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Your reference: EN010083

26 June 2020

Dear Mr Kean

Re: Application by Wheelabrator Technologies Inc. for an Order Granting Development Consent for the Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility Development Consent Order (DCO) – Further Written Questions and Requests for Information (ExQ3)

Kent County Council (KCC) provides the following response to the Further Written Questions and Requests for Information published by the Planning Inspectorate on 3 June 2020.

Q3.1. Principle and nature of the development, including waste recovery capacity and management of waste hierarchy

Q3.1.1 - In reply to ExQ1A.1.3 you refer to the Inspector's decision letter on the Brookhurst Wood EfW plant, this is not given in full although a hyperlink to the full decision is included in the text of the reply to ExQ1.6 [REP2-044].

Please supply a full copy of the decision letter so that it may be properly be entered into the examination library.

KCC Response

A copy of the decision letter is available in Appendix 1.

Q3.1.3. - KCC's response under ExQ1.6 [REP2-044] (Footnote 19) notes that the Applicant made repeated representations against the proposed changes in the Early Partial Review (EPR) and appeared at the examination hearings to convey these objections to the Inspector. A link is provided to a WTI representation on Proposed Modifications.

Please supply a full copy of the WTI representation that the Applicant submitted, as referred to in the representation that the EPR was unsound.

KCC Response

A copy of the WTI representation is available in Appendix 2.

Q3.2. Environmental Impact Assessment

Q3.2.2. - NPS EN-1 4.6.8 states "To encourage proper consideration of CHP, substantial additional positive weight should therefore be given...to applications incorporating CHP." What weight should be accorded to the Applicant's proposals for CHP in the context of each of the K3 and WKN Proposed Developments taken separately?

KCC Response

Government policy, both in the form of NPS EN-1 and the Resources and Waste Strategy¹, expressly supports the incorporation of CHP into applications involving power generation from waste. Therefore, significant weight ought to be accorded to the clauses within the NPS EN-1 / Resource and Waste Strategy in the context of each of the proposed developments to ensure the energy contribution from each proposal is maximised, and the consequential CO2 equivalent emissions per unit of fossil based waste burnt minimised.

NPS EN-1 expressly states at paragraph 4.6.7 that "In developing proposals for new thermal generating stations, developers should consider the opportunities for CHP from the very earliest point and it should be adopted as a criterion when considering locations for a project." (emphasis added).

Applicants are advised in the NPS EN-1 to "...consider relevant information in regional and local energy and heat demand mapping". In that regard, a heat mapping exercise undertaken in 2014 identified fifteen areas in Kent and Medway likely to be particularly suitable for heat networks, as shown in Figure 1 below.

¹ 3.2.1 Driving greater efficiency of Energy from Waste (EfW) plants by encouraging use of the heat the plants produce

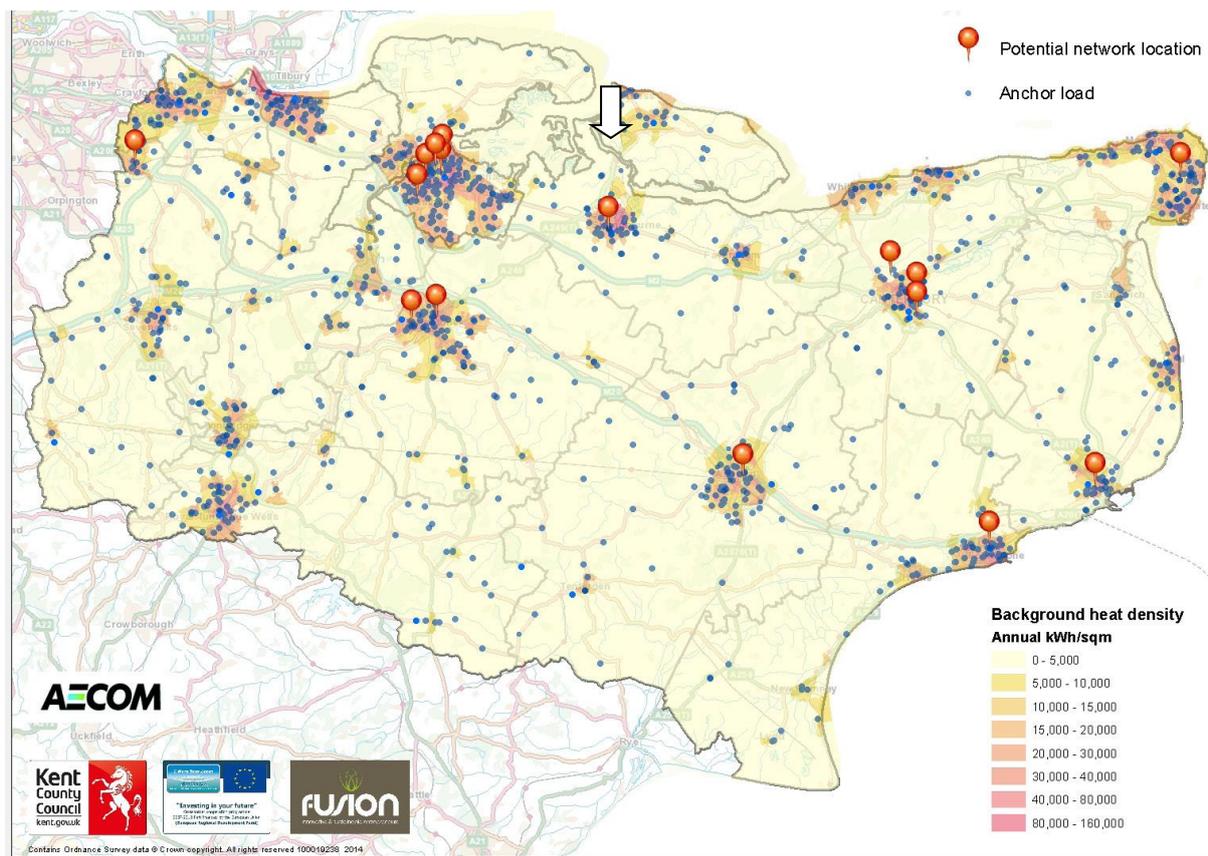


Figure 1: Location of proposed development (shown by arrow) in relation to identified potential heat network locations in Kent (KCC, 2014)

While the proposed site is in proximity to an identified potential heat network location in Sittingbourne, no proposal has been made in relation to the supply of heat to that area. Therefore, it must be surmised that the proposed location was not selected with due cognisance of the NPS EN-1 advice to be guided by such mapping.

Moreover NPS EN-1 refers to consulting bodies such as Homes England, Local Enterprise Partnerships (LEPs) and Local Authorities to obtain their advice on opportunities for CHP. The South East LEP that covers Kent, along with Medway, Essex and East Sussex has recently produced a tri-LEP Local Energy Strategy, Energy South2East² (2019). This expressly identifies that "waste heat is not utilised efficiently" as a shortcoming within the tri-LEP area. To remedy this, it proposes the establishment of low carbon heat networks as a priority since the production of heat accounted for around a quarter of total emissions for the tri-LEP region in 2015, over 10 million tonnes. While the Climate Change Committee has said that around 18% of UK heat will need to come from heat networks by 2050 if the UK is to meet its carbon targets cost effectively, currently only around 2% of the UK's non-industrial heat demand is met by heat networks. This demonstrates the importance of seeking CHP at every opportunity.

Since WKN is only envisaged to provide occasional supplementary heat to the Papermill, it will not operate as a good quality CHP scheme. Given the scale of WKN, it would be a critical missed opportunity were such a significant user of waste and producer of heat be

² <https://www.southeastlep.com/app/uploads/2019/03/Local-Energy-Strategy-FINAL.pdf>.

located where its heat output cannot be guaranteed to be put to good use for the plant's lifetime. In the absence of such a heat off-take, the WKN cannot be expected to achieve a good quality CHP status, so would not be in line with Government Policy commitment.

Conclusion

KCC considers that a significant amount of weight ought to be accorded to the provision of CHP in the assessment.

Given that the WKN proposal is essentially a waste fired power station with little or no heat contribution, it should receive little positive weight in this regard.

The proposal to increase throughput of the already consented K3 plant should be given some, albeit limited weight, as it is understood that neither the throughput increase, nor the increase in power generation, will in itself actually enhance the existing heat delivery arrangement.

Q3.5 Ecology

Do you consider a draft EMMP should be submitted to the Examination?
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KCC Response

The County Council understands that the applicant is producing a draft EMMP for WKN, along similar lines to the draft EMMP for K3.

The proposed development site is understood to be largely bare ground, so any ecological mitigation will be associated with avoiding an impact on the surrounding designated sites, and the County Council continues to defer to Natural England on this.

KCC would expect that any mitigation that is required to avoid an adverse impact on the designated sites will be detailed within the Habitat Regulations Assessment (HRA) and Construction Management Plan. It is therefore likely that an EMMP is likely to repeat information which should have already been provided within other submission documentation.

Q3.6 Greenhouse Gases and Climate Change

Q3.6.3 - Circumstances related to climate change may be said to have changed since the publication in 2011 of NPS EN-01 or NPS EN-03. What if any changes do you consider are sufficiently important and relevant to the question of whether deciding the application in accordance with any relevant NPS is likely to lead to the United Kingdom being in breach of its international obligations and why?

KCC Response

Since the publication of NPS EN-01 and EN-03 in 2011, there have been a number of changes to both national and local policy. The list provided below is by no means exhaustive, but highlights relevant policy, strategy and guidance for consideration by the Examining Authority in respect of this question.

National:

- 2007 Supplement to Planning Policy Statement 1: Planning & Climate Change (December)
- 2008 Climate Change Act
- 2011 NPS-EN1 published
- 2012 The Future of Heating: A Strategic Framework for Low Carbon Heat
National Planning Policy Framework (March)
- 2013 National Waste Management Plan
- 2014 National Planning Policy for Waste
- 2015 UN Paris Agreement - The central objective was to hold global average temperature increase to “*well below 2°C above preindustrial levels and pursuing efforts to limit the temperature increase to 1.5°C above pre-industrial levels*”
- 2016 National Planning Practice Guidance
- 2017 UK Industrial Strategy and Clean Growth Strategy
- 2018 National Infrastructure Assessment published
25-Year Environment Plan published (January)
Emissions Reduction Pledge 2020 published (April)
National Planning Policy Framework revised (July)
Resources & Waste Strategy published (December)
- 2019 Government commits to Net Zero greenhouse gases target by 2050 via amendment to the Climate Change Act (June)
- 2020 Court of Appeal; legal challenge under the Planning Act - Court of Appeal Judgement – R (Friends of the Earth) v Secretary of State for Transport and Others dated 27 February 2020

Local:

- 2013 Renewable Energy for Kent: An Action Plan for Delivering Opportunities
- 2016 Kent Minerals and Waste Local Plan adopted (July)
Kent Environment Strategy
Delivering Affordable Warmth: A Fuel Poverty Strategy for Kent
- 2017 Kent Renewable Energy Action Plan Update
- 2019 Energy South2East Local Energy Strategy.

Q3.6.9 -

- i) Do you consider, notwithstanding what is said by the Applicant as to non-viability of non-road modes of transport, there is a case to be made as part of the Rail and Water Transportation Strategy for a requirement to fund or fund in part the provision of necessary infrastructure for transportation by rail or the upgrade of the existing facilities at the dock to accommodate the additional freight necessary to make this a viable option?
- ii) How would such a requirement be made effective and proportionate?
- iii) What other practical difficulties militate against such a requirement?

KCC Response

- i) The County Council is in receipt of a separate planning application for the processing of Incinerator Bottom Ash (IBA) facility (as set out in a previous representation REP2-048). The applicant of the IBA facility has stated within the planning application that it has a contract to take the IBA from the K3 site as consented, and potentially extending it to also serve the DCO proposal. The IBA facility application includes an intention to export 50,000 tonnes of IBA metals from the Ridham Dock. The dock would appear to have the facility to accept barges carrying waste and it is understood that there would be limited investment needed to facilitate this³. Slightly further afield is the port at Sheerness, which should also be capable of transferring waste in larger volumes, considerably reducing the impact on both the strategic and the local highway network.
- ii) The requirement to transfer waste by sea is achievable through the use of existing facilities. A requirement could be placed on the DCO application requiring that any waste over and above the existing K3 tonnage is transported by sea to either Sheerness or Ridham Docks. Whilst this may limit the ability to secure contracts from some central areas, much of the country has good access to sea or waterways. Given where waste contracts are likely to be bringing waste from outside Kent, long HGV miles could be significantly shortened by accessing the nearest port.
- iii) Contracts would need to include details of the closest port to deliver the waste to, alongside a contract with port operators to facilitate the logistics. The County Council appreciates that transfer by rail is slightly more difficult to achieve than by waterways. The railhead itself would need to be made operational and there would need to be suitable rail freight loading facilities close to the origin at a local facility.

³ www.ridhamseaterminals.co.uk

Q3.6.10 - Why, in a periodic review of the Rail and Water Transportation Strategy, should the costs of providing the necessary infrastructure to transport the fuel to the site by rail or water and a viability appraisal be regarded as confidential as opposed to an exercise that should be undertaken on an open book basis? Are there comparable precedents for such a review?

KCC Response

Most strategic projects of regional importance would have their figures published on an open book basis. The applicant may be able to provide details of publicised costs and grants awarded for the Ferrybridge Plant.

Q3.9 Landscape and Visual Impact

Q3.9.3 - The Applicant's Design and Access Statement [APP-083] states "The core approach taken to WKN, in order to define the parameters for the DCO application, reflects the approach taken to K3 in terms of the building appearing as a linked set of individual buildings, rather than having elements of the facility located within an overall 'shell'. It would then be possible to use colour to make the WKN facility cohesive as a whole. In terms of the approach taken to the colour and cladding of the buildings there remains the option with WKN to take a similar design approach to K3, or to pursue an alternative design approach if that is considered appropriate...KCC takes the approach of using a combination of graduated panels in colours which reflect the local palette, to ensure that K3 can become something of a landmark building within the area; an approach which was taken to avoid attempting to hide the K3 facility when the scale of it means that it is likely to be visible in any case."

Please comment on whether you agree with this design approach and whether R22 in the dDCO adequately secures your design objectives or how, if at all it should be amended

KCC Response

In light of the design approach to the consented K3 development it would be appropriate to adopt a similar approach to the WKN facility. The scale of the development is such that it is likely to be visually prominent in the location.

3.11 Traffic and Transport

Q3.11.5 - What further assessments have been made arising from the exchange of vehicle movement data from the Applicant's site at Ferrybridge and the Waste to Energy site in Allington?

KCC Response

The County Council is currently reviewing the vehicle movement data that has been provided for the Waste to Energy site in Allington. At this point, the County Council notes

that whilst the site in Allington operates 24/7, the data shows that there were no night-time vehicle arrivals or departures of waste. All waste arriving and leaving was between the hours of 0700 to 1800, including larger bulk loads of waste received from transfer stations. This evidence indicates that the operation of such plants may well be 24/7 but the related traffic movements would nevertheless still be likely to be confined to the hours of 0700 to 1800.

The Allington data also shows a number of export movements associated with the waste sorting. This is a different facility than proposed by the applicant and therefore to a degree to be expected. However, The County Council would like to see evidence from the "Ferrybridge" data to show that all waste is clean and goes into incineration, evidencing that there is unclean waste that needs to be sorted and exported if this is the case.

Q3.13 Draft Development Consent Order

Q3.13.8 - The ExA acknowledges HE's willingness to assist in an ASI to include Strategic and Local Road Networks during the AM and PM peaks and at other times.

Pending any eventual ASI that might be possible, please provide the transport modelling evidence referred to in your reply to ExQ2.11.1 [REP4-029] by D5 that shows the current and forecast positions for:

- a) the M2J5, A249 Key Street and A249 Grovehurst junctions
- b) permitted works under the M2J5 Highways Act Examination;
- c) KCC-led works to A249/A2 Key Street; and
- d) KCC-led works to A249 Grovehurst junction due to be modelled/ designed/ agreed/ constructed by around 2024.

KCC Response

The latest data for the proposed improvements at the Key Street and Grovehurst A249 junctions is available in Appendix 3. It should be noted that these schemes are currently in the design phase and so maybe subject to modification.

The Examining Authority should also note that the improvements are enabled through grant funding and all developments that benefit from the improvements are required to make financial contributions to the schemes. It would therefore be unreasonable for this application to benefit from mitigation being paid for by housing developments, particularly when delivered in advance of them. The modelling does not include movements related to this application, as at the time of completion, the application is not considered to be committed.

Q3.13.9. - The ExA notes that HE, subject to the outcome of discussions with KCC and the Applicant, is likely to seek “Grampian conditions” to be applied to this application. Such conditions are not appropriate to a DCO however please would you address the issue of precisely how you wish to see the substance of such conditions feature in any additional or amended Requirements in the dDCO. Again, the respective parties should be clear about what matters are currently outstanding and ensure that they are included in the updated SoCG that the Applicant will be producing for D5.

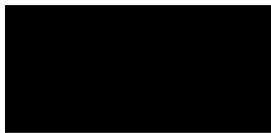
KCC Response

The County Council defers to Highways England on this matter.

The County Council will continue to work with the applicant and Examining Authority and welcomes the opportunity to comment on matters of detail throughout the Examination.

Should you require any additional information or clarification, please do not hesitate to contact me.

Yours sincerely



Barbara Cooper
Corporate Director – Growth, Environment and Transport

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Appendix 1: Brookhurst Wood EfW plant Decision

Appendix 2: WTI representation to Kent Minerals and Waste Local Plan EPR Examination

Appendix 3: Data for the proposed improvements at the Key Street and Grovehurst A249 junctions