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19 June 2020

Examination Representor Reference: KEM3-OP0

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

By email: WheelabratorKemsley@planninginspectorate.gov.uk

Dear Mr Kean,

**Application by WTI/EFW Holdings Ltd for an Order Granting Development Consent for the Wheelabrator Kemsley (K3) Generating Station and the Wheelabrator Kemsley North (WKN) waste to energy facility
Response from the South East Waste Planning Advisory Group to the Examining Authority's further written questions and requests for information (ExQ3) and comments on Applicant's Response**

This response is submitted on behalf of the South East Waste Planning Advisory Group (SEWPAG). SEWPAG does not wish to respond to the latest questions (ExQ3), however it does have comments on the Applicant's comments on SEWPAG's earlier responses.

The Applicant's comments on SEWPAG's submission to ExAQ1A (set out in document REP 3-019) are set out in document reference REP4-008. The following are SEWPAG's comments on those comments.

Comment on WTI's comment on SEWPAG's response to Q1A.1.22

WTI comment: '3.1.3 SEWPAG's response to ExQ1A.1.22 is relevant only to plan making. No local authority has control over the waste management market and neither can it predict or dictate where waste will be managed, other than in relation to Local Authority Collected Waste.'

3.1.4 Consequently, the sentence that 'The key consideration will be the extent to which the receiving authority is able to accommodate the waste capacity requirements

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of the exporting authority' is not entirely correct, and fails to recognise that waste management is market driven.

3.1.5 The key consideration for local planning authorities in terms of plan making is to provide clarity and flexibility in its policy and sufficient site allocations to provide appropriate opportunities for waste management provision to be made.

SEWPAG response: As can be seen from the above the applicant suggests that the following statement made in SEWPAG's response is incorrect:

'The key consideration will be the extent to which the receiving authority is able to accommodate the waste capacity requirements of the exporting authority'

However, the applicant has taken this statement out of context and assumed that it relates to plan-making as a whole whereas it is concerned with the preparation of Statements of Common Ground. To clarify the statement could be reworded (additional words emphasised) as follows:

*'The key consideration, **when preparing Statements of Common Ground**, will be the extent to which the receiving authority is able to accommodate the waste capacity requirements of the exporting authority'*

Furthermore, the applicant's statement "No local authority has control over the waste management market and neither can it predict or dictate where waste will be managed, other than in relation to Local Authority Collected Waste." is incorrect as it ignores how the planning system works. Local authorities exert control over how and where waste management takes place through a system of plan-making and development control. The planning system is designed to avoid the market simply dictating how and where waste management will take place. Operators will look for opportunities to develop new capacity according to market drivers but whether those opportunities come to fruition are subject to the receipt of planning permission, with the decision to grant such permission made by the local authority taking into account its relevant local waste planning policies.

Comment on WTI's comment on SEWPAG's response to Q1A.1.24

WTI comment: *'3.1.6 SEWPAG states that its concern is how the 'facilities might impact on local planning' and how the 'market may respond to adopted Plans'. The first concern is answered by reference to the Waste Hierarchy and Fuel Availability Report [APP-086, the 'WHFAR']. This Report, as further explained at Appendix 3 to Applicant's Response to Written Representations [REP2-011] and Section 2.6 of Applicant's Response to D2 Submissions [REP3-003] provides both the assessment that is sought by NPS EN-3 and demonstrates that the waste hierarchy is achieved by K3/WKN; consequently the impact of the Proposed Developments is to deliver local plan policy.'*

SEWPAG response: NPS EN-3 states at paragraph 2.5.68:

'It may be appropriate for assessments to refer to the Annual Monitoring Reports published by relevant waste authorities which provide an updated figure

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of existing waste management capacity and future waste management capacity requirements.'

SEWPAG notes that the Waste Hierarchy and Fuel Availability Report [APP-086, the 'WHFAR'], Appendix 3 to Applicant's Response to Written Representations [REP2-011] and Section 2.6 of Applicant's Response to D2 Submissions [REP3-003] do not reference Annual Monitoring Reports or recent assessments of need made by the authorities located within the Study Area including those referenced in SEWPAG's response to the ExA's question Q1A.1.34 (See REP 3-019). The conclusions in the WHFAR rely on data from 2015, 2016 and 2017 when data from 2018 is now also available.

Comment on WTI's comment on SEWPAG's response to Q1A.1.24

WTI comment: *3.1.7 In response to ExQ1A.1.44 SEWPAG suggests that the annual monitoring reports of all the waste planning authorities within the SEWPAG should be considered. This appears to be inconsistent with SEWPAG's response to ExQ1A.1.40 which solely recognises planning policy of Kent County Council, the host authority, as the relevant development plan policy.*

SEWPAG response: There is no inconsistency in SEWPAG's responses where it references the annual monitoring reports of all the waste planning authorities within the SEWPAG in response to ExQ1A.1.44 and in its reference to the planning policy of Kent County Council as the host planning authority in its response to ExQ1A.1.40.

SEWPAG's response to ExQ1A.1.40 notes that as WKN is not an NSIP it should be considered against the local development plan (including the Kent Minerals and Waste Local Plan). NPS EN-3 provides policy for NSIPs and its policies therefore apply to K3 which, as set out in the comment above, draw attention to the use of Annual Monitoring Reports as a means of determining existing waste management capacity and future waste management capacity requirements.

In any event, were WKN to be determined against the policies in the Kent Minerals and Waste Local Plan, to demonstrate the need for the facility it would be necessary to make the case on a wider regional basis as the Plan (as modified by changes resulting from the recent Early Partial Review) does not identify any need for capacity of the type proposed by WKN. Such an assessment would need to consider the latest assessments of need completed by affected authorities including those set out in Annual Monitoring Reports.

Please contact me if you have any queries regarding these responses or about attendance at any hearings.

Yours sincerely,



Ian Blake, Chair, South East Waste Planning Advisory Group