



Wheelabrator
TECHNOLOGIES



Statement of Common Ground between the Applicant and Swale Borough Council

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

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Applicant: WTI/EFW Holdings Ltd (Wheelabrator Technologies Inc)

Project: Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility DCO

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Author: David Harvey, DHA Planning (For and on behalf of Wheelabrator Technologies Inc)

Contents

1	INTRODUCTION	2
1.2	The Application Site(s)	3
1.3	The Proposed Development	3
1.4	The Role of Swale Borough Council	4
2	MATTERS AGREED BETWEEN THE PARTIES	5
2.2	Noise and disturbance during construction, operation and decommissioning	5
	Construction	5
	Operation	5
	Decommissioning	6
2.3	Landscape and visual effects	6
	Lighting	7
	K3 Proposed Development	7
	WKN Proposed Development	7
2.4	Biodiversity	7
2.5	Land contamination and groundwater	7
3	MATTERS WHERE DISCUSSIONS ARE ONGOING	8
3.1	Air quality	8
	Construction	8
	Operation	8
	Decommissioning	10
3.2	Highways and transportation	10
3.3	Climate Change	10
3.4	Electric Vehicle Charging Points	10
4	MATTERS NOT AGREED	12
5	SIGNATURES	13

1 Introduction

- 1.1.1 Wheelabrator Technologies Inc. (“the Applicant”) has made an application to the Secretary of State for Business, Energy and Industrial Strategy (SoS) for a Development Consent Order (‘DCO’) for the construction and operation of the Wheelabrator Kemsley (‘K3’ Generating Station) and the construction and operation of a waste-to-energy facility on adjacent land called Wheelabrator Kemsley North (‘WKN’).
- 1.1.2 Planning permission was granted under the Town and Country Planning Act 1990 by Kent County Council in 2012 for a sustainable waste-to-energy facility (K3). Construction of the plant began in July 2016, with the facility becoming operational in Q2 2020. K3 as consented is permitted to process up to 550,000 tonnes of waste per annum and has a generating capacity of up to 49.9 megawatts (MW).
- 1.1.3 The Planning Act 2008 states that the construction or extension of an onshore generating station with a capacity of more than 50MW in England or Wales is considered by Section 14(1)(a) and Section 15 of the Act to be a ‘nationally significant infrastructure project’ (NSIP) and as such requires an application for a DCO to be made to the Planning Inspectorate (PINS) for determination and approval by the SoS.
- 1.1.4 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 layout or design, of generating an additional 25.1MW of electricity.
- 1.1.5 However, in order for the K3 project to be properly categorised and consented as the construction of a generating station under the Planning Act 2008 (the changes sought do not qualify as an ‘extension’ under the Act) the applicant is seeking consent for the construction of K3 at its total generating capacity of up to 75MW (49.9MW consented + 25.1MW upgrade) together with its proposed tonnage throughput of up to 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase) (the ‘K3 Proposed Development’). Notwithstanding this the ‘practical effect’ of the K3 Proposed Development would simply be K3, as constructed under its existing permission, permitted to generate an additional 25.1MW and to process an additional 107,000 tonnes of waste per annum without any change to the external layout or design.
- 1.1.6 Development Consent is also being sought for a proposed new waste-to-energy facility, capable of processing 390,000 tonnes of waste per annum, with a generating capacity of 42MW (“the WKN Proposed Development”). The WKN Proposed Development is not therefore an NSIP as its generating capacity is below 50MW. Instead WTI made a formal application on the 1st June 2018 to the SoS under Section 35 of the Planning Act 2008 for a direction as to whether the WKN Proposed Development together with any matters associated with it can be treated as a development for which Development Consent is required.

The SoS issued his direction on the 27th June 2018 confirming that WKN is to be treated as development for which Development Consent is required.

1.1.7 Consent for the K3 and WKN Proposed Developments has therefore been sought under a single application to the SoS via PINS for a single DCO.

1.2 The Application Site(s)

Wheelabrator Kemsley (K3) Site

1.2.1 The site is located on land immediately to the east of the Kemsley Paper Mill, located 0.8km east of Kemsley, a residential suburb in the north of Sittingbourne in Kent (hereafter the 'K3 Site'). It lies adjacent to The Swale to its east, with the Isle of Sheppey beyond and within the administrative areas of Kent County Council (KCC) and Swale Borough Council (SBC). To the south of the K3 Site lies a capped former landfill site which lies adjacent to the confluence between Milton Creek and The Swale.

Wheelabrator Kemsley North (WKN) Site

1.2.2 The site is located on land immediately north of the permitted K3 facility (hereafter the "WKN Site"). The WKN Site is currently being used by the Applicant as a laydown and parking area for the construction of the adjacent K3 facility. It has been cleared of vegetation and laid to concrete or hardcore with a perimeter fence.

1.2.3 To the east of the WKN Site lies The Swale with the Isle of Sheppey beyond. Immediately to the north lie the Kemsley Marshes beyond which lies the Kemsley Paper Mill anaerobic digester treatment works and to the north east a jetty operated by Knauf for the import of gypsum by barge.

1.2.4 The nearest statutory designation in proximity to the Sites with regard to ecological interest is the Swale Special Protection Area and Site of Special Scientific Interest (SSSI) which lies approximately 100m east of the Sites at its closest point. Milton Creek Local Wildlife Site (LWS) is also less than 400m and 550m respectively from the K3 and WKN Sites.

1.3 The Proposed Development

1.3.1 The Applicant has made an application to the SoS for a DCO for the construction and operation of the K3 and WKN Proposed Developments.

1.3.2 A full description of the K3 and WKN Proposed Developments is provided within the Environmental Statement (Doc 3.1).

1.3.3 The K3 and WKN Proposed Developments are split into a number of key works within the DCO boundary including areas where ancillary works are required for the construction and operation of the key works. A plan showing the DCO boundary and location of the key works are provided as Doc 5.5(a&b) submitted with the application.

- 1.3.4 The different elements of the works pertaining to the K3 and WKN Proposed Developments are set out in the Table below.

Table 1: Works No.
1 – Construction and operation of an onshore generating station with a generating capacity of up to 75MW and permissible waste throughput of 657,000tpa (the K3 Proposed Development)
1A - Installation of grid connection for Work No 1
1B- Installation of steam connection for Work No 1
1C- Alteration of existing private access road to construct, use and maintain Work No 1
1D- Creation of a temporary construction compound and laydown area for the construction of Work No 1
1E- Construction and operation of a surface water outfall for Work No 1
2- Construction and operation of a waste-to-energy facility capable of processing 390,000 tonnes of waste per annum, with a generating capacity of up to 42MW (the WKN Proposed Development)
3- Installation of a grid connection WKN Proposed Development
4- Alteration of existing private access road to construct, use and maintain Work No 2
5- Temporary construction or alteration of existing private haul road for the construction of Work No 2
6- Creation of a temporary construction compound and laydown area for the construction of Work No 2
7- Construction and operation of a new surface water outfall for Work No 2

1.4 The Role of Swale Borough Council

- 1.4.1 Kent County Council (KCC) is the relevant Local Planning Authority (for minerals and waste) for the purposes of this DCO application. Swale Borough Council is a host authority as the development falls within its administrative boundaries. SBC have been consulted during the preparation of the application regarding the proposals themselves as well as the approach to S47 consultation.
- 1.4.2 SBC did not submit a Relevant Representation. This Statement of Common Ground has been prepared pursuant to the matters raised by the Examining Authority in their Rule 6 letter of the 21st January 2020.

2 Matters agreed between the parties

2.1.1 The matters addressed are in accordance with those set out by the Examining Authority in their Rule 6 letter of the 21st January 2020 and in accordance with the statutory function of the Local Planning Authority (SBC).

2.2 Noise and disturbance during construction, operation and decommissioning

Construction

K3 Proposed Development

2.2.1 K3 as consented is at an advanced stage of construction and was the subject of its own assessment as part of the 2010 ES and consented with conditions pursuant to the protection of the noise environment. No further construction is required pursuant to the practical effect of K3 Proposed Development and therefore no further effects will occur.

WKN Proposed Development

2.2.2 It is agreed the noise assessment of construction effects has been undertaken using an appropriate methodology and industry guidance and addresses the potential effects of the WKN Proposed Development.

2.2.3 An outline Construction Environmental Management Plan (CEMP) (Appendix 2.1 of Document 3.1) has been produced in support of the DCO application and incorporates the mitigation measures required to safeguard the noise environment during the construction period as set out in Chapter 7, Noise and Vibration of the ES. The CEMP is to be finalised pending approval of the application and appointment of the construction contractor. It will be submitted to the relevant planning authority and agreed in writing prior to the commencement of development in accordance with Requirement 22 of the draft DCO.

2.2.4 It is agreed that pursuant to the implementation of the CEMP that no likely significant effects on the noise environment will occur.

Operation

K3 Proposed Development

2.2.5 K3 as consented was the subject of its own assessment as part of the 2010 ES which identified that no likely significant effects associated with operational noise from the K3 facility would occur. The practical effect of the K3 Proposed Development would not have any effect on the operational noise levels of the facility except by virtue of road noise which has been demonstrated to be negligible.

WKN Proposed Development

- 2.2.6 It is agreed that the noise assessment of operational effects resulting the WKN Proposed Development has been undertaken using an appropriate methodology and industry guidance and addresses the potential effects of the WKN Proposed Development.
- 2.2.7 Pursuant to the mitigation set out in Chapter 7 (Noise and Vibration) of the ES, to be secured by means of Requirement 14 of the draft DCO, it is agreed that no likely significant effect on the noise environment will occur.
- 2.2.8 It is agreed that it has been demonstrated that the cumulative effect of the K3 and WKN Proposed Development with other local development will not be significant pursuant to this mitigation.

Decommissioning

K3 and WKN Proposed Development

- 2.2.9 It is agreed that subject to standard construction practice and the decommissioning procedures to be agreed as part of the future DEMP (Requirement 4 of the draft DCO) that the risk of significant noise effects during decommissioning will be as low as reasonably practical and will not be significant for the K3 and WKN Proposed Development individually or in the unlikely event that decommissioning occurred concurrently.

2.3 Landscape and visual effects

The parties agree that the site does not lie within any designated landscapes. The North Kent Marshes Special Landscape Area; an Area of High Landscape Value, extends over the Swale and neighbouring coastal landscape and is a county level designation. K3 Proposed Development

- 2.3.1 The external appearance of the K3 facility was approved as part of its extant planning permission from KCC. No changes to this scale, mass or external appearance are required pursuant to the practical effect of K3 Proposed Development. The approved plans denoting the form and appearance of the K3 facility form certified documents of the draft DCO for the K3 Proposed Development. Any amendments to the approved plans would require consent from Kent County Council pursuant to Requirement 7 of the draft DCO.

WKN Proposed Development

- 2.3.2 It is agreed that the assessment of the effect of the WKN Proposed Development on landscape character and visual receptors uses an appropriate methodology as set out in the Guidelines for Landscape and Visual Impact Assessment (GLVIA3) 2013 and accurately represents the potential effects of the WKN Proposed Development.
- 2.3.3 It is agreed that the proposed buildings and structures would only be visible in the context in front of or in the backdrop of existing large-scale industrial

buildings at Kemsley Paper Mill and therefore the significance of any effect will be seen in that context.

- 2.3.4 The conclusions of the landscape and visual assessment presented in Chapter 12 of the ES are therefore considered an accurate reflection of the likely significant effects of the WKN Proposed development both alone and in combination with the K3 facility and other development.

Lighting

K3 Proposed Development

- 2.3.5 A lighting scheme for K3 as consented was approved under Condition 21 of its extant planning permission from KCC. No changes to this lighting scheme pursuant to the practical effect of K3 Proposed Development are required. The approved lighting strategy forms a certified document of the DCO for the K3 Proposed Development. Any amendments to the certified lighting strategy would require consent from Kent County Council pursuant to Requirement 7 of the DCO.

WKN Proposed Development

- 2.3.6 It is agreed that subject to the implementation of Requirement 23 of the draft DCO (external lighting) that the WKN Proposed Development will not have a detrimental visual effect pursuant to external lighting.

2.4 Biodiversity

- 2.4.1 SBC would defer comment on biodiversity with regard to the K3 and WKN Proposed Development to the competent bodies – KCC and Natural England.

2.5 Land contamination and groundwater

- 2.5.1 The Applicant's position is that Requirement 19 – Contaminated Land and Groundwater is appropriate and sufficient to address any potential presence of contamination on the WKN site together with dealing with the potential for ground gas to be present and to avoid any impacts from arising on groundwater. KCC are reviewing their position in respect of land contamination and groundwater.

3 Matters where discussions are ongoing

3.1 Air quality

Construction

K3 Proposed Development

- 3.1.1 K3 as consented is at an advanced stage of construction and was the subject of its own assessment as part of the 2010 ES and consented with conditions pursuant to the protection of the environment. The parties agree that no further construction is required pursuant to the practical effect of K3 Proposed Development and therefore no further effects will occur.

WKN Proposed Development

- 3.1.2 It is agreed that the air quality assessment of construction effects has been undertaken using an appropriate methodology and industry guidance and addresses the potential effects of the WKN Proposed Development.
- 3.1.3 An outline Construction Environmental Management Plan (CEMP) has been produced in support of the DCO application and incorporates the mitigation measures required to safeguard the environment during the construction period as set out in Chapter 5, Air Quality of the ES. The CEMP is to be finalised pending approval of the application and appointment of the construction contractor. It will be submitted to the local planning authority and agreed in writing prior to the commencement of development in accordance with Requirement 22 of the draft DCO.
- 3.1.4 It is agreed that pursuant to the implementation of the CEMP that no likely significant effects on the immediate environment surrounding the site will occur.
- 3.1.5 The Applicant's view is that the CTMP (Required 24) will provide an appropriate mechanism to control the routing of construction traffic.
- 3.1.6 SBC is concerned that there is potential for construction traffic to pass through surrounding Air Quality Management Areas, particularly those on the A2, leading to a worsening of air quality conditions in these areas. This includes the Newington, East Street, and Ospringe AQMA's, and a new AQMA currently under consideration at Keycol Hill, to the west of the junction with the A249 (Key Street)

Operation

K3 Proposed Development

- 3.1.7 K3 as consented was the subject of its own assessment as part of the 2010 ES which identified that no likely significant effect associated with the operational emissions of the K3 facility would occur.

- 3.1.8 The K3 facility as consented has an environmental permit (permit no. EPR/JP3135DK) issued in accordance with Schedule 1 of the EPR which controls emissions to land, air and water associated with the waste-to-energy process with regard to the environment and human health.
- 3.1.9 It is agreed that the assessment of the effects of both stack and vehicle emissions from the K3 Proposed Development has been assessed using appropriate methodology and guidance.
- 3.1.10 It is agreed that the K3 Proposed Development will not result in exceedances in local Air Quality Objectives in accordance with the Air Quality Standards (England) Regulations 2010 alone or in-combination with other relevant proposed development.
- 3.1.11 It is agreed that stack emissions from the K3 Proposed Development will be controlled through The Environmental Permitting (England and Wales) Regulations 2016.
- 3.1.12 The Applicant's position is that Articulated HGV's would travel to the site via the M2 and A249 in order to minimise vehicle-kilometres when travelling from waste transfer stations. The only waste vehicles which might use local roads such as the A2 would be Refuse Collection Vehicles operating locally which would represent a small proportion of the vehicles travelling to the facility and which would be on the highway network in any event.
- 3.1.13 SBC is concerned with the potential for operational traffic to pass through surrounding Air Quality Management Areas, as set out in paragraph 3.1.6 above.

WKN Proposed Development

- 3.1.14 It is agreed that the assessment of the effects of both stack and vehicle emissions from the WKN Proposed Development has been assessed using appropriate methodology and guidance.
- 3.1.15 It is agreed that the WKN Proposed Development will not result in exceedances in local Air Quality Objectives in accordance with the Air Quality Standards (England) Regulations 2010 alone or in-combination with other relevant proposed development.
- 3.1.16 Emissions from the WKN Proposed Development will be controlled through The Environmental Permitting (England and Wales) Regulations 2016.
- 3.1.17 The Applicant's position is that Articulated HGV's would travel to the site via the M2 and A249 in order to minimise vehicle-kilometres when travelling from waste transfer stations. The only waste vehicles which might use local roads such as the A2 would be Refuse Collection Vehicles operating locally which would represent a small proportion of the vehicles travelling to the facility and which would be on the highway network in any event.
- 3.1.18 SBC is concerned with the potential for operational traffic to pass through surrounding Air Quality Management Areas, as set out in paragraph 3.1.6 above.

Decommissioning

K3 and WKN Proposed Development

- 3.1.19 It is agreed that subject to standard construction practice and the decommissioning procedures to be agreed as part of the future DEMP (Requirement 4) that the risk of significant air quality related effects during decommissioning will be as low as reasonably and will not be significant for the K3 and WKN Proposed Development individually or in the unlikely event that decommissioning occurred concurrently.

3.2 Highways and transportation

- 3.2.1 The Applicant's position on Highways and transportation is as set out within the Environmental Statement and with the SoCG between the Applicant and KCC and between the Applicant and Highways England.
- 3.2.2 SBC supports the objections submitted on highways and transportation grounds by the relevant competent bodies – KCC and Highways England.

3.3 Climate Change

- 3.3.1 The Applicant's position on waste and climate change is as set out within the SoCG between the Applicant and KCC.
- 3.3.2 SBC would support the objections raised by KCC that the development is not necessary to meet waste requirements for Kent, and conflicts with policies of self-sufficiency and promotion of recycling. SBC is concerned that the development would result in significant carbon impacts and draw substantial HGV traffic into the borough with negative effects on climate change.
- 3.3.3 SBC would reserve the right to comment further on any further information submitted that seeks to address the highways objections raised by Kent County Council and Highways England, and the concerns raised by Kent County Council relating to the need for the development, conflict with the waste strategy and hierarchy, and related carbon impact.

3.4 Electric Vehicle Charging Points

- 3.4.1 K3 has 2 electric charging points installed and 4 passive electric charging spaces which have the ability to be fitted with charging points. The Parties agree that is an appropriate level of provision given K3 is now operational.
- 3.4.2 The Parties agree that an appropriate amount of active and passive electric charging points, to an agreed specification, should be provided within the WKN facility with the details of those charging points to be secured through an appropriate requirement in the dDCO.

3.5 Other Matters

- 3.5.1 The applicant and SBC are in discussions regarding the application of BREEAM standards as an appropriate Requirement of the draft DCO.

4 Matters not agreed

- 4.1.1 Currently a number of matters remain under discussion between the parties.
There are no matters which have not been agreed.

5 Signatures

5.1.1 The parties to this SoCG confirm that their respective positions are as documented within this Statement of Common Ground:

Signed.....

Name and position.....

On behalf WTI/EFW Holdings Ltd (Wheelabrator Technologies Inc.)

Date.....

Signed.....

Name and position.....

On behalf of Swale Borough Council

Date.....