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Our ref: 310628  
Your ref: EN010083



Wheelabrator Kemsley Case Team  
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**BY EMAIL ONLY**

Dear Case Team

**NSIP Reference Name / Code: EN010083 Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility**  
**Location: Kemsley, Sittingbourne, Kent**

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

**Written Representation**

Summary of Natural England's advice.

Natural England considers that the main issues raised by this application are air quality, noise and visual disturbance during construction, and water quality and hydrological changes. Natural England's advice is that all other issues can be ruled out as not having a likely significant effect on any European sites.

Further, we consider that these issues have been assessed fully through the application documents submitted and that no further mitigation measures are necessary to avoid adverse impacts on the integrity of nearby European sites.

**1. Introduction**

1.1 These Written Representations are submitted in pursuance of rule 10(1) of the Infrastructure Planning (Examination Procedure) Rules 2010 ('ExPR') in relation to an application under the Planning Act 2008 for a Development Consent Order ('DCO') for a power upgrade and increase in tonnage throughput to the existing Kemsley Generating Station (K3) to allow for generation of up to 75MW; and a new Wheelabrator Kemsley North (WKN) waste to energy facility with a capacity of up to 42MW ('the Project') submitted by WTI/EFW Holdings Ltd ('the Applicant') to the Secretary of State.

1.2 Natural England has provided a summary of its principal concerns in its Relevant Representations, submitted to the Planning Inspectorate on 3 December 2019. This Written Representation comprises an updated detailed statement of Natural England's views, as they

have developed in view of the common ground discussions that have taken place with the Applicant to date. An agreed Statement of Common Ground is being submitted by the Applicant for Deadline 1.

## **2. NATURAL ENGLAND'S ADVICE**

### **2.1 Nature conservation designations that could be affected by the proposal**

#### **2.1.1 International conservation designations**

- The Swale Special Protection Area (SPA) and Wetland of International Importance under the Ramsar Convention (Ramsar site)
- Medway Estuary and Marshes SPA/Ramsar site
- Thames Estuary and Marshes SPA/Ramsar site
- Queendown Warren Special Area of Conservation (SAC)

2.1.2 The Swale SPA is designated for its populations of wintering dunlin and dark-bellied brent geese (hereafter brent geese), its assemblage of wintering waterbirds, and its assemblage of breeding birds of damp grassland. Natural England has advised the applicant as to the species that are included in the assemblages. This advice is set out at section 4.8 of the Habitats Regulations Assessment Report (HRA Report) [APP-044]. We can confirm that these are the species that need to be assessed under the Habitats Regulations.

#### **2.1.3 National conservation designations**

- The Swale Site of Special Scientific Interest (SSSI)
- Medway Estuary and Marshes SSSI
- South Thames Estuary and Marshes SSSI
- The Swale Estuary Marine Conservation Zone (MCZ)

### **2.2 The principal issues**

2.2.1 Natural England agrees that the correct potential impact pathways have been identified at paragraph 5.5 of the HRA Report [APP-044]. We consider that the main issues raised by this application are air quality, noise and visual disturbance during construction, and water quality. Natural England's advice is that all other issues can be ruled out as not having a likely significant effect on any European sites.

2.2.2 In our Relevant Representation, Natural England set out areas where further information was required in order to establish that the Project will not have an adverse effect on the integrity of nearby European sites. Since then, discussions with the Applicant have continued and this information has been provided. A brief update is provided below, but a more detailed account can be found in the Statement of Common Ground submitted by the Applicant for Deadline 1 ('the SoCG').

#### **2.2.3 Air Quality – Operational Impacts**

The Air Quality Assessment of Impacts on Ecological Receptors [APP-028] and HRA Report [APP-044] consider the air quality impacts of the K3 upgrade and WKN proposals alone, and the cumulative effect of the stack emissions and traffic generated by those proposals plus other emissions-producing developments in the area. In our Relevant Representation, Natural England advised considering adding traffic movements generated by Swale Local Plan proposals to the in-combination assessment. The Applicant has confirmed that the only place where traffic generated by the Local Plan can act in combination is the A249 at the Swale Crossing (SoCG paragraph 2.3.6), and that habitats in this location are not sensitive to changes in air quality. This analysis and conclusion will be added to the Applicant's HRA.

- 2.2.4 Natural England's Relevant Representation also requested clarity on date of the last APIS update and whether the plans or projects considered in the in-combination assessment had become operational before or after this date. Paragraph 2.3.9 of the SoCG clarifies the dates of the projects considered in-combination. Consequently, Natural England agrees that all relevant plans or projects have been correctly captured by the air quality assessment [APP-028].
- 2.2.5 The final point made in Natural England's Relevant Representation regarding operational air quality impacts was in relation to the critical load for breeding tern habitat in the Medway Estuary. It is agreed that whilst terns breed on shingle rather than saltmarsh, it is appropriate to use the critical load for saltmarsh (SoCG paragraph 2.3.11). This is because APIS only gives a critical load for low-nutrient, stable vegetated shingle, for example as seen at Dungeness SAC, which is very different in character to the shingle the terns use within the Medway.
- 2.2.6 Air Quality – Construction Impacts  
Best practice construction measures to avoid smothering of habitats by dust produced during construction, should be set out within the Construction Environment Management Plan (CEMP). Subject to this being secured, Natural England agrees this is sufficient and that no further mitigation measures are necessary.
- 2.2.7 Water Quality and Hydrological Changes  
In our Relevant Representation, Natural England requested clarification as to whether there will be any additional impacts on designated nature conservation sites, in terms of water quality, that were not considered in the approved Marine Licence. The Applicant has confirmed (as set out in the SoCG paragraphs 2.3.20 – 2.3.27) that the Marine Licence (MLA/2017/00316) and variation (L/2017/00482/2) have been granted by the Marine Management Organisation (MMO) and consider all impacts from the Project on designated nature conservation sites. Natural England, therefore, agrees that there are no further impacts that have not been assessed in relation to water quality and water resources, and no further mitigation measures are necessary.
- 2.2.8 Lighting  
Natural England agrees that mitigation measures are available to avoid an adverse effect on the integrity of the sites, as set out in the lighting strategy at Appendix 11.8. Subject to this being secured, Natural England agrees this is sufficient and that no further mitigation measures are necessary.
- 2.2.9 Noise and visual disturbance  
Natural England agrees that the species identified at paragraph 6.149 of the HRA Report [APP-044] are susceptible to noise disturbance during construction, such that there could be a likely significant effect on these components of The Swale SPA/Ramsar assemblage features. However, mitigation measures are available and we welcome those set out at paragraph 6.150 of the HRA Report. The SoCG further confirms the mitigation measures proposed. We consider that these are necessary, and sufficient, to avoid an adverse effect on the integrity of the SPA/Ramsar.