



Mr. Grahame Kean
Examining Authority
National Infrastructure
Temple Quay House
2 The Square
Bristol, BS1 6PN

**Growth, Environment
& Transport**

Room 1.62
Sessions House
Maidstone
Kent
ME14 1XQ

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

BY EMAIL ONLY

Your reference: EN010083

2 March 2020

Dear Mr. Kean,

Re: Application by Wheelabrator Technologies Inc. for an Order Granting Development Consent for the Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility Development Consent Order (DCO) – Written Representation Submission

Following the Planning Inspectorate's Rule 8 letter dated 21 January 2020, Kent County Council (KCC) submits its Written Representation.

The County Council provides an update on its position in relation to the proposed development, following the KCC Relevant Representation dated 4 December 2019. This letter has been prepared in accordance with Planning Inspectorate Advice Note 8.4 and should be read in conjunction with the Local Impact Report submitted by KCC on 2 March 2020.

The County Council as Minerals and Waste Planning Authority and Local Highway Authority would like to raise an objection to this application for Development Consent, for the reasons set out within this Written Representation and the associated Local Impact Report.

In summary, the principal issues that KCC makes in relation to the application concern:

- Minerals and Waste (as Minerals and Waste Planning Authority)
- Highways and Transportation (as Local Highway Authority)
- Public Rights of Way (as Local Highway Authority)
- Sustainable Urban Drainage Systems (as Lead Local Flood Authority)

- Heritage Conservation
- Biodiversity
- Public Health

Minerals and Waste (as Minerals and Waste Planning Authority)

The County Council, as Minerals and Waste Planning Authority, raises an objection to this application for a Development Consent Order. KCC has consistently drawn attention to the conflict between the DCO proposal and the County Council's Local Plan Strategy for the management of waste. The DCO proposal would provide waste capacity of an additional 107,000tpa for the K3 facility and a further 390,000 tonnes per annum to serve the WKN facility. This increased waste recovery capacity is not justified and undermines the Early Partial Review of the Kent Minerals and Waste Local Plan. The Early Partial Review (which is currently awaiting the Inspector's Report following Hearings in October 2019) and the adopted Kent Minerals and Waste Local Plan strategy are both predicated on the principle of net self-sufficiency and managing waste as far up the waste hierarchy as practical.

The full response in respect of Minerals and Waste matters is set out within Annex 1.

Highways and Transportation (as Local Highway Authority)

The application places unnecessary burdens on highway infrastructure already suffering from severe congestion, particularly when more sustainable waste transport options could be made available. KCC, as the Local Highway Authority, therefore objects to the proposed DCO application, with details set out below and in the Local Impact Report.

KCC has requested that further assessment and information be provided by the applicant, and this is detailed within the Local Impact Report (LIR).

Baseline Conditions - It is considered that the Baseline Conditions used in the Transport Assessment's traffic modelling are acceptable and KCC agrees that the appropriate TEMPro growth and committed development schemes have been included. These figures can therefore be used to build the various future year development scenarios.

Trip Generation - KCC does not agree with the suggested trip generation that has been submitted in the Transport Assessment (Document 3.1 – ES Volume 2 Appendix 4.1), as it is considered that the even spread of HGV movement across 24 hours, for seven days a week for the operation of the WKN and K3 proposed development does not provide a realistic profile of vehicle movements. It is unlikely that waste material can be regularly delivered throughout that time, given loading and operating restrictions that could exist overnight where the material is to be sourced from, and availability is therefore expected to be reduced. Whilst the operator may have initially secured contracts that provide waste material through the night, this may not be available when those contracts are re-tendered and/or alternative waste sources required.

The applicant has been asked to provide evidence of expected vehicle movements by obtaining records from existing waste to energy plants, as this would be considered more robust. The applicant operates a similar site at Ferrybridge and KCC has suggested that the gate records from there could be used to inform HGV movements generated during the network peak hours. This could also justify the expected size of HGVs arriving to deliver the waste material, as clarity is required over the volume able to be transported. This is required, as the waste to energy plant at Aylesford was granted consent for 582 HGV movements per day for annual total of 500,000 tonnes of waste being delivered. The current application proposes just 416 movement per day for a facility processing 157,000 more tonnes of waste than the Aylesford facility. KCC as the Local Highway Authority therefore contests that the application is not presenting a robust evidence base.

A more robust assessment of the traffic impact would be provided by assuming that all deliveries would take place during the typical time period for transporting waste to such facilities. The applicant has provided a sensitivity test for operating over a period of twelve hours from 07:00 to 19:00 and this would be a more appropriate methodology to use.

Although KCC had previously requested that records from the construction of the existing K3 project be provided to derive traffic numbers associated with construction of the WKN proposal, the applicant has advised that this was not a requirement of the construction contract and no records are available. KCC has therefore agreed that the previously accepted figures used when determining the existing K3 development can be used here. It is agreed that the WKN construction activity is likely to reflect 75% of that suggested for the construction of the existing K3 development. No assessment of the proposed K3 development construction is required, as this is accommodated within the existing project.

Impact on the Existing Highway Network - KCC disagrees with the applicant with regard to the significance of the impact from the proposal. The submitted TA acknowledges that both the A249/Grovehurst Road junction and Swale Way Barge Way roundabout will be over-capacity in the 2024 and 2031 baseline scenarios, but states that the development would not have a significant impact on the highway network. However, the sensitivity modelling provided by the applicant predicts an increase in AM queue lengths by around fourteen vehicles on Barge Way. This is an increase of over 15% and will exacerbate what would already be an inappropriate amount of delay.

Notwithstanding this, the validity of the modelling is questioned, as the 2017 baseline reported queue is 4.4 and it is unclear how in 2024, the Ratio of Flow to Capacity has increased to 67 due to committed development flows, when only four opposing movements are shown from Swale Way South to Barge Way. Similarly, unclear results appear in table 14.3 of the TA, showing the 2031 baseline queue to be the same as for 2024 at 84.9 vehicles. However, the 2017 to 2024 queue grows from four to 84.9 for the same amount of time. The resultant 2031 assessment with development predicts a queue of 173 vehicles and a Ratio of Flow to Capacity of 1.22. Even on this questioned modelling, the junction is clearly unable to facilitate additional traffic without severe impacts to congestion and safety.

KCC considers that the capacity modelling provided for the A249/Grovehurst Road interchange is now irrelevant, as this has been based on the existing geometry and that of the interim junction improvement scheme proposed by the Land North Quinton Road,

Sittingbourne planning application (ref: 18/502190/EIHYB). KCC has successfully bid for funding through the Housing Infrastructure Fund (HIF) to construct a major junction improvement scheme at this location, with works planned to commence in 2021 and modelling should therefore be undertaken for that scheme.

The applicant has been asked to undertake capacity assessments for the committed upgrade to the A249/Grovehurst Road interchange, to ensure that this proposal would not jeopardise the delivery of housing allocated in the adopted Swale Local Plan. The applicant has indicated that the modelling will be provided in due course, as requested.

The current assessment of the A249/Grovehurst Road interchange provided within the TA demonstrates that the existing junction is already exceeding its capacity on five of the seven arms in the AM peak and on three arms in the PM peak. Queues in the PM peak are of such severity that they extend for over 362 vehicles and the AM peak has queues of 23 vehicles on the South A249 slip, introducing significant safety concerns. Any development affecting this junction would be required to provide mitigation and until such mitigations are complete, any development which adds traffic to the junction should not proceed prior to guaranteed delivery of improvements.

Mitigation - Where junction capacity will be exceeded, as per the junctions mentioned above, mitigation should be provided to show nil detriment from the impact of the WKN and K3 proposed development. This will need to be based upon agreed trip generation applied to the junction modelling, and in respect to the sensitivity testing of the KCC HIF scheme committed for the A249/Grovehurst Road interchange.

Project Construction Programme – Major highway improvement works on the A249 corridor at M2 Junction 5 and Grovehurst Road are programmed to be undertaken by both KCC and Highways England. Major disruption is likely while those works are being carried out due to the temporary traffic management measures that will be put in place. The A249/Grovehurst Road interchange upgrade is anticipated to commence in 2021 and continue for around eighteen months, with the M2 Junction 5 scheme programmed to start in the summer of 2020 for completion during 2022. With reduced capacity on the network, additional construction traffic associated with the WKN Proposed Development would compound the existing safety and congestion issues. KCC would therefore recommend that no works to the WKN proposed development are commenced until both the M2 Junction 5 and A249/Grovehurst Road improvement works are completed.

Rail and Water Transportation Strategy - It is the opinion of KCC that the proposed application is in direct conflict with National Planning Policy Framework (NPPF) for sustainable transport, climate change and waste management. In order to comply, the NPPF states that development should seek to encourage sustainable travel, lessen traffic generation and its detrimental impacts, reduce carbon emissions and climate impacts. This would be achieved if rail and water transportation were to be used, taking advantage of the application site's location next to Ridham Dock and options to connect to the rail network.

The applicant's submission suggests that neither rail nor water are viable at present with the applicant's current contracts, as the infrastructure for loading of waste at the source is not available, meaning it can only be supplied by road. However, the applicant is clearly in

control of the contracts it accepts, and it has been indicated that the waste would arrive from larger commercial waste operators. As such, it is suggested that it is within the applicant's ability to work in closer collaboration with waste suppliers to provide local waste collection points to facilitate the sustainable transfer of waste to the proposed energy to waste facilities. Without tight planning constraints on this matter, there is no incentive for waste operators to work towards national policy objectives.

Public Rights of Way (as Local Highway Authority)

The applicant has identified the existence of the Public Rights of Way (PRoW) network surrounding the site and the Saxon Shore Way promoted route that currently passes alongside Milton Creek. It is encouraging to note that the applicant has also referenced the England Coast Path. This is a new National Trail that is being developed by Natural England. The proposed route for the England Coast Path passes along Public Footpath ZU1 and follows the alignment of the Saxon Shore Way. Should this route be approved by the Secretary of State, the number of people walking this section of the coast is likely to increase, due to the enhanced level of promotion associated with a National Trail.

The PRoW network and its users have been considered as receptors when assessing the potential impacts of this development. On balance, the visual impacts are considered by the applicant to be negligible, due to the existing industrial nature of the landscape. However, KCC considers that the proposed development may have a considerable impact on path users, due to deteriorating air quality and noise effects arising from the development.

Improvements to the existing PRoW network should be considered as mitigation for the potential negative impacts of the development on path users. To this end, the County Council's PRoW and Access Service would welcome engagement with the applicant to consider surfacing improvements along Public Footpath ZU1/The Saxon Shore Way, which would enhance accessibility for path users. These improvements would provide positive community outcomes for the scheme and may help mitigate some of the negative effects arising from the development.

Sustainable Urban Drainage Systems (as Lead Local Flood Authority)

The County Council, as Lead Local Flood Authority, acknowledges that a Flood Risk Assessment, a Surface Water Management Design and a Foul Drainage Design Philosophy Statement have been submitted as part of the application and are referenced with the draft Development Consent Order (dDCO). The dDCO includes a requirement that development will not commence until details of the surface water drainage have been approved by the relevant planning authority. As Lead Local Flood Authority, the County Council considers that this requirement is consistent with usual advice and is appropriate for the development proposed.

Heritage Conservation

The County Council's Heritage Conservation Team has provided advice with respect to the applicant's archaeological baseline and the approach to assessment, responding to the two statutory consultations and the Scoping Report. The applicant responded to this advice appropriately in the desk-based study and the Environmental Statement (ES).

The County Council agrees with the proposal set out in paragraph 13.9.2 of the ES, that archaeological mitigation can be addressed through a programme of archaeological work to be secured through an appropriate requirement on the DCO. A Written Scheme of Investigation should be agreed with the County Council. Swale Borough Council and Historic England will lead on advice concerning the effects of development on the setting of built heritage assets and the Scheduled Monument at Castle Rough.

The County Council recommends that the wording of Requirement 20 within the draft DCO should be amended as set out in the following extract. The appropriate form of archaeological investigation will be identified in part (2) and therefore not needed in the wording of part (1), which may itself be prescriptive in the final design. Fieldwork should be considered before the watching brief. Provision should be made for following off site works, reporting and archiving.

20.—(1) No authorised development shall commence until a written scheme for the investigation of areas of archaeological interest ~~as identified in the environmental statement~~ has been submitted to and approved by the relevant planning authority.

(2) The scheme shall identify areas where ~~a watching brief and/or~~ field work **and/or a watching brief** are required, and the measures to be taken to protect, record or preserve any significant archaeological remains that may be found. **The scheme should also detail measures for post fieldwork processing, assessment, analysis of the results of archaeological work and the deposition of the archive.**

(3) Any archaeological works carried out under the approved scheme must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute.

(4) Any archaeological works or watching brief must be carried out in accordance with the approved scheme **unless otherwise agreed with the relevant planning authority.**

Biodiversity

The County Council is satisfied that sufficient information has been provided to enable the Examining Authority to assess the impact on designated sites and advises that as the competent authority, the Examining Authority will need to carry out an Appropriate Assessment.

It is understood that some of the works have already commenced or will be carried out on habitat that is unsuitable for protected/notable species. Therefore, the main consideration will be the impact on the adjacent designated sites, on which the County Council defers to Natural England.

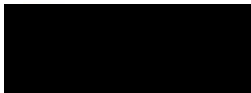
Public Health

The County Council has concerns around the increase in HGV movements resulting from this proposal and the consequent increase in air pollution. The scheme is likely to have a negative impact on local air quality due to the rise in large vehicle movements and changes to traffic patterns.

The County Council will continue to work with the applicant and Examining Authority and welcomes the opportunity to comment on matters of detail throughout the Examination.

Should you require any additional information or clarification, please do not hesitate to contact me.

Yours sincerely,



Barbara Cooper
Corporate Director – Growth, Environment and Transport

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Annex 1: Kent County Council Written Statement as Minerals and Waste Planning Authority