



Wheelabrator
TECHNOLOGIES



Deadline 2: Applicant's Response to Local Impact Reports

Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator Kemsley North (WKN) Waste to Energy facility Development Consent Order

PINS Ref: EN010083

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1 Introduction

1.1 Purpose of this document

- 1.1.1 This Statement has been prepared at Deadline 2 of the Examination by the Planning Inspectorate into an application by WTI/EFW Holdings Ltd (a subsidiary of Wheelabrator Technologies Inc – “WTI”) under the Planning Act 2008 for a Development Consent Order (a “DCO”) for the construction and operation of the Wheelabrator Kemsley (“K3”) and Wheelabrator Kemsley North (“WKN”) waste-to-energy generating stations on land at Kemsley, Sittingbourne in Kent.
- 1.1.2 This Statement provides the response by the applicant to the Written Representations submitted to the Examining Authority by Interested Parties.
- 1.1.3 For ease and completeness this document briefly summarises the proposed development and identifies the application site before providing the Applicant’s comments on the Written Representations (“WRs”). The WRs are summarised where appropriate but not replicated within this document but can be viewed on the project page of the Planning Inspectorate’s website:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-east/wheelabrator-kemsley-generating-station-k3-and-wheelabrator-kemsley-north-wkn-waste-to-energy-facility/?ipcsection=docs>

1.2 Context

- 1.2.1 The application for a DCO will seek consent for the construction and operation of a 75MW waste-to-energy facility, ‘the Wheelabrator Kemsley Generating Station’ (“K3”) and for the construction and operation of a 42MW waste-to-energy facility, ‘Wheelabrator Kemsley North’ (“WKN”).
- 1.2.2 K3 is a waste-to-energy facility located adjacent to and east of the DS Smith Kemsley paper mill, to the north of Sittingbourne, Kent. Planning permission was granted for K3 in 2012 by Kent County Council with a generating capacity of 49.9MW and a waste processing capacity of 550,000 tonnes per annum. The facility is now substantially constructed and is expected to be operational in Q2 2020.
- 1.2.3 The applicant has identified that K3 would be capable of processing an additional 107,000 tonnes of waste per annum and, without any change to the external design, generating an additional 25.1MW of electricity. However, in order for the K3 project to be properly categorised and consented under the Planning Act 2008 the applicant is required to seek consent for the construction of K3 at its total generating capacity of 75MW (i.e. 49.9MW consented + 25.1MW upgrade), together with the separate proposed total tonnage throughput of 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase).
- 1.2.4 The proposed new Waste-to-Energy plant, Wheelabrator Kemsley North (WKN), would be a single 125Mwth line facility capable of processing 390,000 tonnes of

waste per annum, with a generating capacity of 42MW. WKN is not therefore a Nationally Significant Infrastructure Project (NSIP) by virtue of its generating capacity.

- 1.2.5 Instead WTI made a formal application on the 1st June 2018 to the Secretary of State (SoS) for Business, Energy and Industrial Strategy under Section 35 of the Planning Act 2008 for a direction as to whether the project is nationally significant. The SoS issued their direction on the 27th June 2018 confirming that WKN is to be considered and treated as a development which requires development consent due to its context with other nationally significant projects in the vicinity, the benefits to K3 and WKN being assessed comprehensively through the same DCO process and the removal of the need for separate consents to be sought.
- 1.2.6 A single Development Consent Order will be sought for K3 and WKN through a single application to the Planning Inspectorate (PINS), prior to being determined by the Secretary of State (SoS) for Business, Energy and Industrial Strategy.

1.3 The Site and its surroundings

- 1.3.1 The K3 and WKN sites lie to the north-east of the village of Kemsley, which itself sits at the north-eastern edge of Sittingbourne in Kent. The K3 and WKN sites lie immediately to the east of the Kemsley Paper Mill, a substantial industrial complex which is operated by DS Smith.
- 1.3.2 In April 2018 DS Smith lodged an application for a Development Consent Order (DCO) which would allow for the construction and operation of ‘K4’, a gas fired Combined Heat and Power Plant within the Kemsley Mill site. This DCO was granted on 5th July 2019.

1.4 Proposed Development

Wheelabrator Kemsley – K3

- 1.4.1 Planning permission was granted for K3 in 2012 by Kent County Council under reference SW/10/444. As consented and being constructed, K3 can process up to 550,000 tonnes of waste each year and has a generation capacity of 49.9MW. K3 will export electricity to the grid and will supply steam to the DS Smith Kemsley Paper Mill. The construction of K3 began in 2016 and is now significantly advanced, with WTI anticipating K3 will be operational in Q2 2020.
- 1.4.2 WTI has identified that K3 would be capable of processing an additional 107,000 tonnes of waste per annum and, without any change to the external design, generating an additional 25.1MW of electricity.
- 1.4.3 The 2018 consultation and publicity sought views from interested parties on an application for consent for that power upgrade and increased tonnage throughput, without any construction works being required, as an extension to the K3 facility under Section 15 of the Planning Act 2008.

- 1.4.4 However, in order for the K3 project to be properly categorised and consented under the Planning Act 2008 the applicant is now seeking consent for the construction of K3 at its total generating capacity of 75MW (49.9MW consented + 25.1MW upgrade), together with the separate proposed total tonnage throughput of 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase).
- 1.4.5 A further consultation was undertaken in 2019 to advise S42 consultees and notify the public through a number of S48 notices that construction and operation of K3 is now being sought as part of the DCO, in the context of the K3 facility already being substantially constructed.
- 1.4.6 As the K3 facility is currently being constructed and will be operational by the end of 2019 the effect in reality of the proposed application ('the practical effect') would retain the K3 facility as consented but generating an additional 25.1MW together with being able to process an additional 107,000 tonnes of waste per year.

Wheelabrator Kemsley North – WKN

- 1.4.7 WKN would be an entirely new and separate waste-to-energy facility on land to the north of K3, which is currently being used as the K3 construction laydown area. WKN would provide clean, sustainable electricity to power UK homes and businesses via the National Grid distribution network and would have the ability to export steam should a user for that steam become available.
- 1.4.8 WKN would have a generating capacity of 42MW and a waste processing capacity of 390,000 tonnes per annum and be a self-contained and fully enclosed facility with its own reception hall, waste fuel bunker, boiler, flue gas treatment, turbine, air-cooled condensers, transformers, office accommodation, weighbridge, administration building, car parking and drainage. WKN would have its own grid connection to allow for the exporting of electricity to the national grid.

2 Applicant’s Responses to Written Representations (WR)

- 2.1.1 The following Table provides the reference number for each written representation received, identifies the party or organisation who have made the written representation, provides the representation itself and then the applicant’s response to that representation.

1 - Marine Management Organisation (MMO)	
<p>Covering Letter In a letter to PINS dated 12 February 2020, the MMO noted that they had not been informed by the Applicant under Section 56 of the Planning Act 2008, of the decision to accept an application for Examination for an Order Granting Development Consent. As such, the MMO has not been given the opportunity to submit relevant representations and has yet to comment on the DCO application. The MMO has approached the Applicant to commence discussions and is still awaiting engagement.</p> <p>1 Written Representation 1.1 The MMO’s role in Nationally Significant Infrastructure Projects Summarised the MMO’s role</p> <p>1.2 DCO Project Summarised the DCO project</p> <p>1.3 Pre-application Consultation Summarised pre-application engagement</p> <p>1.4 Marine Licence Provide details of existing marine licence</p> <p>1.5 Comments on the DCO Application</p> <p>The MMO assumes ‘Work No 1E’ and ‘Work No 7’ within Schedule 1 (authorised development) of the draft DCO refer to those activities consented under the existing marine licence (L/2017/00482/2). Should maintenance of the outfalls be required, such activities may be licensable under the 2009 Act. Currently, marine licence L/2017/00482/2 does not give consent for maintenance activities.</p> <p>The MMO would therefore encourage the Applicant to discuss the requirement for ongoing maintenance activities with the MMO, with a view to further varying marine licence L/2017/00482/2, should this be required. The MMO notes the intention to deliver waste to the DCO Project site by road. Should delivery by sea be needed in the future, with a requirement for additional infrastructure to support this (such as construction of a jetty, other infrastructure, or any other licensable marine activity including dredging), works below MHWS may require a marine licence.</p>	<p>The Section 56 notices were sent via recorded delivery to all consultees as required and the Applicant can confirm that the letter sent to the MMO was received and signed for on the 31st October 2020.</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>Noted</p> <p>This is noted and the Applicant confirms that Work 1E and No7 make provision for the activities consented under the existing marine licence. Further consent would be sought for any maintenance to the outfalls, should that be necessary. Similarly the potential for a marine licence to be required for any works needed to provide for the delivery of waste by sea and for decommissioning activities is noted.</p>

It is noted within the Environmental Statement that, at the end of its operating life, it is expected that the DCO Project would be rendered in-operable before eventually a programme of demolition is commenced. Should this decommissioning include the two outfalls consented under marine licence L/2017/00482/2, it is worth highlighting that this is not currently consented under marine licence L/2017/00482/2. Again, the MMO would encourage the Applicant to discuss this further with the MMO should this be required with a view to varying the existing marine licence. We do not recommend that decommissioning activities are included within the DML.

2 Comments on Relevant Representations

2.1 Natural England

Within their Relevant Representation, Natural England (“NE”) noted that, should the scour protection consented under marine licence L/2017/00482/2 need to be extended due to additional flows from a second outfall, the impacts of this on the Swale Estuary MCZ will need to be considered.

The MMO would like to highlight that, should the scour protection require extending, the MMO would encourage the Applicant to discuss this further with the MMO with a view to further varying marine licence L/2017/00482/2. Should a variation to marine licence L/2017/00482/2 under the 2009 Act be required, the MMO would consult Natural England for expert advice in their position as the statutory nature conservation body.

This is noted; no change to the scour protection has been proposed or is considered necessary at this stage.

2 - Natural England	
<p>1. Introduction 1.1 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.</p> <p>2. Natural England’s Advice 2.1. Nature conservation designations that could be affected by the proposal 2.1.1. International conservation designations</p> <ul style="list-style-type: none"> • 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) <p>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.</p> <p>2.1.3 National conservation designations</p> <ul style="list-style-type: none"> • 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) 	<p>Noted</p> <p>Noted</p> <p>Noted</p>

<p>2.2. The principal issues</p> <p>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.</p> <p>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’).</p> <p>Air Quality Operational Impacts</p> <p>2.2.3 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.</p> <p>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].</p> <p>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</p>	<p>Noted</p> <p>Noted</p> <p>Please see the revised HRA (Appendix 11.2 of the ES) submitted at the Deadline 2 submission.</p> <p>Noted</p> <p>Noted</p>
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<p>shingle, for example as seen at Dungeness SAC, which is very different in character to the shingle the terns use within the Medway.</p>	
<p>Air Quality Construction Impact</p> <p>2.2.6 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.</p>	<p>Noted</p>
<p>Water Quality and Hydrological Changes</p> <p>In our Relevant Representation, Natural England requested clarification as to whether there will there 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.</p>	<p>Noted</p>
<p>Lighting</p> <p>2.2.8 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.</p>	<p>Noted</p>
<p>Noise and visual disturbance</p> <p>2.2.9 Natural England agrees that the species identified at paragraph 6.149 of the HRA Report [APP044] 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</p>	<p>Noted</p>

the mitigation measures proposed. We consider that these are necessary, and sufficient, to avoid an adverse effect on the integrity of the SPA/Ramsar	
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3 - Environment Agency	
<p>Written Representations on behalf of the Environment Agency (ID 20023054) We wish to reiterate our previous comments detailed within our Relevant Representations (RR) dated 19 November 2019, reference KT/2019/126312/01-L01.</p> <p>We have noted the updated draft Development Consent Order (DCO) has not been updated to take into consideration our previous suggested changes. Please note however that we have been in discussions with DHA on the draft DCO. DHA have agreed to make the appropriate changes. This has been confirmed our joint Statement of Common Ground (SoCG).</p> <p>Environmental Permitting We have the following update regarding the Environmental Permit.</p> <ul style="list-style-type: none"> • The permit variation has been duly made (18.11.2019). (for K3) • The permit application for WKN has not been submitted yet. <p>Statement of Common Ground – The Applicant and the Environment Agency The Environment Agency and the Applicant have agreed a SoCG, signed by both parties on 25 February 2020. The Applicant will be submitting this document in due course.</p>	<p>Noted</p>

4 - Kent County Council	
<p><u>Minerals and Waste (as Minerals and Waste Planning Authority)</u></p> <p>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.</p> <p>The full response in respect of Minerals and Waste matters is set out within Annex 1.</p> <p><u>Highways and Transportation (as Local Highway Authority)</u></p> <p>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.</p> <p>KCC has requested that further assessment and information be provided by the applicant, and this is detailed within the Local Impact Report (LIR).</p> <p>KCC’s Written Representation provided extensive comments on the following topics:</p> <ul style="list-style-type: none"> • Baseline Conditions • Trip Generation • Impact on the Existing Highway Network • Mitigation • Project Construction Programme 	<p>The Written Representation made by Kent County Council, reference REP1-009, the ‘KCC WR’ raises an objection to K3/WKN on the grounds of conflict with the local plan strategy, in that the <i>‘increased waste recovery capacity is not justified and undermines the Early Partial Review of the Kent Minerals and Waste Local Plan.’</i> Annex 1 to the KCC WR sets out the Authority’s full position. As has already been set out in the Waste Hierarchy and Fuel Availability Report [Document 4.6, reference APP-086, the ‘WHFAR’] and will be further demonstrated in this response to the KCC WR there is no conflict with the local plan strategy, either as already adopted (in the Kent Minerals and Waste Local Plan, the ‘KMWLP’) or as promoted in the Early Partial Review (the ‘EPR’).</p> <p>The Applicant has provided a comprehensive response in Appendix 1.</p> <p>The Applicant has provided a full comprehensive response in Appendix 2.</p>

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.

Please see the Applicant’s response to ExQ 1.11.5, which documents the Applicant’s position that the Rail and Water Transportation Strategies put in place an appropriate and proportionate strategy for the continued investigation of the use of alternative methods of transport.

As set out in the Applicant’s response to Q1.14.1, the Applicant does not consider that the proposed development would give rise to detrimental impacts in air quality or noise terms on users of the public right of way particularly given they would have a transitory short term presence. The Applicant’s view is therefore that a contribution towards footpath improvements would not be necessary to make the development acceptable in planning terms.

<p>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.</p>	
<p><u>Sustainable Urban Drainage Systems (as Lead Local Flood Authority)</u> 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.</p>	<p>Noted</p>
<p><u>Heritage Conservation</u> 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).</p>	<p>Noted</p>
<p>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.</p>	<p>Noted. As per the Applicant’s response to ExQ 1.14.1 the Applicant accepts the changes to Requirement 20.</p>
<p>The County Council recommends that the wording of Requirement 20 within the draft DCO should be amended as set out in the following extract.</p> <p>Biodiversity</p>	<p>Noted</p>

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.

These issues have been assessed in Chapter 5 of the ES.

<p>5 - South East Waste Planning Advisory Group (SEWPAG)</p>	
<p>In summary, SEWPAG consider that the Waste Hierarchy and Fuel Availability Report should clarify the source of the waste and assess how this proposal might impact on affected WPA areas and fit with the related waste local plan requirements for new waste infrastructure (including that needed to meet minimum recycling targets). Going forward it is important that the authorities mentioned above are specifically consulted on this detailed assessment which should show this proposal is consistent with their adopted and emerging waste local plans.</p>	<p>The Applicant has provided a full response in Appendix 3.</p>
<p>6 - John Twiselton</p>	
<p>The existing planning approval for an operating level of 49.9 MW will result in an increase in the already serious traffic congestion problems. The increase in operational level of K3 above 49.9 MW and the permission to build and operate WKN should not be allowed until the two capital projects at Grovehurst roundabout and M2 jct are complete and operational</p> <p>It is also important to remember that, as well as the 1 million tonnes of waste being delivered to the site by HGV and RCV, there will be separate HGVs taking about 18% of bottom ash from the process and about 9% of toxic flue dust from the process. The closest tip capable of taking this toxic waste is Norwood on the Isle of Sheppey where the already overloaded A2500 is the only route to the disposal tip. There is no other toxic waste registered tip in Kent</p>	<p>Please see Chapter 4 of the ES, the Applicant’s response to ExQ1.11.4 and Appendix 2 of this document. Any vehicle movements for the transportation of bottom ash are included in the figures modelled within the ES and Transport Assessment.</p>
<p>7 - Minster-on-Sea Parish Council</p>	
<p>The Parish Council raised a number of points summarised as follows:</p> <p>The impact on traffic flow on the Swale Way / A249 dumbbell roundabout (known as the Grovehurst roundabout) which is currently regularly gridlocked at extended peak periods with queues stretching back to the Swale Way / Barge Way Roundabout and at times as far back as the DS Smith main entrance for over half a mile. The Swale Way / A249 dumbbell roundabout is at the evening peak, for traffic that is travelling northbound on the A249 wanting to access the Grovehurst Roundabout is regularly queued back onto the A249 main carriageway which also presents as a serious safety hazard.</p>	<p>Please see Chapter 4 of the ES, the Applicant’s response to ExQ1.11.4 and Appendix 2 of this document.</p>

Allowing this application would be in direct conflict with Highways England advice that it will not support any further significant sources of traffic generation (on the A249 corridor) until the Stockbury M2 / A249 Junction 5 upgrade is

There is no consideration in its review of committed developments of the enormous Aldi Southern Region Distribution Centre which is now operational and providing the requirements for 120 Aldi stores throughout the south and southeast. Neither does it consider the Morrisons’ Warehouse which is alleged to accept a vehicle every two minutes.

The disposal of the products of burning – bottom ash and flue dust – will generate yet more traffic locally. The applicants have outsourced their flue dust disposal, without revealing its destination, but the likelihood of it being anywhere other than Norwood Farm is highly improbable. Use of Norwood Farm would produce an additional 8000 20-tonne HGV movements per annum (to and from the Sheppey site) along already heavily congested roads, with all the extra vehicle pollution that would entail for local residents.

The Parish Council is also seriously concerned of an increase in HGV exhaust pollution. Fugitive emissions of toxic fumes, regularly reported from WTE plants elsewhere, would be carried directly towards Sheppey on the prevailing south-westerly winds – so constituting another potential hazard to the residents of the same area within which the flue dust would be disposed of.

There is a potential for both facilities to be built to significantly increase waste disposal in the future, the current proposals do not include any details of possible future expansion. Bearing this in mind, there are concerns that should demand continue to outstrip supply, then both sites could quickly be required to take on additional waste disposal. This is seriously concerning and must be addressed as a priority.

The Parish Council asks why an application for the 75 MW CHP was not applied for from the onset when it constitutes a Nationally Significant Infrastructure Project (NSIP) where an application for a DCO is required? The K3 CHP plant was clearly designed and constructed to be able to operate at an output level of 75MW from its design inception

The Parish Council also questions the applicant’s failure to provide a proper report on the Traffic Flow Data for the K3 – 75 MW CHP which is imperative if you are to properly understand this application and its effect on the highway network. In its place are separate spreadsheets which are confusing and not at all transparent as the process should be. Further questions could also be asked about the environmental

Please see Chapter 4 of the ES, the Applicant’s response to ExQ1.11.4 and Appendix 2 of this document.

Both of these developments are included within the baseline conditions as they are both operational.

As noted, any vehicle movements associated with the movement of materials such as flue dust have been included within the figures modelled in the ES and Transport Assessment.

The Air Quality Assessment in Chapter 5 of the ES has demonstrated that there would be no adverse effects on air quality as a result fugitive emissions.

As documented in the application K3 as constructed is not physically capable of generating 75MW due to the installed steam limiter. Given the limits placed on the number of vehicle movements associated with either facility it would not be possible to increase the annual waste throughput tonnages without seeking consent for that.

The Traffic Flow Data is presented as it is provided by the Department of Transport and Highways England. The Transport Assessment (Appendix 4.1 of Chapter 4 of the ES) provides a detailed report on the traffic flows.

impact with no information supplied on continuous or periodic monitoring. The percentage of refuse collection vehicles, flue ash and bottom ash waste also needs to be known. Here, there are concerns that the periods for waste deliveries will have a knock-on effect on the Grovehurst A249 Junction and M2 junctions as most of the deliveries are scheduled to take place during peak periods.

Please see Chapter 4 of the ES, the Applicant’s response to ExQ1.11.4 and Appendix 2 of this document.

Appendix 1

Response to Annex 1 of Kent County Council’s Written Representation as the Minerals and Waste Planning Authority

Applicant’s Response

- 1) The Written Representation made by Kent County Council, reference REP1-009, the ‘KCC WR’ raises an objection to K3/WKN on the grounds of conflict with the local plan strategy, in that the *‘increased waste recovery capacity is not justified and undermines the Early Partial Review of the Kent Minerals and Waste Local Plan.’* Annex 1 to the KCC WR sets out the Authority’s full position.
- 2) As has already been set out in the Waste Hierarchy and Fuel Availability Report [Document 4.6, reference APP-086, the ‘WHFAR’] and will be further demonstrated in this response to the KCC WR there is no conflict with the local plan strategy, either as already adopted (in the Kent Minerals and Waste Local Plan, the ‘KMWLP’) or as promoted in the Early Partial Review (the ‘EPR’).

Annex 1

- 3) The penultimate paragraph of the first page of Annex 1 to the KCC WR states:

‘The County Council remains concerned that consideration of the two entirely independent proposals together, as below, risks conflating the cases that on their own have very different merits and demerits.

 - *the expansion of capacity at an existing facility consented by KCC with demonstrable economic benefits due to its linkage with the adjacent Paper Mill ‘K3’; and*
 - *a standalone Energy from Waste (EfW) plant ‘WKN’ proposed to stand on the land granted consent to process the resultant ash from K3 into aggregate’*
- 4) There is no further reference made to *‘merits and demerits’* of the two facilities in waste terms; however the statement would seem to indicate that KCC is not objecting to the extension of K3, only to WKN.
- 5) The final paragraph of the first page of Annex 1 to the KCC WR states that the effect of both facilities would be *‘that the requirement to reduce waste and increase recycling in accordance with national waste policy and law would be compromised.’* This statement is not evidenced in any way by KCC; in its current form, it is merely

supposition. This paragraph concludes that there no *‘other justification in the public interest that warrants the harm that will be caused to the strategy.’* The WHFAR presents the Applicant’s case of how K3/WKN complies with both national and local policy; this response will demonstrate that case further.

Prematurity

- 6) The first objection made in Annex 1 to the KCC WR is that a decision on the DCO Application prior to the outcome of the EPR would be premature and contrary to the plan making process.
- 7) KCC’s submissions have all advised that the Inspector’s Report following Examination of the EPR is due shortly, the expected date being stated as *‘imminently’*. The Examination into this DCO Application has only recently commenced. The EPR should be adopted prior to any decision on the DCO Application and so it is unclear why this concern has arisen.
- 8) In any event, as is described in detail below in the remainder of this response, the DCO Application is contrary to neither policy of the adopted KMWLP, nor the EPR. Not least, the EPR does not preclude additional recovery capacity being brought forward, and does include policy for the determination of applications that are submitted.
- 9) These policies have been addressed at section 4.3 of the WHFAR which confirms, at paragraph 4.3.12, that they are not objected to. *‘Indeed, as has been demonstrated throughout this report, the policy objectives of both the adopted and the emerging development plan, are wholly met by the Proposed Development.’* (WHFAR paragraph 4.3.13)
- 10) The matters addressed by those policies, principally addressing waste hierarchy, self-sufficiency and proximity principle, are addressed in more detail responding to the other matters raised in Annex 1 to the KCC WR.

Consistency with the Principles of Waste Planning in Kent

- 11) Section 2 of the Annex 1 to the KCC WR opens with an overview of the principles underpinning waste planning, including self-sufficiency and the waste hierarchy; these principles are confirmed to be reflected in both the policy of the adopted KMWLP and the EPR. They are also addressed in the WHFAR, not least at Sections 2 and 4, which demonstrate that K3/WKN delivers all the principles of the waste hierarchy, self-sufficiency, and the proximity principle.
- 12) Annex 1 to the KCC WR claims that K3/WKN would deliver capacity *‘far in excess of the requirements indicated by the latest Waste Needs Assessment (WNA)’*. What Annex 1 to the KCC WR does not advise is that, within its submissions to the EPR

Examination, the Applicant demonstrated a number of errors within the WNA such that the Applicant was readily able to identify:

- 88,000 to 193,000 additional tonnes of LACW¹ arising and up to an additional 130,000 tonnes of residual LACW that should be diverted from landfill;
- 0 to 270,000 additional tonnes of C&I² wastes that are ‘Not Codable’ but expected to be generated in Kent;
- 28,000 to 141,000 additional tonnes of residual C&I wastes that are likely to be require diversion from landfill; and
- 198,532 tonnes of RDF manufactured in Kent, of which 100,000 to 188,000 tonnes was from waste generated in Kent or the South East, and exported outside the UK.

13) Recognising the inherent uncertainties in waste data, and in forecasting generally, the Applicant identified a range of tonnages; an approach generally considered as best practice in waste forecasting. This method readily demonstrated that the approach used by KCC, which focussed on a number of narrow parameters, was at risk of substantially under estimating future waste management needs within Kent.

14) The final sentence of this paragraph states:

‘Provision of this capacity would mean that management of waste will be locked into incineration for at least the next 25 years, compromising its management by methods further up the Waste Hierarchy e.g. by being prevented in the first place, or recycled/composted.’

15) This is another sentence that is simply a statement with nothing to substantiate it, and KCC has provided no evidence that recovery facilities affect recycling performance.

16) Section 2 of the WHFAR addresses the role of K3/WKN within the waste hierarchy. Section 2.3 explains how the waste management process works, such that the waste hierarchy is implemented efficiently and effectively. It includes a commitment from the Applicant in terms of waste acceptance, referring to the Environmental Permit. Reference to the Environmental Permit already granted for the existing K3 Facility states that:

‘The Installation will incinerate up to 550,000 tonnes of waste per year in two incineration lines. The wastes incinerated will be treated municipal waste, treated commercial and industrial waste, Shredded Recovered Fuel (SRF) and waste from the adjacent paper mill.

Waste shall only be accepted if:

¹ Local Authority Collected Waste

² Commercial and Industrial

- (a) it is of a type and quantity listed in schedule 2 table S2.2; and*
- (b) it conforms to the description in the documentation supplied by the producer and holder; and*
- (c) if having been separately collected for recycling, it is contaminated and otherwise destined for landfill.’*

- 17) The Environmental Permit requires those wastes that are accepted at K3 to be ‘treated’ such that they will be the residual output of re-use and recycling activities. It is to be expected that the same restriction would apply to K3/WKN. The Permit will only allow separately collected recycled waste to be accepted at K3/WKN where that waste is not suitable for recycling. This restriction is workable because the existing K3 facility and WKN are designed to be able to accept a wide range of wastes and can adapt to changes in waste composition over time such that they will not ‘crowd out’ recycling.
- 18) This approach was also demonstrated in the WHFAR which only considers those wastes that are currently sent to landfill or sent overseas, and applies a number of sensitivities including increased recycling.
- 19) As is set out at section 2.4, Gate Fee Reports prepared by WRAP consistently show gate fees at material recycling facilities and organic waste treatment facilities to have significantly lower gates fees than energy from waste and landfill facilities. Increased recycling is an important policy drive and the market responds positively to this, not least it is a cheaper waste management method than either energy recovery or disposal. It makes sound commercial sense for waste producers to seek the most cost-effective waste management solution, which favours reduction, reuse and recycling. There is a financial imperative on waste producers and handlers to comply with the waste hierarchy.
- 20) K3/WKN are demonstrated to be at the right level of the waste hierarchy, performing an important role at the end of the waste management process, taking waste out of landfill, and complementing re-use and recycling. K3/WKN will both: divert residual wastes from landfill; avoid an energy source being lost overseas when the UK has such urgent energy demands; recover renewable/low carbon energy; and recover secondary materials including aggregates, glass, metal and digestate. K3/WKN demonstrably deliver the waste hierarchy and will not prejudice it.
- 21) Contrary to the concluding statement made in Annex 1 to the KCC WR, K3/WKN wholly comply with the principles of waste planning in Kent, both as set out in the KMWLP and the EPR. Following the points made by KCC, the response above has

focussed on the waste hierarchy; in the next section, this response refers to KCC again, focussing on self-sufficiency and the proximity principle.

Consistency with the Principles of Waste Planning in the South East.

- 22) In this section, KCC argue that because K3/WKN *'would need to draw waste in from beyond the boundaries of Kent. This would undermine the wider Local Plan-making principles of the other Waste Planning Authorities within the South East.'*
- 23) K3/WKN are, unashamedly, submitted as regional facilities; they are not focussed on only treating 'Kent's waste'. As set out in response to questions 1.1.4 and 1.1.6 of the ExA Q1 this approach delivers the principles of self-sufficiency and proximity principle; there is no harm done to the policy of KCC or the other authorities of SEWPAG.
- 24) The Study Area considered within the WHFAR includes administrative areas that lie beyond the SEWPAG area. Consequently, KCC is correct to state that waste would be brought into the SEWPAG, but is incorrect to identify this as contrary to the objectives of SEWPAG. This approach is aligned with both policies of proximity principle and self-sufficiency, as set out in European legislation, and national and local policy (including that of the authorities within SEWPAG).
- 25) Paragraphs 4.1.6 to 4.1.10 of the WHFAR explain that:

'4.1.6 Paragraph 2 of Article 16 of the rWFD also requires that the network of disposal and recovery installations referred to in paragraph 1 shall be designed to enable the Community as a whole to become self-sufficient in waste disposal as well as in the recovery of the types of waste referred to in paragraph 1. Paragraph 2 indicates that the network of facilities to be established should 'enable Member States to move towards that aim (i.e. self sufficiency) individually, taking into account geographical circumstances or the need for specialised installations for certain types of waste.'

4.1.7 Paragraph 3 of Article 16 requires that Member States ensure that the network of facilities shall enable waste to be disposed of or waste referred to in paragraph 1 to be 'recovered in one of the nearest appropriate installations, by means of the most appropriate methods and technologies, in order to ensure a high level of protection for the environment and public health.'

4.1.8 This is an important principle and avoids wastes being disposed of outside of the European Union where appropriate facilities may not operate sufficiently to ensure waste management occurs without endangering human health or harming the environment.

4.1.9 However, the wording ‘recovered in one of the nearest appropriate installations’ is important. The concept involves elements other than just distance: the installation chosen for any tonne of waste may be one of several; and it cannot be any installation, it needs to be an appropriate installation.

4.1.10 Energy recovery facilities, such as K3/WKN, are not required to be the, only, closest, installation to the waste; they are required to be ‘one of the nearest appropriate installations.’

- 26) The point is further considered in the WHFAR from paragraph 4.2.41, with paragraph 4.2.42 advising:

‘Though the aim is for each waste planning authority to manage its own waste, there is no expectation that each local planning authority should deal solely with its own waste to meet the requirements of the self-sufficiency and proximity principles. The guidance notes that the ability to source waste from a range of locations/organisations helps ensure existing capacity is used effectively and efficiently, and importantly helps maintain local flexibility to increase recycling without resulting in local overcapacity.’ The guidance being referenced is Planning Practice Guidance on Waste³.

- 27) A relevant and important matter is that there is no policy (at either the national or local level) that requires all planning authorities, or all administrative areas, to provide all waste management needs within that area. This is confirmed by Defra, through the 2014 document titled ‘Energy from waste, A guide to the debate’⁴ (the ‘EfW Debate Guide’).

*‘The proximity principle arises from Article 16, “Principles of self sufficiency and proximity”, of the revised Waste Framework Directive (2008/98/EC), the EU legislation that governs waste management. **The principle is often over-interpreted** to mean that all waste has to be managed as close to its source as possible to the exclusion of other considerations, **and that local authorities individually need the infrastructure required to do so. This is not the case. Indeed the final part of the Article itself states, “The principles of proximity and self-sufficiency shall not mean that each Member State has to possess the full range of final recovery facilities within that Member State”.** Clearly if not even the entire country needs to have the full range of facilities, a specific local authority does not have to.*

³ <https://www.gov.uk/guidance/waste> [05.03.2020@13:52]

⁴ <https://www.gov.uk/government/publications/energy-from-waste-a-guide-to-the-debate> [05.03.2020@14:03]

While there is an underlying principle of waste being managed close to its source, there is no implication of local authorities needing to be self-sufficient in handling waste from their own area.’ (emphasis added)

28) Paragraph 154 continues:

‘... There is nothing in the legislation or the proximity principle that says accepting waste from another council, city, region or country is a bad thing and indeed in many cases it may be the best economic and environmental solution and/or be the outcome most consistent with the proximity principle. ...’

29) What is believed to be the current Memorandum of Understanding between the Waste Planning Authorities of SEWPAG (dated April 2017 and stated at paragraph 10.1 to be applicable *‘for a three-year period to 31st December 2020’*, the ‘SEWPAG MoU’) also recognises this point.

30) At paragraph 6.4, the SEWPAG MoU states

‘Paragraph 263 of the Government Review of Waste Policy in England 2011 states that “there is the need for councils to work together and look at waste management needs across different waste streams and across administrative boundaries.” It further states that “There is no requirement for individual authorities to be self-sufficient in terms of waste infrastructure and transporting waste to existing infrastructure to deliver the best environmental solution should not be considered a barrier.”

31) Paragraphs 7.1 and 7.2 continue on this theme, setting out the terms of agreement between the authorities:

‘7.1 The Parties recognise that there will be a degree of cross-boundary movement of waste. In light of this, the Parties will plan on the basis of net self-sufficiency which assumes that within each waste local plan area the planning authority or authorities will plan for the management of an amount of waste which is equivalent to the amount arising in that plan area. All parties accept that when using this principle to test policy, it may not be possible to meet this requirement in full, particularly for hazardous and other specialist waste streams.

7.2 In keeping with the principle of net self-sufficiency for each waste local plan area, the Parties will plan on the basis that no provision has to be made in their waste local plans to meet the needs of any other waste local plan area which are basing their waste policies on achieving the principle of net self-sufficiency.’

32) The approach of the SEWPAG authorities is not injured in any way by K3/WKN. There is no policy apparent within the development plan documents of the SEWPAG authorities that restricts waste from any one area going to another. There is also no requirement on any of the constituent authorities to send waste to K3/WKN; indeed it is not within the gift of these planning authorities to determine where waste goes for treatment or disposal, other than, perhaps, local authority collected wastes. This point is also recognised in the SEWPAG MoU, at paragraph 7.8:

‘The Parties recognise that private sector businesses (and, therefore, commercial considerations) will determine whether new merchant waste management recycling and treatment facilities will be built and what types of technology will be used.’

33) K3/WKN are merchant facilities and are proposed in response to a recognised commercial need for additional recovery capacity to divert residual wastes from landfill and does not rely upon any one local authority waste contract. It provides a sustainable treatment for wastes that would otherwise be disposed of to landfill, or lost to the local economy through being exported overseas. This strategy entirely accords with a key objective of SEWPAG, as set out at paragraph 7.6 of the SEWPAG MoU:

‘The Parties agree that the challenge to be addressed is to implement the waste hierarchy and to enable better, more sustainable, ways of dealing with waste to reduce the current dependence on landfill.’

34) KCC is also concerned about the GLA being able to achieve self-sufficiency. This too is unfounded. The Planning Inspectorate issued its recommendations on the Riverside Energy Park DCO in early January 2020, such that a decision is due shortly. The Riverside Energy Park incorporates an energy from waste facility, located adjacent to an existing recovery facility and in close proximity to heat demand. The Application was accompanied by an assessment demonstrating that London requires in the region of 1 million tonnes of new residual waste management capacity (as a conservative estimate) and that the proposed recovery facility would make a positive contribution to London achieving its own self-sufficiency targets set out in policy. The GLA objected to the Riverside Energy Park, claiming that such new capacity was not required based (in part) on a continued reliance of exporting residual wastes out of the Capital for treatment, and landfill. Either, the GLA is correct, and its own application of local policy (including the export of waste out of London) means that no new recovery capacity is required within the capital to achieve self-sufficiency; or the Promoter is correct and the Riverside Energy Park will deliver some of the additional new capacity required to achieve self-sufficiency in London.

- 35) To conclude, as regional facilities K3/WKN may well ‘draw-in’ waste in from beyond Kent and beyond the SEWPAG area. This is a positive strategy, designed to deliver the waste hierarchy within the south east and to provide for the sustainable recovery of residual wastes, enabling their diversion from landfill. As one of the nearest appropriate installations in the vicinity of residual wastes from which renewable/low carbon energy can be sourced K3/WKN deliver the principles of self-sufficiency and the proximity principle.

Consistency with Government Policy

Energy policy

- 36) The only substantive comment at this section of the Annex 1 to the KCC WR is the conclusion:

‘Given that WTI made representations to the examination of the Early Partial Review of the adopted KMWLP objecting to the proposed changes, WTI is fully aware that the proposal will not be in accordance with the Local Plan or its underpinning strategy. In addition to detailed written evidence, representatives on behalf of WTI gave oral evidence at the Hearing for the Early Partial Review of the MWLP.’

- 37) KCC is correct, WTI did make detailed written submissions and gave oral evidence at the EPR Examination. Unfortunately, WTI received no substantive response from KCC to any of its submissions.
- 38) However, Annex 1 to the KCC WR has failed to recognise an important distinction made clearly within the WTI submissions. WTI consistently made clear that the only element of policy of the EPR to which it objected was the proposal to no longer prepare a Waste Sites Plan; WTI’s real objection was relation to the poor evidence base that was being relied upon for this change in policy. This position is made clear at paragraphs 2.1.3 to 2.1.5 of WTI’s submission dated March 2018:

‘2.1.3 WTI’s substantial concern regarding the evidence base, principally the KCC Waste Need Assessments, remain. The Assessments have been little modified since the June editions, they continue to be difficult to read, and they continue to contain some material areas of concern.’

2.1.4 Consequently, WTI considers that the analysis of future waste management demands undertaken to date is not robust and that the Partial Review is at risk of being unsound.’

2.1.5 The significant weaknesses in the evidence base leads the Partial Review into an approach that is considered will fail to provide the infrastructure necessary in Kent to sustainably manage its waste arisings and to benefit from a supply of renewable/low carbon energy.’

39) The March 2018 submission continues:

‘2.2.2 This Response is supported by three Reviews that have been undertaken of the KCC Waste Need Assessments:

- the WTI LACW Review, which reviews the KCC LACW Need Assessment in some detail, identifying a shortfall in the LACW arisings forecast and future residual waste management demand(Annex A);*
- the WTI C&I Review, which identifies substantial elements of C&I waste potentially not accounted for in the KCC C&I Need Assessment (Annex B); and*
- the WTI RDF Review, which identifies a substantial amount of refuse derived fuel generated in Kent that is subsequently exported out of the UK (Annex B). This material could be used within Kent, bringing economic, environmental and social benefits.*

2.2.3 The WTI Reviews identify wastes that are believed to be generated within Kent, but not currently recognised within the KCC Waste Need Assessments. These additional wastes are expressed in ranges of tonnes, this is a preferred approach as it recognises the inherent uncertainty that exists with waste data. The size of those ranges, extending over 100,000 tonnes, readily demonstrates the range of flexibility that should be built into any resultant local plan.

2.2.4 That the KCC Waste Need Assessments are generally at the bottom of those ranges, also demonstrates that a highly conservative approach has been taken that is not credible.

Consequently, the Partial Review fails to provide a robust, positive or flexible strategy for waste management going forward and is at risk of underproviding necessary infrastructure.’

40) It is this work that demonstrated the additional tonnages identified above at Paragraph 12.

41) KCC is wrong both to suggest that K3/WKN do not comply with either the KMWLP or the EPR, and that the Applicant has knowingly presented a false position. Not least in the both the Planning Statement (Document 4.2, APP-082) and the WHFAR (particularly at section 4.3), both as supplemented by this response and

others K3/WKN is clearly demonstrated to be in accordance with both the KMWLP and the EPR.

Waste Policy

- 42) At this section of Annex 1 to the KCC WR, KCC misquote from the 2018 Resource and Waste Strategy⁵ (the ‘RWS’). The RWS was a wholly new national strategy, published by Defra in December 2018, which has been referenced within the WHFAR. It is not a planning policy document but is relevant to K3/WKN as it addresses both waste and resource management in England.
- 43) The RWS, the strategy document, references the need for additional waste treatment capacity, recognising (on page 76) that ‘*landfill is the least preferred option given its environmental impact*’, RWS welcomes ‘*further market investment in residual waste treatment infrastructure*’ (page 79). On page 78, the RWS states ‘*We cannot increase resource efficiency without the right waste infrastructure.*’ Contrary to KCC’s submission, the RWS is wholly supportive of new waste management infrastructure.
- 44) Annex 1 to the KCC WR may have meant to refer to the RWS Evidence Annex, which presents (on page 78) Defra’s own internal analysis and that undertaken by Tolvik Consulting Ltd, ‘UK Residual Waste: 2030 Market Review’ on future requirements for residual waste treatment capacity (my emphasis):

‘According to our internal analysis, shown below (Figure 9), significant additional residual waste energy recovery capacity such as incineration or advanced conversion technologies

*– above that already operating or planned to 2020 – **would not necessarily be needed** to meet an ambition of no more than 10%²⁶³ Municipal Solid Waste (MSW) to landfill by 2035, if a 65% MSW recycling rate is achieved by that same year²⁶⁴. The analysis assumes refuse derived fuel (RDF) exports remain at current levels. However, if energy recovery continues to provide a better environmental alternative to landfill, more investment to reduce tonnages of MSW to landfill further would deliver environmental benefits²⁶⁵. (emphasis added)*

*Tolvik Consulting Ltd. carried out a similar assessment, bringing together existing reports around Energy from Waste, and concluded that there would not be a gap in incineration capacity in 2030, **provided the 65% MSW***

⁵ <https://www.gov.uk/government/publications/resources-and-waste-strategy-for-england> [06.03.2020@12:58]

recycling rate ambition was met (Figure 9 below). The risk of a gap in capacity is, however, still relevant, as projections on future capacity, exports and arisings are subject to uncertainty²⁶⁶. (emphasis added)

45) The footnotes within the quoted text are

- 263 10% of MSW is estimated to be between 5Mt-6Mt per annum by 2035
- 264 With MSW residual arisings predicted to fall to 20-21Mt per annum by 2035 under a 65% recycling rate
- 265 The environmental balance between landfill and energy recovery will depend on several factors such as the composition of waste landfilled, the efficiency of energy recovery, etc.
- 266 Tolvik Consulting Ltd. (2017) UK residual waste: 2030 market review [which provides a link to the website <https://www.tolvik.com/published-reports/view/uk-residual-waste-2030-market-review/>]

46) As is made clear in the RWS Evidence Annex, the conclusion that additional recovery capacity ‘would not necessarily be needed’ is predicated on some key assumptions, not least: that their forecasting of waste arisings is correct; achieving increased recycling, to meet 65% by 2035; and the continued export of 3.2 million tonnes of refuse derived fuels (‘RDF’) each year.

47) One of the key conclusions of Tolvik’s 2030 Market Review is that the amount of residual waste predicted at 2030 varied greatly across the six reports that it reviewed. All the reports were prepared by organisations active within the waste industry, which demonstrates the level of uncertainty in relation to forecasting waste arisings, and which is recognised by Defra in the RWS Evidence Annex:

‘Whilst the 2016 baseline Residual Waste tonnages vary relatively modestly, the effect of the differing assumptions underpinning the scenarios in the reports is significant. By 2030 the projected tonnage of Residual Waste ranges from a low of 15.9 Mt to a high of 31.7 Mt. It is worth noting that not all of the scenarios within the reports are necessarily regarded by report authors as a likely outcome; some scenarios have been developed specifically to illustrate the effects of changing assumptions and/or for the purpose of sensitivity testing’ (UK Residual Waste: 2030 Market Review, Section 4.1, Page 17).

48) Recognising this level of uncertainty makes the second conclusion even more important: that, despite assuming high levels of recycling, and substantially greater than are currently achieved in the South East, there generally remains a future forecast need for substantial new residual waste treatment capacity. A potential future surplus of capacity is only achieved when: very high recycling

rates are assumed; all potential future capacity is included, even when it is not yet operational; and it is assumed that the UK will still be exporting 2.5 million tonnes of RDF to mainland Europe for treatment.

- 49) All of this leads to the RWS Evidence Annex recognising the risk of a capacity gap remaining to be ‘*still relevant*’. This point is considered (at paragraphs 4.2.16 to 4.2.24) of the WHFAR concluding that Government recognises that forecasting is uncertain and that to manage the associated risks it is advisable not to be overly cautious. Contrary to KCC’s assertion, neither policy nor evidence of the RWS can be said to be concluding that there is no need for future residual waste treatment capacity, or that it would be premature to do so.
- 50) An incineration tax was mentioned in the 2018 Budget, and there has been little or no detail on it since. Contrary to the suggestion in Annex 1 to the KCC WR, the Budget does not specify the purpose of the tax, simply stating (at paragraph 3.58):
- ‘The government recognises the important role incineration currently plays in waste management in the UK, and expects this to continue. However, in the long term the government wants to maximise the amount of waste sent to recycling instead of incineration and landfill. Should wider policies not deliver the government’s waste ambitions in the future, it will consider the introduction of a tax on the incineration of waste, in conjunction with landfill tax, taking account of the possible impacts on local authorities.’*
- 51) As has been demonstrated in both the WHFAR and above K3/WKN will not ‘lock in’ recyclable waste; it is committed to playing its appropriate role within the waste hierarchy of diverting waste from landfill, not recycling. K3/WKN may well ‘draw in’ waste from beyond Kent, they are intended to be regional facilities. However, Chapter 6 of the ES demonstrates that the transport arrangements and consequent impacts are acceptable.
- 52) Policy and strategy are often being updated. Annex 1 to the KCC WR does not specify what change it foresees, other than to speculate that, in being consistent with the RWS they will likely ‘*provide a different emphasis in policy direction, particularly in relation to Combined Heat and Power (CHP) from EfW.*’ As set out in the WHFAR (particularly at section 4.2) K3/WKN are aligned to the policy direction of RWS and plays an important role in delivering the circular economy in England; it can be reasonably assumed to remain aligned with the Environment Bill and future updates to implementation legislation and policy.
- 53) K3/WKN will deliver key government aspirations on the circular economy and sustainable waste management. WTI is wholly supportive of increased recycling, and an expectation that 65% recycling has been incorporated into the WHFAR.

This analysis, along with all that has been conducted by Government and other parties, demonstrates that the future is uncertain, but that, with the exception of extreme scenario, additional residual waste treatment capacity is required. Further, it is required urgently if the UK is going to meet key climate change and energy supply targets.

Need for the Facility

- 54) Annex 1 to the KCC WR misquotes the WHFAR in the opening paragraph of this section stating ‘... *The evidence base prepared for Wheelabrator Technologies to underpin the combined DCO proposal seeks to justify the development in the context of a perceived capacity gap of up to 1.3 million tonnes in Kent. It indicates that even with the WKN/ K3 capacity, there will be a further unmet capacity requirement of 870ktpa in Kent.*’
- 55) The fuel availability assessment presented at section 3 of the WHFAR deliberately presents a range of fuel availability tonnages, which have been reached through a transparent and systematic analysis of data provided in the Waste Data Interrogator (the national dataset prepared by the Environment Agency). This analysis is not achieved through ‘perception’, but through consideration of the facts that are available. Further, that analysis is not of the future waste management needs of Kent (that was presented in WTI’s submission on the EPR) but of the Study Area as defined at paragraph 3.1.5 of the WHFAR which clearly includes administrative areas other than Kent.
- 56) As has already been addressed within this response this approach is neither contrary to the KMWLP or the EPR, albeit that the Applicant does hold serious concerns about the Waste Need Assessment that underpinned the EPR, which have been set out in this response.
- 57) Appendix 1 to Annex 1 to the KCC WR presents none of the data required to verify the numbers presented and is comparing two different years when claiming to have found ‘*such gross deviation...*’. Forecasting anything into the future is an uncertainty; KCC’s approach would result in a lost opportunity to achieve the infrastructure required to deliver the renewable/low carbon energy supply so urgently sought in policy; and sustainable waste management, fulfilling the circular economy and diverting waste from landfill. K3/WKN are demonstrably supported by policy and all the credible analysis considered within the WHFAR and this response.

Energy efficiency and Carbon Impacts

a. Energy Efficiency

58) KMWLP policies are addressed in both the Planning Statement (Document 4.2, APP-082) and the WHFAR (particularly at Section 4.3). These documents demonstrate that inter alia, policies CSw6, CSW7 and CSW8 are all met by K3/WKN. Indeed, Annex 1 to the KCC WR does not appear to suggest otherwise.

b. Carbon Impacts

59) The WHFAR considers only those wastes that have been disposed to landfill within the Study Area, or which have been exported from within the Study Area as RDF. In considering the future fate of these wastes, the WHFAR incorporates an assumption that recycling will increase to meet the targets set out in the RWS. It is entirely reasonable to assume that these wastes, whether they are sourced from Kent or elsewhere within the Study Area, will continue to be sent to landfill; albeit Brexit means that the assumption that RDF will continue to be exported to mainland Europe is less certain.

60) That KCC advises that landfill capacity within the Study Area is dwindling simply means that those wastes that would continue to be disposed of to landfill, will simply have to travel further to that fate. Instead, they could be treated at K3/WKN for the recovery of energy, and secondary materials.

61) There will be competition with other energy recovery facilities, and likely some continued export to mainland Europe. However, that wastes are being disposed of to landfill suggests that much of the existing energy recovery capacity is already utilised; it may not be possible for those facilities to accept any more waste. The export of RDF to mainland Europe will be affected by Brexit, although the extent of that change are not yet clear. In any event, this simply means that the UK misses out on a renewable/low carbon energy supply that is, secure, affordable, decentralised, and promoted in policy.

62) In terms of heat offtake, the Carbon Assessment is conservative in that it models an electricity only facility. In reality WKN would be connected to the Kemsley Paper Mill via K3; some heat could be supplied to Kemsley which means the modelling of the facility as electricity only is a worst case scenario. WKN would be constructed to be CHP ready and it would therefore be feasible to commence heat exports as soon as a suitable heat use is secured. The Applicant intends to continue to review opportunities for the use of heat arising from WKN and its location close to the existing Sittingbourne urban area and to industrial developments means that the WKN site is not considered to limit CHP potential.

63) KCC suggest that the biogenic fraction of the waste may reduce with the “...government drive to separate out food waste...”. Waste composition data is generally of poor quality but it is acknowledged that there may be some reduction in biogenic wastes if all Local Authorities are mandated to separately collect food

waste from households. However there are other initiatives at the national level (such as extended producer responsibility and deposit return schemes) which could see an increased capture of other waste materials such as plastic bottles for recycling, which would thus drive up the biogenic proportion of the overall residual waste stream. Given that the calorific value of foodwaste is less than non-biogenic wastes such as plastic any measurable change in the biogenic fraction of waste (and hence carbon impact) would require significant levels of food waste diversion.

- 64) In respect of the disposal of APCR, transport carbon emissions are generally a small proportion of the overall assessed carbon impacts. However the Applicant intends to recalculate the modelled carbon emissions to reflect the transportation of APCR in order that a revised figure can be provided during the examination.

Environmental and Amenity Impacts

- 65) The final sentence on page 9 states:

‘Given the conflict with waste planning policy it is considered that the environmental impacts of such additional development are not justified.’

- 66) Annex 1 to the KCC WR has not presented any justifiable conflict with waste planning policy. Each point raised by KCC has been addressed in this response and none have been found robust, reasonable or relevant. The ES then addresses the environmental impacts of the proposed development.

Appendix 2

Response to Kent County Council’s Written Representation as the Local Highway Authority

Applicant’s Response:

Baseline Conditions

- 1) The Applicant notes that KCC confirm that they now accept the baseline positions set out within the Transport Assessment and the ES.

Trip Generation

- 2) The Applicant met with KCC on 10 February 2020, during which the trip generation elements KCC raise were discussed.
- 3) During that meeting the applicant explained that the HGV generation is based upon 75% of all movements being generated during daytime periods and 25% of all HGV movements being generated during night time periods. The applicant explained that this was the assumption made for K3 as part of its Section 73 application (reference SW/14/506680) to enable 24/7 working. This detail is set out at paragraph 6.14 of the Transport Assessment.
- 4) The applicant has also undertaken sensitivity assessments whereby all HGV movements occur during only daytime periods.
- 5) Notwithstanding, during the meeting on 10 February 2020, KCC advised that they were able to obtain HGV movement data for the Waste to Energy facility at Allington, Kent and suggested that the Applicant do likewise for their operational facility at Ferrybridge, Yorkshire. The Applicant and KCC discussed the differences between the facilities at Ferrybridge and Allington in comparison to the K3 and WKN Proposed Developments, in particular neither have 24/7 HGV access, Allington is a municipal facility with a majority of local Refuse Collection Vehicles whilst Ferrybridge comprises a high proportion of feed from the Barnsley, Doncaster and Rotherham (BDR) waste facility which skews its HGV movements away from what would be considered average.
- 6) The Applicant and KCC both acknowledged these differences and that the HGV movement data from Ferrybridge and Allington is expected to be different to that for the K3 and WKN Proposed Developments. Nonetheless, the Applicant has agreed to obtain and share the HGV movement data for Ferrybridge and KCC has agreed to obtain and share the HGV movement data for Allington. The Applicant and KCC has agreed to review the HGV movement data for Ferrybridge and Allington in the context of the K3 and WKN Proposed Developments, whilst being mindful of the differences between the facilities. The Applicant is currently obtaining the HGV movement data for Ferrybridge and will share this with KCC.

- 7) The Applicant notes that KCC confirm that they now accept the construction traffic assumptions set out within the Transport Assessment and the ES.

Impact on the Existing Highway Network

- 8) The Applicant notes KCC’s comments in paragraph 7.14 relating to junction performance and queuing at the Swale Way / Barge Way junction. The Applicant directs the ExA to paragraphs 14.47 to 14.50 of the Transport Assessment which explains how the traffic modelling software is unreliable under congested conditions but acts as a useful aid in the assessment process; this is accepted within the industry and has been well rehearsed at numerous Public Inquiries over the years. The remainder of Section 14 of the Transport Assessment therefore builds upon the junction assessments undertaken and examines the impact of development with Tables 14.2 and 14.3 being particularly relevant.
- 9) Table 14.2 shows that the K3 and WKN Proposed Developments would increase traffic flows on the eastbound Swale Way entry to the Barge Way roundabout from 1,441 to 1,452 (+11 vehicle movements) during the AM peak hour (07:30 to 08:30). This is one additional vehicle movement every five and a half minutes. However, despite, this, Table 14.2 shows that the traffic modelling predicts the maximum queue on the eastbound Swale Way entry to increase from 84.9 vehicles to 94.5 vehicles. This is demonstration of the unreliability of the traffic models in congested conditions, as described in paragraphs 14.47 to 14.50 of the Transport Assessment.
- 10) Table 14.3 (sensitivity assessment) shows that if all HGV movements were during daytime periods only, the K3 and WKN Proposed Developments would increase traffic flows on the eastbound Swale Way entry to the Barge Way roundabout from 1,441 to 1,454 (+13 vehicle movements) during the AM peak hour (07:30 to 08:30). This is one additional vehicle movement every four and a half minutes. However, despite, this, Table 14.3 shows that the traffic modelling predicts the maximum queue on the eastbound Swale Way entry to increase from 84.9 vehicles to 97.1 vehicles. This is further demonstration of the unreliability of the traffic models in congested conditions, as described in paragraphs 14.47 to 14.50 of the Transport Assessment.
- 11) It is for this reason for Section 14 of the Transport Assessment; to consider the absolute increases in traffic flows by the K3 and WKN Proposed Developments and to form a judgement on this rather than rely upon traffic modelling software, which is accepted within the industry to be unreliable in congested conditions.
- 12) Therefore, the comments made at paragraph 7.14 in KCCs LIR regarding changes in queue lengths need to be considered in this context and the qualification of the changes in traffic flows examined in Section 14 of the Transport Assessment must be a key consideration.
- 13) KCC also set out that *‘the 2017 base reported queue is 4.4 and it is unclear how in 2024 the Ratio of Flow to Capacity (RFC) has increased to 67 due to committed development flows particularly as the Appendix E “Committed development traffic Flow diagram” only shows four opposing movements from Swale Way South to*

Barge Way. Although KCC state the Ratio of Flow to Capacity (RFC), this is in fact the queue. KCC correctly set out that in this scenario the committed developments in 2024 would increase the opposing vehicle movements from Swale Way to Barge Way by 4 vehicle movements, as shown at Appendix E of the Transport Assessment. However, what also causes the queue on the eastbound Swale Way entry in this scenario, and is the main contributor, is the increase of 310 vehicle movements on that movement, all of which are committed developments, as also shown at Appendix E of the Transport Assessment. Thus, there is a combined additional 314 opposing vehicle movements at the Swale Way / Barge Way roundabout in this scenario which increase the queue on the eastbound Swale Way entry from 4.4 vehicles to 67 vehicles.

- 14) In relation to KCCs point on Table 14.3 of the Transport Assessment, the queue length on the eastbound Swale Way entry to its roundabout with Barge Way is 4.4 vehicles in the 2017 scenario and 84.9 vehicles in both the 2024 and 2031 baseline scenarios. These queue lengths are correct. The estimation of 2024 and 2031 baseline scenarios is set out in Section 5 of the Transport Assessment and explains that traffic growth rates have not been applied because the number of dwellings and employment included in future years by other committed and cumulative developments far exceeds the number of dwellings and employment contained within TEMPRO and the methodology adopted in Section 5 of the Transport Assessment is robust as it already incorporates more than the equivalent TEMPRO estimates. The Applicant notes from paragraph 7.4 of their LIR that KCC have accepted this methodology and that KCC are now satisfied that the baseline conditions used in the traffic modelling are acceptable to them.
- 15) The Applicant notes KCCs comment on modelling being undertaken for the committed upgrade to the A249 Grovehurst junction. The applicant met with KCC on 10 February 2020, during which the Applicant asked KCC to provide details on the traffic modelling undertaken at the A249 Grovehurst junction as part of its Housing Infrastructure Fund application. Specifically, the Applicant asked KCC to provide details on the assumptions behind the modelling in terms of the allowances made for other developments within the modelled traffic flows. KCC has agreed to this and will provide these assumptions to the Applicant. Upon receipt of these assumptions, the Applicant is committed to working with KCC to determine if there is a requirement to undertake any additional sensitivity modelling work.
- 16) Notwithstanding the above, the Applicant notes KCCs predicted timescales for the A249 Grovehurst junction improvement works commencing in 2021 and, in paragraph 7.21 of their LIR, sets out that this would continue for around 18 months. This suggests that significant improvements to highway capacity could be provided at the junction by mid 2022 / 2023.
- 17) The Applicant is aware of the residential planning applications for South Iwade, North Iwade, Land Adjacent to Quinton and Phase 1 of NW Sittingbourne. The applicant is aware that as part of their discussions with KCC and Swale Borough Council, these developments are agreeing to the imposition of planning conditions that will restrict their full occupation until the A249 Grovehurst scheme is open to

traffic. There must therefore be a significant degree of confidence that the A249 Grovehurst scheme will progress in accordance with these timescales, otherwise these developers would be unlikely to agree to such planning conditions for commercial reasons.

- 18) The Applicant notes that WKN will not be operational until 2024 which would therefore be after the opening of the A249 Grovehurst improvement scheme.
- 19) Could KCC provide assurance to the ExA on the deliverability of the A249 Grovehurst junction scheme providing improvements to highway capacity by mid 2022 / 2023?
- 20) As part of those discussions between the applicants of the residential planning applications and KCC, the Applicant understands that KCC is agreeing development thresholds before infrastructure is required, for example, KCC have agreed that 450 dwellings can be occupied at North West Sittingbourne before highway improvements would be required at the A249 Bobbing junction (which, alongside the A249 Grovehurst junction improvement works, formed part of the HIF monies secured by KCC).
- 21) The Applicant notes from KCCs latest consultation response on the Land North of Quinton Road application that KCC will shortly provide their requirements in terms of development triggers for the A249 Grovehurst junction.
- 22) In this regard, the Applicant notes that HE have changed their position. HEs Relevant Representations dated 4th December state *'Highways England cannot allow any further development that is likely to impact on M2 Junction 5 in its current format without appropriate mitigations'* and *'Highways England will seek Grampian condition(s) which would prohibit the DCO proposals being brought into use until such time as both schemes [M2 Junction 5 and A249 Grovehurst roundabout schemes] were completed and open to public traffic in full'*. The Applicant then met with HE on 28th January 2020 where HE confirmed this position and confirmed it was a position being taken for all other developments that would generate traffic through the M2 Junction 5.
- 23) However, HE have stated in their February 2020 consultation responses to these residential planning applications that the South Iwade (70 dwellings) and a proportion of NW Sittingbourne (91 dwellings) can proceed before any highway works at either M2 Junction 5 or the A249 Grovehurst junction.
- 24) The Applicant notes that HE has not submitted its Local Impact Report. Given their recent change in position for the South Iwade and NW Sittingbourne applications, the Applicant assumes that HE will adopt a similar and consistent position for the K3 and WKN Proposed Developments. It is suggested that HE can advise on this shift in position and confirm that the K3 and WKN Proposed Developments will be considered in the same and consistent manner being able to progress prior to highway improvement works being implemented.

Mitigation

- 25) The Applicant notes KCC’s comments on providing mitigation to junctions that are operating in excess of capacity such that there is nil detriment. The Applicant notes that this is not policy compliant, and that developments should only be refused consent for traffic impact reasons if the residual cumulative impact on the road network is severe (i.e. not nil-detriment).
- 26) An examination of the impact is set out in Section 14 of the Transport Assessment and concludes that the K3 and WKN Proposed Developments would not create an impact which is unacceptable or severe, thus mitigation is not substantiated.

Project Construction Programme

- 27) The Applicant notes paragraph 7.23 of KCCs LIR which suggests that no construction works should commence at the WKN Proposed Development until both the M2 Junction 5 and A249 Grovehurst junction improvement works are completed.
- 28) During the highway works at these two junction improvement schemes, traffic management measures will necessarily be implemented in accordance with legislation (the Traffic Management Act, 2004) and guidance (Traffic Signs Manual Chapter 8: Traffic Safety Measures and Signs for Road Works and Temporary Situations, Department for Transport et al, 2020) with the health and safety and wellbeing of all road users and construction workforce at the forefront.
- 29) These traffic management measures are typically implemented at the expense of introducing network constraints. However, this is short term and is a known consequence and necessity of undertaking such works to ultimately provide a long term benefit.
- 30) The network constraints as a result of the traffic management that would be implemented at these junctions during their highway works would apply to all traffic on the network.
- 31) The construction traffic generated by the WKN Proposed Development is negligible in the context of other traffic flows on the network and they should be considered in that context. Indeed, Table 4.17 of the ES sets out that the peak construction traffic of the WKN Proposed Development would represent no more than 2% of baseline weekday traffic flows on the A249 between the M2 and Swale Way; during average construction periods, the construction traffic of the WKN Proposed Development would be less than this and thus represent an even lower contribution.
- 32) Notwithstanding the above, the Applicant notes KCCs predicted timescales for the A249 Grovehurst junction improvement works commencing in 2021 and continuing for around 18 months. This suggests that significant improvements to highway capacity could be provided at the junction by mid 2022 / 2023.
- 33) The Applicant is aware of the residential planning applications for South Iwade, North Iwade, Land Adjacent to Quinton and Phase 1 of NW Sittingbourne. The

applicant is aware that as part of their discussions with KCC and Swale Borough Council, these developments are agreeing to the imposition of planning conditions that will restrict their occupation until the A249 Grovehurst scheme is open to traffic. There must therefore be a significant degree of confidence that the A249 Grovehurst scheme will progress in accordance with these timescales, otherwise these developers would be unlikely to agree to such planning conditions for commercial reasons.

- 34) It is suggested that KCC will be able to provide assurance to the ExA on the deliverability of the A249 Grovehurst junction scheme providing improvements to highway capacity by mid 2022 / 2023.

Appendix 3

Response to South East Waste Planning Advisory Group’s Written Representation

Applicant’s Response:

1. On page 2, the SEWPAG representation states:

‘The application would provide such an amount of residual waste management capacity that it would have a strategic impact in that it will manage waste from a wider than local area. ...’

2. This is correct; K3/WKN are promoted as strategic facilities that would be able to treat residual wastes from more than one administrative area. This position is not contrary to policy; indeed, it is recognised for having benefits including economies of scale.

3. On page 3, the SEWPAG representation states:

‘It is noted that although West Sussex is included within the above list Surrey, which is closer to the site than West Sussex is not. Regardless of this error, it is clear that this facility would affect the management of waste across a large part of the South East.’

4. Surrey was positively omitted from the Study Area; it was not missed out in error as is suggested by SEWPAG. However, reference to the Waste Data Interrogator for year 2018 indicates that there was approximately 350,000 tonnes of municipal waste disposed of to landfill within Surrey in 2018; this indicates a need for additional recovery capacity that could be provided by the K3/WKN facilities.
5. The Waste Hierarchy and Fuel Availability Report [Document 4.6, reference APP-086, the ‘WHFAR’] makes clear that the K3 and WKN facilities can indeed make a significant, positive, contribution to the management of waste.
6. Also on page 3, the SEWPAG representation states that the WHFAR limits its consideration of local policy to that prepared by Kent County Council. This is because K3/WKN are located in Kent and it is the development plan policy of that authority that is relevant to the determination of the DCO Application. The primary concern of the SEWPAG representation seems to be that this is to the detriment of the policy of self-sufficiency present across all the authorities within the SEWPAG area. This point is addressed by the Applicant in its response to ExAQ1.1.4 and ExAQ1.1.6 at Deadline 2.

7. In short, ‘... *There is nothing in the legislation or the proximity principle that says accepting waste from another council, city, region or country is a bad thing and indeed in many cases it may be the best economic and environmental solution and/or be the outcome most consistent with the proximity principle. ...*’ (Energy from waste, A guide to the debate⁶ (the ‘EfW Debate Guide’) paragraph 154).
8. The approach of the SEWPAG authorities is not injured in any way by K3/WKN. There is no apparent policy within the development plan documents of the SEWPAG authorities that restricts waste from any one area going to another. There is also no requirement on any of the constituent authorities to send waste to K3/WKN; indeed it is not within the gift of these planning authorities to determine where waste goes for treatment or disposal, other than, perhaps, local authority collected wastes.
9. The WHFAR has fully considered the criteria set out in NPS EN-3, and has demonstrated that the K3/WKN facilities ‘*is in accordance with the waste hierarchy and of an appropriate type and scale so as not to prejudice the achievement of local or national waste management targets ...*’ K3/WKN would have a positive impact on the planning arrangements for waste management across the Study Area, not least by diverting waste from landfill.
10. On page 4, SEWPAG clarifies that its main concern is that ‘*it is not clear whether the facility would result in excessive recovery capacity that would prejudice the achievement of recycling as planned for in Waste Local Plans.*’ This concern is readily addressed. Not least by reference to the fuel availability assessment presented at section 3 of the WHFAR. This assessment considers only those wastes that are currently disposed of to landfill or which are exported overseas for treatment; they are the residual wastes that remain from the current levels of recycling achieved across the Study Area. It then assumes that recycling of 65% is achieved (the target set for 2035 in the RWS); an increase of 29% on current levels. The assessment demonstrates that substantial tonnages of residual wastes (those remaining after increased recycling has occurred) still require sustainable treatment and diversion from landfill. K3/WKN will not harm recycling across the SEWPAG area.
11. Section 2 of the WHFAR addresses the role of K3/WKN within the waste hierarchy. Section 2.3 explains how the waste management process works, such that the waste hierarchy is implemented efficiently and effectively. It includes a commitment from WTI in terms of waste acceptance, referring to the Environmental Permit that will limit the wastes that K3/WKN can accept. Reference to the Environmental Permit already granted for the existing K3 Facility states that:

⁶ <https://www.gov.uk/government/publications/energy-from-waste-a-guide-to-the-debate> [05.03.2020@14:03]

‘The Installation will incinerate up to 550,000 tonnes of waste per year in two incineration lines. The wastes incinerated will be treated municipal waste, treated commercial and industrial waste, Shredded Recovered Fuel (SRF) and waste from the adjacent paper mill.

Waste shall only be accepted if:

- a) it is of a type and quantity listed in schedule 2 table S2.2; and
- b) it conforms to the description in the documentation supplied by the producer and holder; and
- c) if having been separately collected for recycling, it is contaminated and otherwise destined for landfill.’

12. The Environmental Permit requires those wastes that are accepted at K3 to be ‘treated’ such that they will be the residual output of re-use and recycling activities. It is to be expected that the same restriction would apply to K3/WKN. This restriction is workable because the existing K3 Facility and the K3/WKN proposed developments are designed to be able to accept a wide range of wastes; they can adapt to changes in waste composition over time such that it will not ‘crowd out’ recycling.
13. As is set out at section 2.4, Gate Fee Reports prepared by WRAP consistently show gate fees at material recycling facilities and organic waste treatment facilities to have significantly lower gates fees than energy from waste and landfill facilities. Increased recycling is an important policy drive and the market responds positively to this, not least it is a cheaper waste management method than either energy recovery or disposal. It makes sound commercial sense for waste producers to seek the most cost-effective waste management solution, which favours reduction, reuse and recycling. There is a financial imperative on waste producers and handlers to comply with the waste hierarchy.
14. Finally, the SEWPAG representation requests that the source of waste should be clarified. K3/WKN are merchant facilities; it is proposed in response to a recognised commercial need for additional recovery capacity to divert residual wastes from landfill. It does not rely upon any one local authority or commercial waste contract. Therefore, the origin of residual wastes for treatment at K3/WKN cannot be confirmed at this time. It is anyway a commercial matter, recognised in NPS EN-3 as not likely to be an important matter for decision making.
15. K3/WKN are demonstrated to be at the right level of the waste hierarchy, performing an important role at the end of the waste management process, taking waste out of landfill, and complementing re-use and recycling. K3/WKN will: divert residual wastes

from landfill; avoid an energy source being lost overseas when the UK has such urgent energy demands; recover renewable/low carbon energy; and recover secondary materials including aggregates, glass, metal and digestate. K3/WKN demonstrably deliver the waste hierarchy and will not prejudice it.