



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

REPORT on the IMPLICATIONS for EUROPEAN SITES

Proposed Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility

An Examining Authority report prepared with the
support of the Environmental Services Team

Planning Inspectorate Reference: EN010083

15 July 2020

[This page is intentionally left blank]

TABLE OF CONTENTS

1	INTRODUCTION	2
1.1	BACKGROUND	2
1.2	DOCUMENTS USED TO INFORM THIS RIES	3
1.3	STRUCTURE OF THIS RIES.....	5
2	OVERVIEW	6
2.1	EUROPEAN SITES CONSIDERED	6
2.2	HRA MATTERS CONSIDERED DURING THE EXAMINATION.....	8
3	LIKELY SIGNIFICANT EFFECTS	12
3.1	SUMMARY OF HRA SCREENING OUTCOMES DURING THE EXAMINATION	15
4	ADVERSE EFFECTS ON INTEGRITY	16
4.1	CONSERVATION OBJECTIVES.....	16
4.2	THE INTEGRITY TEST.....	16

[This page is intentionally left blank]

1 INTRODUCTION

1.1 Background

- 1.1.1 WTI/EFW Holdings Ltd (the Applicant) has applied to the Secretary of State (SoS) for a development consent order (DCO) under Section 37 of the Planning Act 2008 (PA2008) for the proposed Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility (the application). The Secretary of State has appointed an Examining Authority (ExA) to conduct an Examination of the application, to report its findings and conclusions, and to make a recommendation to the Secretary of State as to the decision to be made on the application.
- 1.1.2 The relevant Secretary of State is the competent authority for the purposes of the Habitats Directive¹ and the Habitats Regulations² for applications submitted under the PA2008 regime. The findings and conclusions on nature conservation issues reported by the ExA will assist the Secretary of State in performing their duties under the Habitats Regulations.
- 1.1.3 This report compiles, documents and signposts information provided within the DCO application, and the information submitted throughout the Examination by both the Applicant and Interested Parties (IPs), up to and including Deadline 6 (D6) of the Examination in relation to potential effects on European Sites³. It is not a standalone document and should be read in conjunction with the Examination documents referred to. Where document references are presented in square brackets [] in the text of this report, that reference can be found in the Examination library published on the National Infrastructure Planning website at the following link:
<http://infrastructure.planninginspectorate.gov.uk/document/EN010083-000533>
- 1.1.4 It is issued to ensure that IPs including the statutory nature conservation body, Natural England (NE), are consulted formally on Habitats Regulations matters. This process may be relied on by the Secretary of State for the purposes of Regulation 63(3) of the Habitats Regulations. Following consultation the responses will be considered by the ExA in making their recommendation to the Secretary of State and made available to the Secretary of State along with this report. The RIES will not be revised following consultation.

¹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as codified) (the 'Habitats Directive').

² The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

³ The term European Sites in this context includes Sites of Community Importance (SCIs), Special Areas of Conservation (SACs) and candidate SACs, Special Protection Areas (SPAs), possible SACs, potential SPAs, Ramsar sites, proposed Ramsar sites, and any sites identified as compensatory measures for adverse effects on any of the above. For a full description of the designations to which the Habitats Regulations apply, and/ or are applied as a matter of Government policy, see PINS Advice Note 10.

- 1.1.5 The Applicant has not identified any potential impacts on European sites in other EEA States⁴. Only UK European sites are addressed in this report.

1.2 Documents used to inform this RIES

- 1.2.1 The Applicant's DCO application concluded that there is the potential for likely significant effects from the Proposed Developments on eight European sites. Therefore an HRA Report (HRAR) was provided with the application entitled 'Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility DCO: Habitats Regulations Assessment Report' [APP-044], together with screening and integrity matrices (referenced hereafter as 'the 2019 HRAR'). This provides an assessment of the operational and decommissioning effects arising from the K3 Proposed Development and the construction, operational and decommissioning effects from WKN.
- 1.2.2 The construction effects of the K3 Proposed Development are assessed in the 2010 HRAR for K3 as consented under the Town and Country Planning Act 1990. This is included in the DCO application documents, contained within the 2010 ES Appendix 9.6: 'Information for an Appropriate Assessment' [APP-073] (referenced hereafter as 'the 2010 HRAR').

Examination

- 1.2.3 In response to the ExA's questions and representations made by IPs during the Examination, the Applicant provided an updated HRAR incorporating updated screening and integrity matrices for D2 (22 April 2020) [REP2-034] and D4 [REP4-010]. In response to comments made by the MMO at D5 the Applicant provided an updated HRAR at D6 [REP6-008]. All subsequent references to the HRAR in this report are to the D6 version unless otherwise stated.
- 1.2.4 The documents listed below informed the content of this report.

Application Documents

- 2019 ES Appendix 2.1 - Draft Construction Environmental Management Plan (CEMP) [APP-012]
- 2019 ES Appendix 11.1: Kemsley Ornithological Surveys [APP-043]
- Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility DCO: Habitats Regulations Assessment Report [APP-044]
- 2019 ES Appendix 11.7: Marine Licence [APP-049]
- 2019 ES Chapter 3: Methodology [APP-055]
- 2019 ES Chapter 10: Water [APP-062],

⁴ European Economic Area (EEA) States.

Report on the Implications for European Sites for
Proposed Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator
Kemsley North (WKN) Waste to Energy Facility

- 2019 ES Chapter 11: Ecology [APP-063]
- 2010 ES Appendix 9.6: Information for an Appropriate Assessment [APP-073]

Relevant Representations

- Natural England [RR-006]

Statements of Common Ground

- NE draft SoCG [REP1-004]
- NE SoCG (clean) [REP5-008]
- NE SoCG (tracked) [REP5-009]

Examination Documents

- NE Written Representation [REP1-015]
- Applicant's Response to ExQ1 [REP2-009]
- Updated 2019 ES Chapter 3: Methodology [REP2-016]
- Updated 2019 ES Chapter 11: Ecology [REP2-024]
- Updated 2019 ES Chapter 5 Appendix 5.4: Assessment of Ecological Impacts [REP2-032]
- Updated Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility DCO: Habitats Regulations Assessment Report [REP2-034 (clean) and REP2-035 (tracked)]
- Updated 2019 ES Chapter 11 Appendix 11.7: Marine Licence [REP2-036]
- MMO Comments on Responses to ExQ1 [REP3-017]
- NE Deadline 3 Submission [REP3-018]
- Applicant's Response to Examining Authority's Second Written Questions [REP4-006]
- Updated Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility DCO: Habitats Regulations Assessment Report [REP4-010 (clean) and REP4-011 (tracked)]
- 2019 ES Appendix 2.1 – revised Draft Construction Environmental Management Plan (CEMP) [REP4-013]
- MMO Response to ExQ2 and comments on Written Representations [REP4-028]
- NE's Response to ExQ2 [REP4-031]

Report on the Implications for European Sites for
Proposed Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator
Kemsley North (WKN) Waste to Energy Facility

- Draft WKN Ecological Mitigation and Management Plan [REP5-005]
- Applicant's Statement of Commonality [REP5-010]
- Applicant's Response to ExQ3 [REP5-011]
- MMO Response to ExQ3 [REP5-030]
- Updated Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility DCO: Habitats Regulations Assessment Report [REP6-008 (clean) and REP6-009 (tracked)]
- Applicant's Response to Submissions at Deadline 5 [REP6-010]
- MMO's Comments on Responses to ExQ3 [REP6-012]

Other Documents

- ExA's Written Questions (ExQ1) [PD-010]
- ExA's Further Written Questions (ExQ2) [PD-012]
- ExA's Further Written Questions (ExQ3) [PD-014]

1.3 Structure of this RIES

1.3.1 The remainder of this report is as follows:

- **Section 2** identifies the European sites that have been considered within the DCO application and during the Examination period, up to 15 July 2020. It provides an overview of the issues that have emerged during the Examination.
- **Section 3** identifies the European sites and qualifying features screened by the Applicant for potential likely significant effects, either alone or in combination with other plans and projects and also identifies where IPs have disputed the Applicant's conclusions.
- **Section 4** identifies the European sites and qualifying features which have been considered in terms of adverse effects on site integrity, either alone or in combination with other plans and projects, and also identifies where IPs have disputed the Applicant's conclusions.

2 OVERVIEW

2.1 European Sites Considered

- 2.1.1 The Proposed Developments are not connected with or necessary to the management for nature conservation of any of the European sites considered within the Applicant's assessment.
- 2.1.2 The Applicant's HRAR identified the following European sites (and features) for which the UK is responsible for inclusion within the assessment:

Table 2.1: Sites Screened into the HRA by Applicant

Name of European Site	Features
Swale SPA	Dark-bellied Brent Goose
	Dunlin
	Overwintering assemblage of international importance
	Diverse assemblage of breeding birds
Swale Ramsar site	Nationally rare and scarce plant species
	British Red Data Book invertebrates
	Dark-bellied Brent Goose
	Grey Plover
	Redshank
	Overwintering assemblage of international importance
Medway Estuary and Marshes SPA	Avocet (breeding and overwintering)
	Dark-bellied Brent Goose
	Dunlin
	Grey Plover
	Knot
	Little Tern
	Pintail
	Redshank
Ringed Plover	

Report on the Implications for European Sites for
Proposed Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator
Kemsley North (WKN) Waste to Energy Facility

	Shelduck
	Diverse assemblage of wintering species
	Diverse assemblage of breeding migratory waterfowl
Medway Estuary and Marshes Ramsar site	Nationally-scarce plant species
	British Red Data Book invertebrates
	Common Redshank
	Dark-bellied Brent Goose
	Dunlin
	Grey Plover
	Pintail
	Red Knot
	Ringed Plover
	Shelduck
	Diverse assemblage of wintering species
Thames Estuary and Marshes SPA	Avocet
	Black-tailed Godwit
	Dunlin
	Grey Plover
	Hen Harrier
	Knot
	Redshank
	Ringed Plover
	Assemblage of International Importance
Thames Estuary and Marshes Ramsar site	Nationally rare and scarce plant species
	British Red data book invertebrates
	Black-tailed Godwit
	Dunlin
	Red Knot
	Assemblage of International

Report on the Implications for European Sites for
Proposed Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator
Kemsley North (WKN) Waste to Energy Facility

	Importance
Queendown Warren SAC	Semi-natural dry grasslands and scrubland facies on calcareous substrates (important orchid sites)
Outer Thames Estuary SPA	Common Tern
	Little Tern
	Red-throated Diver

- 2.1.3 The study area for the assessment of effects on European sites is not identified in the HRAR. It was clarified in the Applicant's response to ExQ1.5.3 [REP2-009] as being located 10km from the application site boundary. HRAR paragraph 2.12 states that the eight European sites considered in the HRAR were selected on the basis of the nature of the Proposed Developments and the findings of the technical chapters of the ES.
- 2.1.4 In their response to ExQ1.8.22 NE did not identify any other UK European site or European site features that could be affected by the Proposed Developments and confirmed that they agreed that the correct sites and features had been considered in the HRAR [REP2-042].

2.2 HRA Matters Considered During the Examination

- 2.2.1 NE requested in their RR [RR-006] that the Swale Local Plan (LP) was included in the in-combination effects (ICE) assessment of other plans or projects. The Applicant submitted an updated HRAR [REP2-034] for D2, which included an assessment of the potential in-combination effects of the Swale LP together with the K3 and WKN Proposed Developments, and concluded no likely significant effects. NE subsequently confirmed that they had no further comments on the HRAR [REP3-018]. (See Section 3 of this report below.)
- 2.2.2 The ExA sought clarification from the Applicant in ExQ1 [PD-010] and ExQ2 [PD-012] on a number of apparent discrepancies and omissions in the 2019 HRAR. The questions included in ExQ1 related to the features of the European sites, the Applicant's approach to the in-combination assessment, the securing of the proposed mitigation, and discrepancies in the matrices. NE were also asked to confirm whether they agreed that the correct sites and features were considered in the HRA and whether they agreed with the conclusions set out in the HRAR.
- 2.2.3 The HRA questions included in ExQ2 related to the in-combination assessment, the mitigation contained within the CEMP, changes made to the preamble to the matrices in the updated 2019 HRAR, and the MMO's comment in their D3 submission [REP3-017] that saltmarsh habitats and locations were not identified in the HRAR. A number of these questions were also directed at NE, the EA and Swale District Council (SDC).

Report on the Implications for European Sites for
Proposed Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator
Kemsley North (WKN) Waste to Energy Facility

- 2.2.4 The Applicant responded to ExQ1 and ExQ2 at D2 and D4 [REP2-009 and REP4-006] and submitted updated versions of the 2019 HRAR [REP2-034 and REP4-010]. The Applicant's approach to the in-combination assessment was clarified in the D4 updated version of the HRAR. The revised text in Section 7 confirmed that it had been concluded that the K3 and WKN Proposed Developments would not give rise to likely significant effects on any European sites in combination with other plans and projects. The matrices in Appendices 1 and 2 were revised to reflect this by the inclusion of in-combination effects in the screening matrices and their removal from the integrity matrices.
- 2.2.5 NE confirmed in their D2 submission [REP2-042] that they agreed with the sites and features included in the HRA, and stated in their D3 submission [REP3-018] that they had no further comments on the updated 2019 HRAR. The final SoCG between the Applicant and NE [REP5-008], submitted at D5, confirmed that all matters, including those related to HRA, were agreed.
- 2.2.6 Following a request by the ExA included in ExQ3 [PD-014] the Applicant submitted a 'Draft WKN Ecological Mitigation and Management Plan' (dEMMP) [REP5-005] that contained details of the measures proposed to address potential ecological impacts on species. This includes species that are also features of European sites considered in the HRA, such as the Swale SPA and Ramsar site and the Medway Estuary and Marshes SPA and Ramsar site.
- 2.2.7 The MMO, in their D3 submission [REP3-017], commented that saltmarsh habitats and locations had not been identified in the HRAR despite being considered in the marine licence application [REP2-036]. ExQ2.8.6 [PD-012] contained a request to the Applicant and NE to provide their comments on this point for D4. The Applicant responded [REP4-006] that saltmarsh is a supporting habitat of the various SPA/Ramsar interest features and is identified in the HRAR in Table 4.7. NE responded [REP4-031] that whilst saltmarsh habitats and locations are not explicitly identified in the HRAR, saltmarsh is considered as a supporting habitat and the saltmarsh plants that form part of the designated interest are noted. NE also commented that the HRA for the marine licence application for the outfall considered implications for intertidal habitats, including any required mitigation measures, and those conclusions are referred to in the HRAR.
- 2.2.8 In their D4 response [REP4-028] the MMO referred to Q1A.11.6 (under 'Traffic and Transport'). They encouraged a review of the potential environmental impacts of the Proposed Developments using water transport and commented that it must include an assessment of the potential impacts on adjacent designated sites and that this should be considered within the HRA. In their D5 response [REP5-011] the Applicant confirmed that a direct response had been provided to the MMO setting out their position. It explained that it would not be appropriate or possible at this stage to provide a review of the potential impacts of using water transport without knowing the quantum of waste being transported using water, source of that waste, method of transportation, and any associated infrastructure required. This

Report on the Implications for European Sites for
Proposed Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator
Kemsley North (WKN) Waste to Energy Facility

information would only become available when a waste contract which allowed for transportation by water was being sought. The Applicant acknowledged the MMO's point in its D4 submission that an assessment would need to be undertaken of the environmental impacts of using water transportation. The MMO's D5 submission [REP5-030] welcomed the Applicant's engagement and reiterated that they encouraged a robust assessment of the potential impacts of transporting material by barge, including emissions and noise from the additional marine traffic passing through protected areas.

- 2.2.9 The MMO also raised concerns in their D5 submission about potential impacts of the discharge of water from the outfall on mussel beds and/or saltmarsh. They considered that it could lead to changes in salinity and turbidity which, depending on the location of the mussel beds in relation to the location of the outfall, could have significant effects. They requested further elaboration on why there would be no significant effects resulting from the discharge.
- 2.2.10 The Applicant submitted an updated version of the 2019 HRAR [REP6-008] at D6, which contained minor revisions intended to address points raised by the MMO in their D5 submission. They responded to the MMO's points about salinity changes and water transportation in their D6 response to the D5 submissions [REP6-010].
- 2.2.11 In respect of salinity, they commented that the original application for a marine licence was accompanied by a full ES. The ES dealt with the potential impacts of both construction and operation of up to two outfalls and the issue of localised changes to salinity due to discharge of 'pure' water from the outfalls. They stated that the assessment scope was determined in consultation with the MMO, it was concluded that there would be no likely significant effects on any interest feature/supporting habitat of any of the designated sites within the Swale, and it was accepted by the MMO in their granting of the Marine Licence.
- 2.2.12 The Applicant stated that the scope of the Environmental Appraisal (EA) that accompanied the request to vary the original marine licence to allow for the construction of a second outfall to serve WKN was also determined in discussion with the MMO (set out in Section 1.2 of the EA). They stated that the MMO agreed that the assessment should focus on impacts related to the construction of the second outfall only, with no further assessment necessary of other activities on the basis that they had all been assessed in the original licence application, including the issue of changes to salinity. They considered that this was subsequently confirmed by the granting by the MMO of the licence variation in May 2019.
- 2.2.13 In respect of the MMO's comments about water transportation, the Applicant stated that they would review the D6 responses from IPs and provide responses to those and any questions in ExQ4 which address this issue at D7.
- 2.2.14 In their D6 response [REP6-012] the MMO acknowledge the Applicant's D5 response to ExQ3.8.1 about water transportation [REP5-011] and

Report on the Implications for European Sites for
Proposed Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator
Kemsley North (WKN) Waste to Energy Facility

refer back to their D5 submission [REP5-030] but do not comment further in relation to HRA specifically.

2.2.15 No other IPs raised any concerns about the Applicant's approach to undertaking the assessment or its conclusions.

3 LIKELY SIGNIFICANT EFFECTS

3.0.1 The Applicant has described how they have determined what would constitute a 'significant effect' within the HRAR, based on Government guidance.

3.0.2 The Applicant has addressed potential in-combination effects (ICE) within Section 7 of the HRAR. Paragraph 7.3 identifies the following 10 projects as included in the in-combination assessment carried out by the Applicant:

- 16/507687/COUNTY - application for the construction and operation of an Incinerator Bottom Ash (IBA) Recycling Facility on land adjacent to the Kemsley Sustainable Energy Plant, Kemsley Paper Mill, Ridham Avenue, Sittingbourne. Permitted February 2017;
- 16/501484/COUNTY - construction and operation of a gypsum recycling building with plant and machinery to recycle plasterboard; and the re-configuration of the existing lorry park at Ridham Dock Road, Sittingbourne. Permitted April 2016;
- SW/11/1291 - anaerobic digester and associated ground profiling and landscaping on land north of the DS Smith Paper Mill, Kemsley, Sittingbourne. Permitted July 2012;
- 16/506935/COUNTY - steam pipeline connecting the Ridham Dock Biomass Facility to the DS Smith Paper Mill. Permitted October 2016.
- 14/501181/COUNTY KCC - combined heat and power (CHP) plant at Ridham B, Ridham Dock, Sittingbourne. Permitted July 2014;
- SW/15/500348 – Construction of advanced thermal conversion and energy facility at Kemsley Fields Business Park. Permitted July 2015;
- 17/505073/FULL - erection of a tile factory including service yard, storage yard and car parking area. Permitted May 2018;
- SW/14/0224 – application for a solar farm. Permitted August 2015;
- SW/13/1495 - Variation of condition 9 of SW/11/548 (use of building 15B to install and operate a materials recycling facility (MRF) and a refuse derived fuel (RDF) facility) to allow an increase of HGV movements from 58 to 98 for a temporary period of 12 months. Permitted December 2013; and
- EN010090 (18/501923/ADJ) - application for a DCO consent to decommission the existing K1 CHP on the site and build, commission and operate a new CHP plant (K4). Consented July 2019.

Report on the Implications for European Sites for
Proposed Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator
Kemsley North (WKN) Waste to Energy Facility

- 3.0.3 A further three projects are subsequently considered in the assessment that were not identified in the above list:
- 14/500327/OUT - creation of up to 8,000 m² of new Class B1 and B2 floor space along with an extension of the Milton Creek Country Park 495m to the south of the Proposed Developments. Permitted July 2016;
 - 18/500393/FULL - erection of a natural gas fuelled reserve power plant with a maximum export capacity of up to 12MW. Permitted November 2018; and
 - SW/12/1211 – construction of materials recycling facilities and waste transfer station.
- 3.0.4 A discrete assessment of the in-combination effects of emissions to air is provided in HRAR paragraphs 7.7 – 7.15. All other potential in-combination effects are considered in HRAR paragraphs 7.16 – 7.38.
- 3.0.5 NE, in their RR [RR-006], suggested that traffic movements generated by proposals in the Swale Local Plan (Swale LP) should additionally be included in the ICE assessment. The Applicant provided this assessment in the updated HRAR submitted for D2. It concluded that only one road would carry traffic associated with both the Proposed Developments and proposals within the Swale LP (the A249) and that the habitats in that location were not sensitive to changes in air quality. NE confirmed in their D3 submission [REP3-018] that the updated assessment addressed their comments and that they had no further comments on the HRAR. The scope of the ICE assessment was not disputed by any other IP.
- 3.0.6 The Applicant's screening assessment of K3 as consented, contained in the 2010 HRAR [APP-073], concluded that it would have **no likely significant effect** during construction, operation and decommissioning, either alone or in-combination with other projects or plans, on the qualifying features of the European sites listed below:
- Outer Thames Estuary SPA (OTE SPA)
- 3.0.7 It was concluded in the 2010 HRAR that K3 as consented **was likely to give rise to significant effects** during construction, operation and decommissioning, either alone or in-combination with other projects or plans, on qualifying features of the seven European sites listed below:
- Swale Special Protection Area (SPA)
 - Swale Ramsar site
 - Medway Estuary and Marshes SPA (ME&M SPA)
 - Medway Estuary and Marshes Ramsar site (ME&M Ramsar site)
 - Thames Estuary and Marshes SPA (TE&M SPA)
 - Thames Estuary and Marshes Ramsar site (TE&M Ramsar site)
 - Queendown Warren Special Area of Conservation (QW SAC)

Report on the Implications for European Sites for
Proposed Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator
Kemsley North (WKN) Waste to Energy Facility

- 3.0.8 The Applicant's screening assessment contained in the updated 2019 HRAR (Section 5) concluded that the operation and decommissioning of the K3 Proposed Development would have **no likely significant effect**, either alone or in-combination with other projects or plans, on the qualifying features of any of the eight European sites.
- 3.0.9 The Applicant's screening assessment contained in the updated 2019 HRAR (Section 5) concluded that WKN would have **no likely significant effect** during construction, operation and decommissioning, either alone or in-combination with other projects or plans, on the qualifying features of the six European sites listed below:
- Medway Estuary and Marshes SPA (ME&M SPA)
 - Medway Estuary and Marshes Ramsar site (ME&M Ramsar site)
 - Thames Estuary and Marshes SPA (TE&M SPA)
 - Thames Estuary and Marshes Ramsar site (TE&M Ramsar site)
 - Queendown Warren Special Area of Conservation (QW SAC)
 - Outer Thames Estuary SPA (OTE SPA)
- 3.0.10 It was concluded that WKN **was likely to give rise to significant effects**, alone, on air and water quality through recreational, lighting, noise and visual disturbance, alone on the qualifying features of the two European sites listed below:
- Swale Special Protection Area (SPA)
 - Swale Ramsar site
- 3.0.11 The Applicant's conclusions in relation to these sites and their features were questioned by the MMO during the Examination (see Section 2 above).

3.1 Summary of HRA Screening outcomes during the Examination

- 3.1.1 A total of eight European sites were screened by the Applicant prior to Examination (see Table 2.1).
- 3.1.2 Of these sites the Applicant concluded (in the 2010 HRAR [APP-073]) in respect of K3 as consented that there would be no likely significant effects on the Outer Thames Estuary SPA and its qualifying features (see list above).
- 3.1.3 In respect of the K3 Proposed Development the Applicant concluded that there would be no likely significant effect on any of the European sites and their qualifying features (see list above).
- 3.1.4 In respect of WKN the Applicant concluded that there would be no likely significant effect on six of the European sites and their qualifying features (see list above).
- 3.1.5 The IPs did not dispute the Applicant's conclusion of no likely significant effects on these European sites and their qualifying features during the Examination.
- 3.1.6 The Applicant concluded that there could be likely significant effects on seven European sites in respect of K3 as consented and on two European sites in respect of WKN (see list above).
- 3.1.7 The MMO raised some questions about the Applicant's conclusions for these European sites and their qualifying features.

4 ADVERSE EFFECTS ON INTEGRITY

4.1 Conservation Objectives

4.1.1 The conservation objectives for all of the European sites taken forward for an assessment of effects on integrity and discussed in this section of the report were provided by the Applicant in Section 4 of their HRAR.

4.2 The Integrity Test

No Adverse Effects on Site Integrity

4.2.1 Information on proposed measures for K3 as consented, including industry standard and good practice measures, is contained in paragraphs 9.311 – 9.323 of the 2010 HRAR [APP-073]. These include:

- provision of areas within the application site to support qualifying plant species that may be present on land beyond the site boundary that will be lost;
- minimisation of construction dust;
- treatment and pollution prevention measures;
- surface water drainage incorporating sustainable urban drainage system features to provide attenuation and storage;
- a 'soft start' to the piling operation and limited night-time construction or operational activity that could produce 'startling' noise; and
- directional lighting.

4.2.2 The Applicant concluded in the 2010 HRAR that K3 as consented would not adversely affect the integrity of the European sites and their features listed below:

- Swale Special Protection Area
- Swale Ramsar site
- Medway Estuary and Marshes SPA
- Medway Estuary and Marshes Ramsar site
- Thames Estuary and Marshes SPA
- Thames Estuary and Marshes Ramsar site
- Queendown Warren Special Area of Conservation

4.2.3 Information on proposed measures for WKN, including industry standard and good practice measures, is contained in and cross-referenced from Section 6 of the 2019 HRAR and the Evidence Notes to the Integrity Matrices contained in Appendix 2. Cross-reference is made to proposed measures contained in other DCO application documents, such as the

Report on the Implications for European Sites for
Proposed Wheelabrator Kemsley (K3 Generating Station) and Wheelabrator
Kemsley North (WKN) Waste to Energy Facility

2019 ES Chapter 10: Water [APP-062], the WKN Construction Environment Management Plan (CEMP) [REP4-013], the varied Marine Licence [REP2-036], and the WKN external lighting strategy set out in the 2019 ES Appendix 11.8 [APP-050]. The dEMMP [REP5-005] submitted by the Applicant at D5 also describes measures to protect species which could be affected by WKN, some of which are also features of European sites considered in the HRA.

4.2.4 Proposed measures in respect of WKN include:

- those contained within the CEMP in relation to construction dust, including damping down, vehicle wheel and body washing, and sheeting of vehicles carrying material;
- a site-wide surface water pollution prevention system to prevent the discharge of any contaminated surface water from the site;
- a palisade fence, a minimum of 2m high, around much of the WKN site boundary to avoid disturbance effects. This is in addition to a 2.4m fence that was erected along part of the K3 site boundary for the K3 construction works that has been retained and is located on the northern boundary of the WKN site;
- restrictions on impact piling to avoid disturbance effects; and
- lighting to be designed according to best practice standards to ensure that no additional light spill would occur.

4.2.5 The draft DCO includes Requirements relevant to the implementation of the proposed measures, such as R17 (fencing), R18 (drainage), R21 (dEMMP), R22 (CEMP), R23 (lighting) and R28 (piling).

4.2.6 The Applicant concluded in the 2019 HRAR for WKN that it would not adversely affect the integrity of the European sites listed below:

- Swale Special Protection Area
- Swale Ramsar site

4.2.7 The Applicant's conclusions in relation to the integrity of all of the European sites that were taken forward for assessment were not disputed by NE [REP3-018] [REP4-031] [REP5-008] or any other IPs.