of the maximum impact of the plume in the</p>

ExQ1	Question to:	Question:
		<p>short term, rather than a significant change in the magnitude of the maximum ground level concentrations.</p> <p>Please explain why it is assumed the changes would occur in the short rather than the long term.</p>
Q1.3.17.	The Applicant	<p>Cumulative effects during the operational phases of K3 and WKN are considered in relation to stack emissions and traffic-related emissions. A description is provided of the other developments that were considered in the cumulative assessments for each of the two emission sources. However the study area is not defined.</p> <p>Please explain the study area and the basis for the inclusion of the other developments in the assessment.</p>
Q1.3.18.	The Applicant	<p>Paragraphs 5.13.9, 5.13.10 and 5.13.11 [APP-057] refer to Tables 5.37, 5.39 and 5.40 about cumulative PECs. However, that data does not appear to be relevant to the cumulative assessment.</p> <p>Please confirm if this is a textual error and if so identify the correct location of the information.</p> <p>26 developments are identified in the list of developments considered in the cumulative assessment and PC data is provided in Tables 5.48 and 5.49, but only for four developments, one of which is not included in the list (K4).</p> <p>Please explain why these developments were singled out and why K4 was omitted from the list.</p>

ExQ1	Question to:	Question:
		<p>The PC data is not provided for several listed pollutants in respect of three of the developments included in Tables 5.48 and 5.49.</p> <p>Please address these points and provide the missing data, as appropriate.</p>
Q1.3.19.	The Applicant	<p>In relation to the cumulative traffic-related emissions assessment in [APP-057], most identified developments differ from those identified for inclusion in the cumulative assessment in ES Chapter 4 ES, Traffic and Transport [APP-056] (which appear to be mainly plan allocations).</p> <p>The location and/or distance from the application site of a number of other developments is lacking. The information for application 18/502190/EIHYB relates to three applications but this is not explained and reference numbers are not provided for two of the applications.</p> <p>Please explain why the developments considered in the cumulative air quality and traffic assessments differ and provide the omitted details.</p> <p>Paragraph 5.13.46 [APP-057] states that traffic modelling provided earlier in that chapter presents the predicted impacts of WKN operating together with K3 as consented. Please identify the location of this data.</p>
Q1.3.20.	The Applicant	<p>[APP-028] ES Appendix 5.4, Air Quality - Assessment of Impacts on Ecological Receptors, Tables 5.4.9 and 5.4.10 present the features grouped together for sites that are in the same geographical area rather than separated out for each individual site so it is unclear which are the relevant features for each site. In addition, the full names of the interest features are obscured and as a result many of them cannot be differentiated.</p>

ExQ1	Question to:	Question:
		Please provide an updated version of these tables that clearly presents the predictions for each site.

ExQ1	Question to:	Question:
Q1.3.21.	The Applicant	<p>ES Appendix 5.4 [APP-028] states there would be no significant effects from NOx, SO2 or NH3 pollution, or acid deposition. As to the significance criteria applied to the assessment it states that no further assessment is needed where the long-term PC exceeds 1% of the long-term environmental standard but the PEC is less than 70%.</p> <p>However, in respect of NOx concentrations at the Swale SPA, Ramsar site and SSSI and the Medway Estuary and Marshes SPA and Ramsar site, it is predicted that the cumulative PC would be 30% and 2% of the relevant CL and the cumulative PECs would be 71% and 84% of the relevant CLs, respectively, which would suggest further assessment is needed according to the stated methodology. It appears that a 100% PEC CL exceedance may have been applied.</p> <p>For nutrient nitrogen deposition, Table 5.4.11, Appendix 5.4 [APP-028] highlights the interest features identified in Table 5.4.9 for which it is considered that the cumulative PC exceeds 1% of the relevant CL and the cumulative PEC exceeds the relevant CL. It states that these effects could be significant and further assessment is provided in ES Chapter 11, Ecology.</p> <p>However, only features for which the cumulative PC exceeded the relevant CL and the cumulative PEC exceeded 100% of the relevant CL are included, although there are a number of features identified in Table 5.4.9 for which the cumulative PC exceeded 1% and the cumulative PEC exceeded 70% of the relevant CLs. This suggests further assessment is needed according to the stated methodology.</p> <p>Please explain the approach that was taken in respect of these assessments and what further assessment is considered necessary and if none, why not?</p>

ExQ1	Question to:	Question:
Q1.3.22.	The Applicant	<p>[APP-028] ES Appendix 5.4, Table 5.4.13 presents the predicted emissions from traffic generated by K3 and WKN in relation to NOx together with those from the two stacks and the four developments considered in the cumulative assessment.</p> <p>It is concluded there would be no significant effects on The Swale SPA, SSSI and Ramsar site and Medway Estuary and Marshes SPA and Ramsar site as although the predicted PC exceeds 1% of the relevant CL at those locations the predicted cumulative PECs do not exceed the relevant CL thresholds. However, both PECs exceed 70% of the relevant CL, so the methodology that was applied is unclear. Please explain the approach that was taken in respect of this assessment and what further assessment is considered necessary and if none, why not?</p>
Q1.3.23.	The Applicant	<p>Paragraph 5.11.2 [APP-057] includes a commitment to develop and implement a Dust Management Plan. The dCEMP (ES Appendix 2.1 [APP-012]) secured by Requirement 22 dDCO, includes commitments to avoid site runoff of water or mud, and to avoid bonfires and burning of waste materials, however no further information is provided on how these would be achieved. Please provide full details of this.</p>
Q1.3.24.	The Applicant	<p>Please provide full details of whether the approach to and results of the assessment in ES Chapter 5 [APP-057] were agreed with the relevant consultation bodies and any other key stakeholders.</p>

ExQ1	Question to:	Question:
Q1.4.	Archaeology and Cultural Heritage	
Q1.4.1.	KCC and the Applicant	<p>Does Requirement 20 of the dDCO adequately secure archaeological mitigation through a programme of archaeological work? Please comment on whether the definition of “permitted preliminary works” (apart from the archaeologically related works described therein) which can be undertaken in advance of commencement of the authorised development, is compatible with the approval of the WSI which under Requirement 20 may be later in time?</p>
Q1.5.	Ecology	
Q1.5.1.	The Applicant	<p>Paras 11.3.15 and 11.3.19 of ES Chapter 11, Ecology [APP-063] state that reptile and water vole surveys, were undertaken in 2018, however paras 11.4.46 – 11.4.48 indicate that breeding bird and reptile surveys were carried out in 2018 but do not refer to water vole. The ES does not include 2018 survey reports for reptiles or water vole.</p> <p>Please explain the apparent discrepancy and identify the location within the application documents of the respective survey reports.</p>
Q1.5.2.	The Applicant	<p>ES paragraph 11.3.9 [APP-063] notes that the intertidal area of the Swale where the second surface water outfall would be located was surveyed in 2017 and cross-refers to ES Appendix 11.7 [APP-049] as does para 11.4.43, which states that full details of the intertidal habitats can be found therein.</p> <p>However, Appendix 11.7 is the Marine Licence granted by the MMO in 2017 for a surface water outfall, varied in May 2019 to allow for construction and operation of a second outfall.</p> <p>Please identify the correct location of the information.</p>

ExQ1	Question to:	Question:
Q1.5.3.	The Applicant	<p>ES [APP-063] Figure 11.1 depicts the designated sites considered in the assessment. However:</p> <ul style="list-style-type: none"> ▪ Medway Estuary and Marshes MCZ is shown but not referenced in the chapter; (designated in December 2013, and partly extended in May 2019 for spelt only) ▪ The Outer Thames Estuary SPA is incorrectly titled on the figure 'Outer Thames and Marshes SPA', its location is incorrectly identified as also the location of a Ramsar site, and it is identified in the chapter as 8km to the north east of the application site boundary but shown on the figure as outside the 10km study area ▪ Queendown Warren SSSI is shown but not referenced in the chapter ▪ Sheppey Cliffs and Foreshore SSSI is shown as being within 10km of the application site boundary but is not referenced in the chapter ▪ "South Thames Estuary and Marshes SSSI, SPA and Ramsar site" are shown but the SSSI designation appears to be the only applicable designation and is not referenced within the chapter ▪ Thames Estuary and Marshes SPA and Ramsar site are not shown on the figure. <p>Please explain each of these discrepancies; justify why the sites shown on Figure 11.1 but not referenced in the chapter were not considered in the assessment; and provide a corrected Figure 11.1.</p>
Q1.5.4.	The Applicant	<p>In relation to modelling of HGV noise during construction, see Figures 11.5 and 11.5a (paras 11.6.10 and 11.7.21 ES Chapter 11 [APP-063]). The only figure numbered 11.5a is a 'Habitat Loss/Gain' plan that is titled 'Figure 11.6', consistent with the list of figures contained in 2019 ES Chapter 1.</p>

ExQ1	Question to:	Question:
		To correct this and other errors within other chapters of the ES, as highlighted within these Questions, please provide a signposting document that clearly identifies the correct references and document locations, etc.
Q1.5.5.	The Applicant	<p>It is stated in paragraph 11.9.5 [APP-063] that the marine licence application included an ecological appraisal of the potential effects on the marine component of the Swale SPA, Ramsar site and Marine Conservation Zone, and a WFD assessment and reference is also made to ES Appendix 11.7 [APP-049] which is only a copy of the licence and does not include a copy of the application.</p> <p>Please identify the correct location of the marine licence application document(s) or supply copies of the same.</p>
Q1.5.6.	The Applicant	<p>NE, in their RR [RR-006] comment on the construction of the second outfall to the Swale. Please indicate if the scour protection around the existing outfall would need to be extended due to the additional flows from the proposed second outfall, and if not why not?</p> <p>If so, describe what the implications are for the assessment of impacts on the Swale Estuary MCZ, the marine licence and any other agreements that need to be reached with the MMO. If there are none please justify this conclusion.</p>

ExQ1	Question to:	Question:
Q1.5.7.	The Applicant	<p>For the Eurasian reed warbler and reed bunting features of Swale SPA the PC for nutrient nitrogen deposition was greater than 1% of the minimum CL and the relevant minimum CL was already exceeded. The minimum relevant CL listed on the APIS website for such habitat incorporates other wetland habitats more susceptible to change than reedbeds (of which this habitat is comprised), which are considered to have low susceptibility, therefore the upper end of the CL range is more appropriate for this habitat. On this basis the PC is less than 1% of the CL and so concluded not to be significant.</p> <p>Please state whether this approach was agreed with any key consultees, such as NE and if not why not?</p>
Q1.5.8.	NE	Please see above question, and indicate if you consider this approach to be appropriate and if not, why not?
Q1.5.9.	The Applicant	<p>For potential effects of changes to the drainage network during construction of WKN, it is stated (paragraph 11.9.8 [APP-063]) that works on site would follow 'best practice guidelines' for the management of surface water, a 'strict waste management system' would be incorporated to prevent rubbish entering reedbed areas used by breeding marsh harrier, and mechanisms would be implemented to avoid any pollution incidents 'in accordance with legislative requirements and Environment Agency guidance'. Para 5.7.2 of the dCEMP [APP-012] states only that best practice guidelines would be followed, listing items that would be located more than 20m from the application site boundary.</p>

ExQ1	Question to:	Question:
		Provide details of these measures, including what they would comprise, whether monitoring would be required, and what the remedial measures would be in the event of failure; and identify where they are secured.
Q1.5.10.	The Applicant	<p>It is explained that other developments identified in the cumulative developments list in ES Chapter 3, Methodology [APP-055] were not included in the ecology assessment because there were no overlapping pathways by which cumulative effects on ecological receptors could occur, or they were too distant from the application site.</p> <p>Please confirm whether this approach was agreed with any relevant consultees, such as Swale Borough Council, and if not why not?</p>
Q1.5.11.	The Applicant	<p>For potential effects arising from nutrient nitrogen deposition on Eurasian reed warbler and reed bunting features of the Swale SPA, and hen harrier, merlin, common tern and little tern features of the Medway Estuary & Marshes SPA, the modelling (ES Appendix 5.4 [APP-028]) indicates the cumulative PEC would exceed the CL. However, it is asserted that due to the nature of the particular habitats of these designated sites, application of the upper end of the CL range would be more appropriate, in which case the PEC would not exceed the CL and no significant effects are predicted.</p> <p>Please provide revised figures based on the upper end of the CL range which have not been provided in the chapter.</p>
Q1.5.12.	The Applicant	Para 11.9.113 [APP-063] states that ES Appendix 11.4 [APP-046] contains an updated Management Plan for the WKN site, however that document is the EMMP prepared in 2013 for K3 as consented. Furthermore there are

ExQ1	Question to:	Question:
		<p>several references in [APP-063] to mitigation measures in respect of WKN contained within the 'updated EMMP'.</p> <p>Please identify the correct location within the application documents of the updated EMMP, or provide it if it has been omitted.</p>
Q1.5.13.	The Applicant	<p>For mitigation during construction of potential impact piling effects on birds using the intertidal area and on marsh harrier, the restrictions in para 11.9.21 of the ES (as Section 5.7 of the CEMP) differ from Requirement 29(1) dDCO which would prohibit impact piling in January, February, April and August. The ES proposes no piling between January and February inclusive and April to August inclusive. Requirement 29(1) appears inconsistent with Requirement 29(3) which does not restrict piling between March and October inclusive.</p> <p>Please explain the discrepancies and why impact piling would be acceptable in March but not in February/April.</p>
Q1.5.14.	The Applicant	<p>Limited information is provided about specific mitigation measures proposed to be implemented in several areas. Please detail the proposed measures and where they are secured and clarify the title(s) of the relevant document(s) in respect of the following:</p> <ul style="list-style-type: none"> ▪ In respect of light spill mitigation cross-reference is made to the Lighting Strategy, ('Proposed External Lighting Layout' in ES Appendix 11.8: 'WKN External Lighting'), otherwise referred to as a 'draft lighting design' and said to be secured in the dDCO; and to mitigation secured in the CEMP. Neither the CEMP nor Requirement 22 dDCO explicitly reference that document, and the CEMP simply states (section 5.7.7) that "lighting strategies" for construction and

ExQ1	Question to:	Question:
		<p>operation will be developed to follow good practice to minimise lighting impacts such that lighting levels at the site boundary will be no more than 1 lux;</p> <ul style="list-style-type: none"> In respect of the potential for habitat loss during operation due to lack of management of the application site, para 11.9.130 states that a "detailed management regime" would be put in place as mitigation, and on that basis there would be a negligible effect; and <p>In respect of WKN, para 11.9.156 states that post-development monitoring surveys to assess the success of the proposed mitigation would be carried out for the first five years after completion of the Proposed Development and any issues, such as the loss or reduction in any of the populations of species of conservation concern, would be rectified through the implementation of "appropriate strategies to be drawn up as necessary".</p>
Q1.5.15.	The Applicant	<p>Para 11.3.3 [APP-063] states that WKN was discussed with NE through their Discretionary Advice Service and NE provided the Applicant with written advice in October 2018 (contained within ES Appendix 11.6 [APP-048] - which, together with the formal scoping and consultation that was undertaken, informed the scope of this assessment. There appears no other evidence in the chapter of any agreement with key consultees, such as NE.</p> <p>Please state if the approach and findings of the assessment were agreed with any key consultees, such as NE and if not, why not.</p>
Q1.6.	Greenhouse Gases and Climate Change	
	None currently. See also Q1.3.1 to Q1.3.24 above on Air Quality	
Q1.7.	Ground Conditions	
	None currently.	

ExQ1	Question to:	Question:
Q1.8.	Habitats Regulations Assessment (HRA)	
Q1.8.1.	The Applicant	<p>The information contained in Section 3 of the HRAR [APP-044] on the methodology applied to the assessment is limited. It does not identify the study area/zone of influence (ZOI) for the assessment of the K3 or WKN Proposed Developments nor does it explain how the European sites considered in the HRA were selected.</p> <p>Please describe the study area used to inform the HRA assessment and explain how it was derived.</p>
Q1.8.2.	The Applicant	<p>Cross-reference is made from the HRAR to information contained in 2016 survey reports. The location of these reports within the application documents is not identified.</p> <p>Please confirm if they are the 2016 ornithological survey reports contained in Appendix 1 of ES Appendix 11.1.</p>
Q1.8.3.	The Applicant	<p>Some population figures appear to be missing from HRAR [APP-044] Table 4.4 in respect of the Swale SPA.</p> <p>Please explain the reasons for the omissions and provide an updated table as appropriate.</p>
Q1.8.4.	The Applicant	<p>Para 4.8 HRAR [APP-044] refers to the Citation for The Swale and advice from NE, described as contained in their s42 consultation response provided in 2017 for the K3 application, about the species comprising the over-wintering assemblage. It is assumed that the reference to NE's advice about K3 should refer to K4. It is unclear whether the list of over-wintering species provided relates to The Swale SPA, the Ramsar site or both. It is also unclear whether</p>

ExQ1	Question to:	Question:
		<p>the list provided in para 4.9 of species comprising the breeding assemblage applies to either or both of the European sites.</p> <p>Please clarify these points.</p>
Q1.8.5.	The Applicant	<p>Para 4.16 HRAR [APP-044] provides a list of species described as comprising the 'waterfowl within the over-wintering assemblage' of the ME&M SPA (including the spotted redshank, which does not appear to be correct); para 4.17 provides a list of species described as comprising the 'diverse assemblage of wintering species', and contains a number of additional species in addition to duplicating some but not all of those in the first list.</p> <p>The relevance and accuracy of the information provided is therefore unclear. Please clarify the position.</p>
Q1.8.6.	The Applicant	<p>The ZOIs for the five scenarios considered in the in-combination assessment are not defined; reference is made to the inclusion of other developments 'near the site', which is not explained. It is not stated whether the approach to undertaking the assessment or the developments to be included were agreed with any relevant consultee, such as NE.</p> <p>Please define the ZOIs and explain the basis on which they were determined.</p>
Q1.8.7.	The Applicant	<p>Please identify the current planning status of the 13 developments considered in the in-combination assessment.</p>

ExQ1	Question to:	Question:
Q1.8.8.	The Applicant	<p>Para 7.28 of the HRAR states that NE requested more information on planning application (18/500393/FULL) in relation to air quality impacts on the SPAs and Ramsar sites. It is stated that there were potential cumulative air quality impacts which were considered in the emissions to air assessment contained in the HRAR, however it is unclear whether the assessment took into account any additional information provided by the developer on air quality impacts in response to NE's request.</p> <p>Please clarify the basis on which the assessment was made in respect of 18/500393/FULL and explain any additional information provided by the developer, as appropriate.</p>
Q1.8.9.	The Applicant	<p>The preamble to HRAR suggests a conclusion of no LSE in combination with the K3 PD and WKN no conclusion has been provided in respect of planning application reference SW/14/0224 and DCO application EN010090 (K4).</p> <p>Please confirm the conclusions that were reached. Please also confirm whether the in-combination assessment addressed a worst-case scenario and if not, why not.</p>
Q1.8.10.	The Applicant	<p>It is concluded that there would be no LSE in combination with any of the developments included in the assessment in respect of all five scenarios considered. The conclusion appears to relate to the screening stage but reference is made to effects identified in Section 6 of HRAR, ie in respect of appropriate assessment. The assessment appears to have combined the assessment of effects alone and the in-combination effects assessment into one process.</p>

ExQ1	Question to:	Question:
		Please clarify the basis of the in combination assessment and provide evidence of NE's agreement to the approach.
Q1.8.11.	The Applicant	<p>The location of the European sites considered in the HRA relative to the application site is shown on Figure 11.1 in ES Chapter 2 [APP-054]. It delineates an area within a 10km radius from the site; some of the identified European sites are shown as beyond this radius. There are several apparent errors/discrepancies in the Figure:</p> <ul style="list-style-type: none"> ▪ the locations of the Thames Estuary and Marshes SPA and Ramsar site are not identified; ▪ the location of the Outer Thames Estuary SPA is also identified as that of an Outer Thames Estuary Ramsar site but there is no such designated site, and the title incorrectly includes 'and Marshes'; and ▪ the location of a South Thames Estuary and Marshes SSSI, SPA and Ramsar site are identified although there is no such SPA or Ramsar site designation. <p>Please provide an updated Figure that corrects these discrepancies.</p>
Q1.8.12.	MMO	<p>It is unclear from the wording whether the varied Marine Licence issued by the MMO for K3 and WKN authorises both construction and operation. It includes a reference to operation and to the discharge of water from the outfall, which would be operational activity. However the additional submission by the MMO [AS-013] refers only to construction of the outfalls.</p> <p>Please confirm the activities that are covered by the licence.</p> <p>Please also state whether you consider that implementation of the conditions set out in the varied Licence are addressed in the requirements included in the dDCO or if not how they should be so included.</p>

ExQ1	Question to:	Question:
Q1.8.13.	The Applicant	<p>In relation to mitigation for WKN construction and demolition dust it is stated that measures will be included in the Construction Environment Management Plan (CEMP), and examples are listed in para 6.6 of HRAR which are expected to be included in the CEMP. The application CEMP (Section 5.3) [APP-012] sets out measures to be implemented that are recommended in IAQM's dust guidance, however these only include one of those listed in the HRAR, and do not include, eg damping down and the sheeting of vehicles. Para 5.3.1 of the CEMP refers to the development of a Dust Management Plan; no such draft plan is included in the application documents.</p> <p>Please explain fully how and where the mitigation is secured on which the conclusion of no adverse effect on integrity relies.</p>
Q1.8.14.	The Applicant	<p>It is concluded that in the absence of mitigation there could be an adverse effect from noise and/or visual disturbance on the integrity of the following features of The Swale SPA and Ramsar site: Redshank; Shelduck; Teal; Lapwing; Wigeon; Avocet; Curlew; and Marsh Harrier.</p> <p>Proposed mitigation measures are set out in paras 6.150 – 6.151 which include the erection of a screen along the periphery of the WKN site and limits on impact piling. It is not stated where or how these are secured. Please provide this information.</p>

ExQ1	Question to:	Question:
Q1.8.15.	The Applicant	<p>Paras 6.143 and 6.144 identify activities that involve vehicle movements, people movements and construction activities such as excavation, concrete pouring and assembly, that would not take place within specified distances of nest sites in the event that Marsh Harrier is found breeding in the reedbed to the north of the WKN site during construction.</p> <p>However the basis on which the distances were determined and mechanisms for checking for the presence of marsh harrier and halting work if any are found, are not explained, nor is it stated how such measures are secured in the dDCO. Please provide this information.</p>
Q1.8.16.	The Applicant	<p>Construction of the new outfall for WKN would only take place between 1 April and 31 September (secured via the Marine Licence) but marsh harrier breed during April to August inclusive, which appears to present a conflict if any were discovered breeding in the reedbed.</p> <p>Please consider the implications of this scenario and explain how it would be resolved if it arose.</p>
Q1.8.17.	The Applicant	<p>Table 6.1 of the HRAR identifies that the following sites were taken forward for appropriate assessment in respect of the K3 Proposed Development and para 6.1 states that integrity matrices for these sites are in Appendix 2, but they have not been provided therein:</p> <ul style="list-style-type: none"> ▪ Medway Estuary and Marshes SPA and Ramsar site (urbanisation, operational air quality, hydrological changes and disturbance); ▪ Thames Estuary and Marshes SPA and Ramsar site (operational air quality); and ▪ Queendown Warren SAC (operational air quality). <p>Please provide these matrices.</p>

ExQ1	Question to:	Question:
Q1.8.18.	The Applicant	The 2010 HRAR for K3 as consented did not contain integrity matrices for the above sites. Please provide Word versions of all the matrices contained in the HRAR and any updated/corrected matrices.
Q1.8.19.	The Applicant	<p>There are discrepancies in the screening matrices:</p> <ul style="list-style-type: none"> ▪ The ME&M SPA features identified in Matrix 3 include 'Regularly supports in winter a diverse assemblage of wintering species', however this is not included in the list of qualifying features identified on NE's website. ▪ The Ramsar Information Sheet (RIS) for the ME&M Ramsar site identifies the relevant Criteria as 2a, 3a (internationally important waterfowl assemblage – greater than 20,000 birds) and 3c. Matrix 4 does not include Criterion 3a and includes Criterion 5, described as an overwinter assemblage of international importance. Also the bird species identified in the Matrix, although consistent with those shown under 3c in the RIS, are identified as Criterion 6 features. ▪ The qualifying features identified on NE's website for the TE&M SPA include a non-breeding waterbird assemblage. Matrix 5 does not include that feature but identifies the following: an 'Assemblage regularly supporting over 20,000 waterfowl'. ▪ The RIS for the TE&M Ramsar site identifies the relevant Criteria as 2, 5 (Assemblage of international importance) and 6. Criterion 5 in Matrix 6 is identified as an 'Overwinter Assemblage of international importance' and does not include the Black-tailed godwit (spring/autumn peak count species). A number of species are identified

ExQ1	Question to:	Question:
		<p>in the Matrix under Criterion 6 which are not identified in the RIS, ie ringed plover; dark-bellied brent goose; shelduck; grey plover; and redshank.</p> <p>Some of the information provided in Section 4 of the HRAR on the qualifying interest features of the European sites is not consistent with that in the matrices and/or with the published conservation objectives or information contained in the relevant RISs. Please explain the apparent discrepancies and provide corrected matrices as necessary.</p>
Q1.8.20.	The Applicant	<p>It is stated that NE provided copies of the relevant citations to the Applicant (para 3.2).</p> <p>Please confirm whether it was agreed with NE that the features that were considered in the HRA were the correct qualifying features for each European site and if not, why not.</p>
Q1.8.21.	The Applicant	<p>The evidence notes to the screening and integrity matrices contain a cross-reference to information in the HRAR but the specified paragraph numbers are incorrect so do not identify the location of the relevant supporting evidence.</p> <p>Please correct these references in the updated versions of the matrices.</p>
Q1.8.22.	NE	<p>Please confirm whether you agree that the correct sites and features were considered in the HRA and state whether you agree with the conclusions set out in the HRAR and if not, why not.</p>

ExQ1	Question to:	Question:
Q1.9.	Landscape and Visual Impact	
Q1.9.1.	The Applicant	<p>Paragraph 12.3.23 explains that a final design freeze has not yet been made. Please explain:</p> <ul style="list-style-type: none"> ▪ how have and what design specifications have been used to inform the assessment of likely significant effects; ▪ what assumptions have been applied in undertaking the assessment of visual impacts with particular regard to building materials and aesthetics; and <p>in relation to the design, and with reference to relevant measures, how these assumptions will be secured in the DCO.</p>
Q1.9.2.	The Applicant	<p>Information regarding construction activities, lighting and plumes is limited and it is not clear how potential effects resulting from these impacts have been considered. Please explain how these impacts have been assessed.</p> <p>Paragraph 12.3.9 ES [APP-064] states that consideration was given to seasonal variations in the visibility of WKN, including variations in weather conditions and deciduous vegetation, but no visual representation of these is provided in the ES.</p> <p>Please clarify whether any visual representations of these were prepared and if so provide them.</p>

ExQ1	Question to:	Question:
Q1.9.3.	The Applicant	Section 12.8 of ES [APP-064] explains that no significant landscape and visual residual effects have been identified. This appears to be at odds with Table 14.7 in ES Chapter 14, [APP-066], where significant residual cumulative effects are identified. Please clarify the position.
Q1.9.4.	The Applicant	<p>Visible plumes are mentioned in the LVIA but it is not obvious how this has been assessed, and there is no reference to any potential for interaction with air quality, considered in ES Chapter 5.</p> <p>Considering the industrial nature of the surrounding developments, how have combined visual effects on receptors from plumes been considered within the assessment, and if they have not, please justify their omission from such assessment.</p>
Q1.9.5.	The Applicant	<p>Lighting could have an effect on ecology, which is not addressed within the LVIA but considered in ES Chapter 11 Ecology. Paragraphs 11.9.76 and 11.9.135 of ES Chapter 11 provide limited information on how the final operational lighting scheme is to be secured in the DCO.</p> <p>Please explain and clarify how the mitigation for effects of the lighting scenarios required throughout each of the different phases of the development would be secured in the DCO.</p>
Q1.9.6.	The Applicant	Please confirm that the LVIA is based on the same parameters and dimensions that have been provided in ES Chapter 2 and that this is reflected in the dDCO or if not, why not?

ExQ1	Question to:	Question:
Q1.9.7.	The Applicant	<p>In respect of the list of cumulative developments, please clarify the following discrepancies and omissions:</p> <ul style="list-style-type: none"> ▪ paragraph 3.8.4 of the ES identifies 46 schemes to be considered for potential cumulative effects, however Table 12.7 [APP-064] only lists 24; ▪ paragraph 12.9.3 [APP-064] explains that only 2 schemes have been assessed within a 3km to 10km radius of the DCO site boundary as they are tall structures which would have the greatest intervisibility, but does not identify building heights within Table 12.7; ▪ the developments are described as being located at distances and in locations that would preclude any likely significant effects, but which schemes fall within the 3km ZoI or the 10km ZoI is not identified in Table 12.7; and <p>there is no description of the status of the developments that have been identified, or of their relationship to the Proposed Developments.</p>
Q1.9.8.	The Applicant	<p>Please explain in detail how the proposed landscaping would mitigate the effects on landscape and visual receptors, and how if at all the landscaping proposals would serve other purposes such as biodiversity improvements. Please also describe in detail how these effects would change as the proposed planting matures. What effort is the Applicant making to discuss and agree the planting specification/species mix with the relevant consultation bodies?</p>
Q1.9.9.	The Applicant	<p>A summary of effects for Viewpoint 11 has not been provided. Please address this.</p>

ExQ1	Question to:	Question:
Q1.9.10.	The Applicant	ES Chapter 14, Table 14.1 [APP-066] indicates that trees and shrubs would be maintained for a period of 5 years under Requirement 11 of the dDCO. Please provide further details of this and identify any proposed monitoring and remedial measures.
Q1.9.11.	The Applicant	ES Section 12.8 of the ES explains that no significant landscape and visual residual effects have been identified. This appears to be at odds with the Table 14.7 where significant residual cumulative effects are identified. The Applicant is asked to clarify the discrepancy.
Q1.9.12.	The Applicant	In ES Appendix 12.1, LVIA Scoping Correspondence with KCC [APP-051] viewpoints 13, 14 and 15 were agreed to be omitted from the assessment as unlikely to provide clear visibility of the proposals when the K3 scheme was completed. Please explain the reference to a view from Conyer which KCC considered more relevant and whether this has been included in the viewpoints and if not why not.
Q1.10.	Noise and Vibration	
	None currently but see Q1.5.4 above on Ecology, Q1.8.14 above on HRA and Q1.14.1 below on Other Matters.	
Q1.11.	Traffic and Transport	
Q1.11.1.	The Applicant	Has the Transport Assessment (TA) been amended to include information up to the date of submission in 2019 and if not, why not?

ExQ1	Question to:	Question:
Q1.11.2.	The Applicant	<p>The TA includes a 2031 (end of Local Plan) assessment, along with a 2021 interim assessment to account for construction traffic. Since the date of submission KCC notes in its Additional Submissions [AS-010] that a committed scheme has now been approved for the Grovehurst/A249 junction following a successful Housing Infrastructure Fund application.</p> <p>Will the Applicant, in response to KCC's request, complete sensitivity testing for the Proposed Development's impact on the new junction arrangement so that this application does not undermine the housing delivery benefits for which the grant was approved and if not, why not?</p>
Q1.11.3.	The Applicant	<p>KCC notes [AS-010] that the Future Year Junction Assessments for Swale Way/Barge Way demonstrate that this junction is operating beyond capacity in all future scenarios tested, with no mitigation being proposed. Does the Applicant agree with this finding and the comments of KCC that this is considered unacceptable and due to the high volume of HGV's is a safety and capacity concern? If not, please explain why.</p>
Q1.11.4.	The Applicant	<p>Does the Applicant agree that the surrounding highway network is over capacity at Junction 5 of the M2 and the Grovehurst junction?</p>
Q1.11.5.	The Applicant	<p>Please comment on KCC's claim [AS-010] that the application fails to consider use of the adjacent operational dockyard and redundant railway siding, which is within one mile of the application site. Please detail what factors prevent the delivery now or in the future of large quantities of waste generated by the proposal via rail or water.</p>

ExQ1	Question to:	Question:
Q1.11.6.	The Applicant	<p>Please comment on KCC’s claim that without investigations into the use of the available and alternative methods of delivery, the application would not comply with the National Planning Policy Framework (NPPF) which states that development should seek to encourage sustainable travel, lessen traffic generation and its detrimental impacts, and reduce carbon emissions and negative climate impacts.</p>
Q1.11.7.	The Applicant	<p>The Preliminary Environmental Impact Report (PEIR) provided information as to the expected trip generations from the development, however KCC sought justification of the submitted numbers of movements, requesting details of all current movements and arrival departure times for the current construction of the K3 plant to provide a basis for justifying the construction movements. KCC further requested details of movements associated with the Applicant’s operational Ferrybridge waste to energy site to help assess the peak hour movements from this site. KCC state no evidence on these matters has been forthcoming.</p> <p>Please comment including whether you are willing to supply the requested information, and if not explain why not.</p> <p>In the absence of such evidence please comment on whether the submitted operational hourly movements averaged across the day can be justified, and the impact on the extended peak hours movements properly assessed, and in each case if so, explain why.</p>

ExQ1	Question to:	Question:
Q1.11.8.	The Applicant	<p>[APP-056] ES Chapter 4, explains assumptions for HGVs trip generation. At paragraph 4.6.19 for assessing the K3 Proposed Development, it is assumed that 20% of HGV waste deliveries would be from neighbouring areas and 80% from south/north London. As the construction of K3 as consented was due to be completed in late 2019 and is either soon to be operational or already operating it is assumed that the sources of waste and therefore trip distributions are now known.</p> <p>Please confirm whether your previous assumptions remain appropriate, and if not explain what the implications are for the assessment.</p>
Q1.11.9.	KCC	Please detail what information requested from the Applicant at the meeting in February 2019 referred to in the additional submission dated 4 December 2019 [AS-010] and not covered in these Questions, has not been received, but relates to an important and relevant matter to consider, and why.
Q1.11.10.	HE	HE is invited to comment on the above matters including in relation to the attention it draws in its RR [RR-004] to the potential for the Proposed Development to impact the safe and efficient operation of the Strategic Road network (SRN), particularly the A249 and the M2 in the vicinity of Sittingbourne.
Q1.12.	Water Environment	
Q1.12.1.	The Applicant	The Surface Water Management and Foul Drainage Design Philosophy Statement [APP-152] contains several design criteria and specifications. How would these be captured within the DCO?
Q1.12.2.	The Applicant	Please identify where each of the specifications in the Philosophy Statement [APP-152] are reflected in the various plans and strategies set out in ES Chapter 10 and its relevant appendices.

ExQ1	Question to:	Question:
Q1.12.3.	The Applicant and KCC	In Article 18(4) dDCO should the authorised development not be commissioned until the surface and foul water drainage systems have been constructed and approved by the relevant planning authority?
Q1.12.4.	The Applicant	<p>ES Appendix 11.7: Marine Licence Surface Water Outfall to Swale [APP-049] licences K3 CHP Limited to discharge clean surface water via an attenuation pond, from the K3 facility and the WKN Proposed Development into the intertidal area of the Swale Estuary. There are two options for the construction of the outfalls. Figure 4.25D [APP-127] appears to show 'Outfall A1 (Type A)'.</p> <p>Please explain which of Option A and Option B is to be implemented and how have both of these options been considered in the ES.</p> <p>Please supply all Schedule documents referred to in the Marine Licence [APP-049].</p>
Q1.13.	Draft Development Consent Order	
	<p>Annex F to the Rule 6 Letter dated 21 January 2020 provided notice of my first Issue Specific Hearing (ISH1) on the dDCO which was held on Wednesday, 19 February 2020. The agenda for ISH1 was published on 10 February 2020, which included Table 1 to Annex A.</p> <p>Table 1 set out my schedule of issues and questions relating to the draft DCO for examination at ISH1. The examination timetable provides that matters raised orally in response to this schedule are to be submitted in writing by Deadline 1 (D1): Monday, 2 March 2020.</p> <p>Comments on any matters set out in those submissions are to be provided by Deadline 2 (D2): Wednesday, 18 March 2020 which is the same as the deadline for responses to these questions.</p>	

ExQ1	Question to:	Question:
	<p>IPs who participated in ISH1 and consider that their issues have already been drawn to the ExA's attention do not need to reiterate their issues in responses to the question below. IPs are requested to review the D1 written submissions arising from ISH1 before responding to the question below.</p> <p>Matters set out in D1 written submissions arising from ISH1 are best responded to in D2 comments rather than in responses to the following questions, which aim to capture matters that were not raised at ISH1.</p>	
Q1.13.1.	IPs other than the Applicant	<p>With respect to matters raised in RRs or WRs but which were not discussed in ISH1 and in your view require changes to the dDCO please identify the changes that you require, referring to Articles, Requirements and any other provisions as necessary, providing your preferred drafting where possible and explain why it is proposed and what it aims to achieve.</p> <p>Please cross-reference responses to this question to your RR, WR and to other questions in ExQ1 as necessary.</p>
Q1.13.2.	The Applicant	There is a missing "in" before "the environment statement" in Requirement 20(1). Please confirm this will be addressed in the next iteration of the dDCO.
Q1.13.3.	The Applicant	<p>[APP-013] ES Appendix 3.1 - Scoping Report, states that an application for a standalone IBA facility on the proposed site of WKN was submitted in 2016, approved by KCC in February 2017 (KCC/SW/0265/2016). It is stated the facility has not been constructed and the Applicant has decided not to implement this planning permission and will be looking to surrender their IPPC permit for the facility shortly.</p> <p>Please comment on how the implementation of the planning permission itself has been made or would be made definitively unenforceable, whether</p>

ExQ1	Question to:	Question:
		within the dDCO or otherwise, such that it has been unnecessary to take it into account in assessing the Proposed Development.
Q1.13.4.	The Applicant	The EA in its RR [RR-001] state that in Requirement 19 the title "Contaminated Land and groundwater" should actually state "Land contamination and groundwater". Do you agree and if so please amend accordingly?
Q1.13.5.	The Applicant	Article 2 [AS-002] refers to "the 2016 Regulations" as the Environmental Permitting (England and Wales) Regulations 2016, these Regulations have been amended a number of times since then including by an amendment that has yet to commence. The current version of these Regulations is The Environmental Permitting (England and Wales) (Amendment) (No. 2) Regulations 2018. Please consider how these changes should be reflected in the dDCO.
Q1.14.	Other Matters	
Q1.14.1.	Applicant	<p>KCC [AS-010] consider improvements to the existing PRow network should be adopted as mitigation for the potential negative impacts of the development on path users, for example surfacing improvements along Public Footpath ZU1/The Saxon Shore Way to enhance accessibility for path users.</p> <p>Please comment on KCC's request and whether it is accepted that the Proposed Development may have a detrimental impact on path users due to deteriorating air quality and noise effects arising from the development.</p>

ExQ1: 26 January 2020
Responses due by Deadline 2: 18 March 2020