

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

The Examining Authority's further written questions and requests for information (ExQ1A)

Issued on 09 April 2020

In accordance with the Government's measures to reduce the infection, which includes stopping all gatherings of more than two people in public and requiring people to stay at home, I confirmed in my letter of 26 March 2020 that the hearings scheduled for the week commencing 13 April 2020 are postponed. In light of this decision, I confirmed in that letter that I may issue an additional round of Written Questions and therefore the following table sets out the Examining Authority's (ExA's) further written questions and requests for information - ExQ1A.

Only selected topics are addressed in these questions at this time. If necessary, the examination timetable enables the ExA to issue a further round of written questions in due course. If this is done, the further round of questions will be referred to as ExQ2.

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

Each question has a unique reference number which starts with Q1A (indicating that it is from ExQ1A) and then has an issue number and a question number. For example, the first question on *Principle and nature of the development, including waste recovery capacity and management of waste hierarchy* is identified as Q1A.1.1. When you are answering a question, please start your answer by quoting the unique reference number.

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

Responses are due by **Deadline 3, 22 April 2020** with comments and responses required by **Deadline 4, 20 May 2020**

Abbreviations used

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

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

The Examination Library

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

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

It will be updated as the examination progresses.

Citation of Questions

Questions in this table should be cited as follows:

Question reference: issue reference: question number, eg ExQ1A.1.1 – refers to question 1 in this table.

ExQ1A	Question to:	Question:
Q1A.1.	Principle and nature of the development, including waste recovery capacity and management of waste hierarchy	
Q1A.1.1.	KCC	<p>In Appendix 1 [REP2-009] of D2 submission - Applicant's Response to ExQ1 Energy from waste, A guide to the debate 2014, it is said that 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.</p> <p>Does this statement undermine your policy of net self-sufficiency and if not why not?</p> <p>How if at all have any changes in national policy since its publication affected the position?</p>
Q1A.1.2.	Applicant	<p>SEWPAG recognises that there will be a degree of cross-boundary movement of waste and in the Applicant's response to ExQ1.1.4 [REP2-009, Appendix 1] you state the approach in Paragraphs 7.1 and 7.2 of the Memorandum of Understanding (MoU) [REP2-043] in SEWPAG's D2 submission, is not injured in any way by K3/WKN.</p> <p>How can the Applicant conclude this without assessing the local policy on waste management in each (or save for KCC, any) of the local policies on waste management as outlined in SEWPAG written representation [REP1-016, pp3-4]?</p>
Q1A.1.3.	Applicant	<p>The Applicant's response to ExQ1.1.4 [REP2-009, Appendix 1] states K3/WKN is a merchant facility proposed in response to a recognised commercial need for additional recovery capacity to divert residual wastes from landfill, not relying on any one local authority waste contract.</p> <p>What proportion of waste delivered to landfill in the Study Area comprises local authority collected wastes?</p>

ExQ1A	Question to:	Question:
Q1A.1.4.	SEWPAG/KCC	The Applicant's response to ExQ1.1.4 [REP2-009, Appendix 1] posits the Proposed Development as a regional facility which may well draw waste in from beyond Kent and beyond the SEWPAG area. Please provide an overlay showing the Study Area and SEWPAG WPAs, and other WPAs in the South East and Greater London, as noted in KCC: written representation [REP1-010, Annex 1] Minerals and Waste Planning Authority, that have pursued a policy of net-self-sufficiency.
Q1A.1.5.	Applicant	Which parts of Surrey are within 2 hours drive from the Proposed Development?
Q1A.1.6.	Applicant	Waste arisings in Surrey, and their subsequent management, were not included in the Waste Hierarchy and Fuel Availability Report (WHFAR) [APP-086], however the Applicant states the Proposed Development wholly complies with certain parts of the Surrey Waste Plan which are quoted. Please supply the Surrey Waste Plan.
Q1A.1.7.	Applicant KCC	See Q1A.1.6 above. Please confirm whether the parts of the plan quoted represent the most important parts of that plan to consider in connection with the Proposed Development and if not what are the other parts and why?
Q1A.1.8.	Applicant	The Applicant's response to ExQ1.1.4 [REP2-009, Appendix 1] states the approach to self-sufficiency is expressed in similar words across development plan policy of all the authorities included within SEWPAG. Please provide a justification of this finding or state where the analysis on which this finding is based, is submitted to the ExA.
Q1A.1.9.	Applicant	Please specify which paragraph or paragraphs of the Planning Practice Guidance are relied on to support paragraphs 4.2.39 to 4.2.42 of WHFAR [APP-086].

ExQ1A	Question to:	Question:
Q1A.1.10.	Applicant	The Application seeks consent for two separate EfW facilities and the dDCO separates out the two projects. WHFAR [APP-086] paragraph 1.1.5 states <i>"There is no sensible reason to consider the waste hierarchy separately for each of K3 and WKN..."</i> , however does this take account of the possibility that the Secretary of State may grant consent for one project but not the other, and if that is not a good reason please explain why not?
Q1A.1.11.	Applicant	WHFAR [APP-086] paragraph 1.2.5 refers in parentheses to waste hierarchy compliance in the case of areas elsewhere in the UK outside the jurisdiction of the EA. Is the reception of waste from such areas ruled out for the Proposed Development and if not why not?
Q1A.1.12.	Applicant KCC	The Proposed Developments are referred to variously as a source of renewable/low carbon energy (or fuel source), e.g. WHFAR [APP-086] paragraph 1.2.8 and 1.3.4. Is such an appellation correct, having regard to national policies pertaining to the Waste Hierarchy? Please justify your response.
Q1A.1.13.	Applicant KCC	Can you assess the degree of confidence with which it can be asserted that the variables in WHFAR [APP-086] paragraph 1.3.5 are unlikely to occur and if so please provide a reasoned justification.
Q1A.1.14.	KCC SEWPAG	If the policy of net self-sufficiency is applied with the caveats stated in the MoU, and as expressed in the relevant local plan policies, would the fuel availability be fully taken up within the SEWPAG area? Is an assessment in accordance with NPS EN-3 of local as well as national waste management targets required to answer this question and if so what information is available to this end?
Q1A.1.15.	Applicant	Please supply the full copy of the Resources and Waste Strategy referred to in WHFAR [APP-086] if not supplied previously or provide sign-post thereto.

ExQ1A	Question to:	Question:
Q1A.1.16.	Applicant	In WHFAR [APP-086] paragraph 1.4.6, could the supply of steam to Kemsley Paper Mill be achieved without the WKN Proposed Development but with the K3 Proposed Development?
Q1A.1.17.	KCC Applicant	WHFAR [APP-086] paragraph 1.4.7 states " <i>...there is a carbon burden associated with the transport of fuel to the facilities...</i> ". What is the quantification of that burden and how if at all would this burden be affected if fuel were taken more locally than is envisaged in the proposed application but in accordance with KCC and SEWPAG policies? Please provide a reasoned justification for your answer including any quantification of benefit that can reasonably be assessed.
Q1A.1.18.	Applicant	WHFAR [APP-086] paragraph 2.1.6 states the Government will implement the 2018 Revised Waste Framework Directive (rWFD) in full. What is the Applicant's understanding of the current position as to such implementation?
Q1A.1.19.	Applicant KCC	Does the allowance for future recycling targets included in the various assessment tables of the WHFAR [APP-086] take full account of the matters stated in paragraphs 2.4.3 to 2.4.5 of the WHFAR? Are there other relevant considerations of a technical nature pertaining to technical feasibility and economic viability that should be taken into account and quantified, apart from the recycling targets? If so please comment.
Q1A.1.20.	Applicant	WHFAR [APP-086] paragraph 3.1.3 states the WHFAR does not seek to specify an exact level of need for the Proposed Developments nor is that required by policy. Please could the Applicant be precise about whether and to what extent national or local policy has a role in considering surplus capacity and guiding decisions on applications such as the Proposed Developments.

ExQ1A	Question to:	Question:
Q1A.1.21.	Applicant KCC	KCC disagrees that the Proposed Developments are compliant with national and local policy regarding the matters set out in WHFAR [APP-086]. However what is the Applicant/KCC's view as to whether local policy in all relevant respects conforms with relevant national policy?
Q1A.1.22.	KCC SEWPAG	Does KCC seek to make the Proposed Developments predicated solely on the demands of its area or to what extent would the flexibility expressed in the MoU enable demands of a wider area to be met? (See also Q1A.1.14)
Q1A.1.23.	Applicant KCC	If the Proposed Developments were granted consent, to operate in accordance with the dDCO, would it be feasible or desirable to include further requirements necessary for them to operate in accordance with KCC's interpretation of national and local policy, for example by restricting the sources, including the geographical locations of feedstock and if not why not?
Q1A.1.24.	KCC SEWPAG	Is your objection to the Proposed Developments predicated on both K3 and WKN projects proceeding, or what is your position as regards any eventual consent being granted for one project but not the other, and why?
Q1A.1.25.	Applicant	The two-hour drive time is selected for the purposes of the Study Area only (see WHFAR [APP-086] paragraph 3.1.5) but on the basis of keeping transport costs proportionate to overall management costs. What other information if any has been submitted to the ExA which makes it likely that feedstock beyond the Study Area for the Proposed Development would be accessed by the Applicant? As the drivetime area includes West London boroughs outside the Study Area please explain why these are excluded.
Q1A.1.26.	Applicant	Please identify, with reference to Table 3.2 of WHFAR [APP-086] for 2017, where the original WDI data is submitted or supply the same.

ExQ1A	Question to:	Question:
Q1A.1.27.	Applicant	In Tables 3.4 and 3.5 of WHFAR [APP-086], should the total tonnes 2017 figure of 1,508,860 not be 1,508,869?
Q1A.1.28.	Applicant	Table 3.5 of WHFAR [APP-086] is titled Tonnes of LACW disposed of to landfill and percentage of LACW managed. The figures appear to relate only to the tonnage (and percentage) of the "managed" LACW. Please comment, providing the original source data.
Q1A.1.29.	KCC SEWPAG	Please comment with reference to WHFAR [APP-086] paragraph 3.2.26 to 3.2.30 whether the LACW disposed to landfill or a percentage thereof should be deducted from the shortlisted combustible wastes, providing a justification for your comments.
Q1A.1.30.	Applicant	Given the comments in WHFAR [APP-086] paragraph 3.2.33 in the first bullet point, please explain why the 63,500 tonnes of waste cited have not been added to the shortlisted wastes.
Q1A.1.31.	SEWPAG KCC	Do you have any comments on the position regarding the nature of LACW contracts in the second bullet point of WHFAR [APP-086]?
Q1A.1.32.	Applicant	Please submit Tolvik's Market Review referred to in WHFAR [APP-086] or identify its location .
Q1A.1.33.	Applicant	In Figure 3.3 of WHFAR [APP-086], is the Total with Destinations Outside UK differentiated as to shortlisted waste types? Please also provide the source of the Figure.
Q1A.1.34.	Applicant SEWPAG	WHFAR [APP-086] paragraph 3.4.7 states "...the future capacity, and consequent availability, of landfill facilities cannot be relied upon beyond the next ten years...". The Applicant's response to ExQ1.1.4 [REP2-009, Appendix 1] SEWPAG on page 3, states provision of the consented capacity at K3 means management of waste will be locked into incineration for at least the next 25 years, compromising the ability to prevent it in the first place or to enable it to be recycled/composted.

ExQ1A	Question to:	Question:
		What local or national studies exist of which you are aware, not already referred to, that identify the optimum role for the provision of energy recovery facilities similar to the Proposed Development, to move waste up the hierarchy, based on studied projected decreases in landfill availability and projected increases in recycling?
Q1A.1.35.	Applicant	With regard to export of RDF overseas, now that the UK has left the EU please provide an update, if any, of paragraph 3.4.8 in WHFAR [APP-086] , and elaborate upon paragraph 61 of Applicants comments on written representation [REP2-011], indicating what evidence indicates the export of RDF waste would be negatively affected.
Q1A.1.36.	Applicant	Would the export of RDF waste be subject to term contracts and if so should it be assessed similarly to managed LACW? If not why not?
Q1A.1.37.	Applicant KCC	Please provide an update, if any, as to your understanding of the position regarding Table 3.9 in WHFAR [APP-086] as to the facilities specified in rows a, b, c (Phase 2), and e.
Q1A.1.38.	Applicant	What national or local policies if any does the Applicant regard as policies that discourage over-capacity of facilities comparable to the Proposed Developments?
Q1A.1.39.	Applicant KCC	If the principle is a valid one that the waste hierarchy is complied with as stated in paragraph 2.4.1 " <i>...based on market forces and practical factors alone,...</i> " of WHFAR [APP-086] WHFAR) or through " <i>...good intentions and market forces.</i> " as stated in paragraph 2.4.7, what weight should be placed on policies of net self-sufficiency?
Q1A.1.40.	Applicant KCC	Within the context of NPS EN-1 (paragraph 4.2.22), that intends that a framework only is provided for the market to respond to, but "in the places where it is acceptable in planning terms", what is the scope of that tailpiece

ExQ1A	Question to:	Question:
		for taking into account sub-national policies of net self-sufficiency or over-capacity?
Q1A.1.41.	KCC	Please provide the Kent Waste Needs Assessment 2018 Capacity Requirement for the Management of Residual Non-Hazardous Waste, September 2018 update, or identify its location in the submitted documents.
Q1A.1.42.	KCC	Do you agree that the Proposed Developments taken as a whole or looked at individually in terms of the K3 and WKN projects, would meet the energy recovery performance threshold (R1), or if not why not?
Q1A.1.43.	KCC	In KCC's written representation [REP-010, Annex 1], Section 5 please comment on the figures given for shortlisted waste types disposed to landfill (769,372) and RDF exported overseas (889,067), explaining how and why these differ from their counterparts in the Applicant's submission.
Q1A.1.44.	KCC SEWPAG	NPS EN-3 appears to require, where appropriate, Annual Monitoring Reports to show existing waste capacity and future waste capacity requirements. For the Proposed Developments who are the "relevant waste authorities" in paragraph 2.5.68 for these purposes?
Q1A.1.45.	Applicant	In the Applicant's comments on written representations [REP2-011] paragraph 17, please explain where, when, how and by whom the waste referred to is certified as "not suitable for recycling".
Q1A.1.46.	Applicant	Please supply the three reviews cited in paragraph 39 of the Applicant's comments on written representations [REP2-011].
Q1A.1.47.	KCC	Please comment on the alleged deficiencies referred to in paragraphs 12 and 39 of the Applicant's comments on written representations [REP2-011].
Q1A.1.48.	Applicant	16/507687/COUNTY was a permission for the construction and operation of an Incinerator Bottom Ash (IBA) Recycling Facility on land adjacent to the Kemsley Sustainable Energy Plant Permission which has lapsed.

ExQ1A		Question to:	Question:
			Please explain why it not sought to renew this permission and what alternative facilities are available and where, which the Applicant expects to use.
Q1A.2.	Environmental Impact Assessment		
	None at this time		
Q1A.3.	Air Quality		
	None at this time		
Q1A.4.	Archaeology and Cultural Heritage		
	None at this time		
Q1A.5.	Ecology		
	None at this time		
Q1A.6.	Greenhouse Gases and Climate Change		
	None at this time		
Q1A.7.	Ground Conditions		
	None at this time		
Q1A.8.	Habitats Regulations Assessment (HRA)		
	None at this time		
Q1A.9.	Landscape and Visual Impact		
	None at this time		
Q1A.10.	Noise and Vibration		
	None at this time		

ExQ1A	Question to:	Question:
Q1A.11.	Traffic and Transport	
Q1A.11.1.	KCC	In ES Chapter 4 - Tracked [REP2-019], do you agree that the A10 land allocation does not predict traffic to be generated onto highway links assessed in paragraph 4.4.28 or if not why not?
Q1A.11.2.	KCC	ES Chapter 4 Transport-Tracked [REP2-019] paragraph 4.9.1 states " <i>No traffic growth rates have been applied as traffic generated by committed developments exceed the traffic flows generated by the assumed development growth in TEMPRO.</i> " Do you agree and what is the significance of this statement for assessing the likely significant traffic and transport effects resulting from the Proposed Developments?
Q1A.11.3.	KCC	Do you agree with the conclusions regarding the Neatscourt, Isle of Sheppey area in paragraph 4.9.8 of ES Ch 4 Transport-Tracked [REP2-019]?
Q1A.11.4.	KCC	Please provide the Transport Assessment referred to in the IBA application which is noted in [REP2-048] KCC D2 Submission and [REP1-011] KCC LIR at Section 6, and state when it was received.
Q1A.11.5.	Applicant	[REP2-048] KCC D2 Submission refers to an application for a new Incinerator Bottom Ash processing plant to KCC reference KCC/SW/0008/2020. Given the stated symbiotic relationship between the application and the Proposed Development please provide the information requested in the bullet points on page 2 of [REP2-048].
Q1A.11.6.	Applicant	Given the information in [REP2-048] please comment on the capacity of loading and unloading at Ridham Dock in relation to the Rail and Water Transportation Strategies [APP-088, APP-089]
Q1A.11.7.	Applicant	Please could you explain what management facility or facilities exist or are planned for IBA arisings to support the Proposed Development?

ExQ1A	Question to:	Question:
Q1A.11.8.	Applicant	In the response to WQ1.11.9 it is understood KCC awaits information requested on time controls within waste contracts and vehicle movement data from Ferrybridge (Q1.11.7 referred). Please could you update the ExA on the position regarding this information?
Q1A.12.	Water Environment	
	None at this time	
Q1A.13.	Draft Development Consent Order	
	None at this time	
Q1A.14.	Other Matters	
Q1A.14.1.	IPs	[AS-014] is an additional submission recently made by Royal Mail as an Interested Party to which reference is made in these questions, so parties (if they wish) can provide comments thereon.
Q1A.14.2.	Applicant	Please comment on the request made by Royal Mail in [AS-014] as to whether, and if so how, the dDCO may be amended to accommodate such request.