



Wheelabrator
TECHNOLOGIES



Deadline 7: Applicant's Response to Examining Authority's Further Written Questions (ExQ4)

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

PINS Ref: EN010083

Document 15.2
August 2020 - Deadline 7

fieldfisher

rps

hendeca

dha

Contents

1	EXQ4.1. – PRINCIPLE AND NATURE OF THE DEVELOPMENT, INCLUDING WASTE RECOVERY CAPACITY AND MANAGEMENT OF WASTE HIERARCHY	6
2	EXQ4.2 – ENVIRONMENTAL IMPACT ASSESSMENT	12
3	EXQ4.3 – AIR QUALITY.....	13
4	EXQ4.4 – ARCHAEOLOGY AND CULTURAL HERITAGE	14
5	EXQ4.5 – ECOLOGY.....	15
6	EXQ4.6 – GREENHOUSE GASES AND CLIMATE CHANGE.....	16
7	EXQ4.7 – GROUND CONDITIONS	17
8	EXQ4.8 – HABITATS REGULATIONS ASSESSMENT (HRA).....	18
9	EXQ4.9 – LANDSCAPE AND VISUAL IMPACT	19
10	EXQ4.10 – NOISE AND VIBRATION	20
11	EXQ4.11 – TRAFFIC AND TRANSPORT	21
12	EXQ4.12 – WATER ENVIRONMENT	30
13	EXQ4.13 – DRAFT DEVELOPMENT CONSENT ORDER.....	31
14	EXQ4.14. – OTHER MATTERS	36
	Appendix A – Kemsley K3 CHP R1 Supporting Information, April 2019	
	Appendix B – FM1 R1 Accreditation 2018 and FM1 R1 Revalidation 2019	
	Appendix C – WKN Construction HGV Profile	
	Appendix D – FM1 Site Location Plan	
	Appendix E – Norfolk County Council Cabinet Report – 6th July 2020	

Introduction

Purpose of this document

- i. This Document has been prepared at Deadline 7 of the Examination by the Planning Inspectorate into an application by WTI/EFW Holdings Ltd (a subsidiary of Wheelabrator Technologies Inc – “WTI”) under the Planning Act 2008 for a Development Consent Order (a “DCO”) for the construction and operation of the Wheelabrator Kemsley (“K3”) and Wheelabrator Kemsley North (“WKN”) waste-to-energy generating stations on land at Kemsley, Sittingbourne in Kent.
- ii. This Statement provides the response by the applicant to the Examining Authority’s Further Written Questions (‘ExQ4’) issued on 15th July 2020.
- iii. For ease and completeness this document briefly summarises the proposed development and identifies the application site before providing each of the Questions and the Applicant’s response to it.

Context

- iv. The application for a Development Consent Order seeks consent for the construction and operation of a 75MW waste-to-energy facility, ‘the Wheelabrator Kemsley Generating Station’ (“K3”) and for the construction and operation of a 42MW waste-to-energy facility, ‘Wheelabrator Kemsley North’ (“WKN”).
- v. K3 is a waste-to-energy facility located adjacent to and east of the DS Smith Kemsley paper mill, to the north of Sittingbourne, Kent. Planning permission was granted for K3 in 2012 by Kent County Council with a generating capacity of 49.9MW and a waste processing capacity of 550,000 tonnes per annum. The facility is now fully operational, as of Q3 2020.
- vi. 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 design, generating an additional 25.1MW of electricity. However, in order for the K3 project to be properly categorised and consented under the Planning Act 2008 the applicant is required to seek consent for the construction of K3 at its total generating capacity of 75MW (i.e. 49.9MW consented + 25.1MW upgrade), together with the separate proposed total tonnage throughput of 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase).
- vii. The proposed new Waste-to-Energy plant, Wheelabrator Kemsley North (WKN), would be a single 125Mwth line facility capable of processing

390,000 tonnes of waste per annum, with a generating capacity of 42MW. WKN is not therefore a Nationally Significant Infrastructure Project (NSIP) by virtue of its generating capacity.

- viii. Instead WTI made a formal application on the 1st June 2018 to the Secretary of State (SoS) for Business, Energy and Industrial Strategy under Section 35 of the Planning Act 2008 for a direction as to whether the project is nationally significant. The SoS issued their direction on the 27th June 2018 confirming that WKN is to be considered and treated as a development which requires development consent due to its context with other nationally significant projects in the vicinity, the benefits to K3 and WKN being assessed comprehensively through the same DCO process and the removal of the need for separate consents to be sought.
- ix. A single Development Consent Order is being sought for K3 and WKN through a single application to the Planning Inspectorate (PINS), prior to being determined by the Secretary of State (SoS) for Business, Energy and Industrial Strategy.

The Site and its surroundings

- x. The K3 and WKN sites lie to the north-east of the village of Kemsley, which itself sits at the north-eastern edge of Sittingbourne in Kent. The K3 and WKN sites lie immediately to the east of the Kemsley Paper Mill, a substantial industrial complex which is operated by DS Smith.
- xi. In April 2018 DS Smith lodged an application for a Development Consent Order (DCO) which would allow for the construction and operation of 'K4', a gas fired Combined Heat and Power Plant within the Kemsley Mill site. This DCO was granted on 5th July 2019.

Proposed Development

Wheelabrator Kemsley – K3

- xii. Planning permission was granted for K3 in 2012 by Kent County Council under reference SW/10/444. As consented and being constructed, K3 can process up to 550,000 tonnes of waste each year and has a generation capacity of 49.9MW. K3 will export electricity to the grid and will supply steam to the DS Smith Kemsley Paper Mill. The construction of K3 began in 2016 and the facility began operation in Q2 2020.
- xiii. WTI 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 design, generating an additional 25.1MW of electricity.

- xiv. The 2018 consultation and publicity sought views from interested parties on an application for consent for that power upgrade and increased tonnage throughput, without any construction works being required, as an extension to the K3 facility under Section 15 of the Planning Act 2008.
- xv. However, in order for the K3 project to be properly categorised and consented under the Planning Act 2008 the applicant is now seeking consent for the construction of K3 at its total generating capacity of 75MW (49.9MW consented + 25.1MW upgrade), together with the separate proposed total tonnage throughput of 657,000 tonnes per annum (550,000 consented + 107,000 tonnage increase).
- xvi. A further consultation was undertaken in 2019 to advise S42 consultees and notify the public through a number of S48 notices that construction and operation of K3 is now being sought as part of the DCO, in the context of the K3 facility already being substantially constructed.
- xvii. As the K3 facility is now operational the effect in reality of the proposed application ('the practical effect') would be the retention of the K3 facility as consented but with it generating an additional 25.1MW together with being able to process an additional 107,000 tonnes of waste per year.

Wheelabrator Kemsley North – WKN

- xviii. WKN would be an entirely new and separate waste-to-energy facility on land to the north of K3, which is currently being used as the K3 construction laydown area. WKN would provide clean, sustainable electricity to power UK homes and businesses via the National Grid distribution network and would have the ability to export steam should a user for that steam become available.
- xix. WKN would have a generating capacity of 42MW and a waste processing capacity of 390,000 tonnes per annum and be a self-contained and fully enclosed facility with its own reception hall, waste fuel bunker, boiler, flue gas treatment, turbine, air-cooled condensers, transformers, office accommodation, weighbridge, administration building, car parking and drainage. WKN would have its own grid connection to allow for the exporting of electricity to the national grid.

Applicant’s Responses to Further Written Questions (ExQ4)

- xx. The ExQ4 are grouped into a number of different categories. This document provides each question and the response to it by the Applicant. Where relevant reference is made to Appendices, as well as cross references made to other documents as referenced in the Examination Library.

1 ExQ4.1. – Principle and nature of the development, including waste recovery capacity and management of waste hierarchy

1.1 Q4.1.1 - KCC & Applicant - Please could you explain more about the nature of the waste category listed at the top of the table in Appendix 1 to KCC’s response to ExAQ1a submitted at D6 [REP5-042], as HCl waste going to landfill comprising 884,229 tonnes? How is this predominantly low calorific value, and what standard of calorific value would make fuel sustainable to be used for energy from waste plants of the type proposed by the Applicant?

1.1.1 Waste category 19 12 12 is described in the European Waste Catalogue or List of Wastes ‘as other wastes (including mixtures of materials) from mechanical treatment of wastes other than those mentioned in 19 12 11’. It is, by definition, a mix of wastes.

1.1.2 It is not possible to determine precisely the calorific value of waste category 19 12 12. Waste Data Interrogator contains information regarding where it is generated and its fate (for example if it is generated in a mechanical biological treatment facility it may be sent to various destinations including landfill, recovery or transfer) but does not provide any further breakdown of its composition.

1.1.3 The Applicant’s Response to Submissions at Deadline 3 [REP4-008] (at page 12, under title ‘Paragraph 17’) considers the waste types included in the WHFAR [APP-086] concluding (at paragraph 4.3.13) that:

‘Some wastes categorised as 19.12.12 may have a low calorific value. However, as explained above there are other wastes that would be appropriate for incineration that have not been included in the fuel availability assessment. Consequently, the WHFAR presents a proportionate, reasonable and robust assessment of the fuel available to the Proposed Developments.’

1.1.4 As explained at paragraph 2.6.44 of the Applicant’s Responses to Deadline 4 Submissions [REP5-022] the four waste types chosen by the Applicant agree with those presented in EfW Statistics 2019. For ease of reference, that paragraph is repeated below:

‘2.6.44 Further, the Applicant observes that EfW Statistics 2019 agrees with the Applicant’s choice of shortlisted wastes. In the introduction EfW Statistics 2019 identifies residual waste as primarily those falling within the European Waste Catalogue as 19 12 10, 19 12 12 and 20 03 01 (fourth paragraph, page 1). These are three of the four codes used by the Applicant in the WHFAR, which is supplemented only by 20 03 07 (bulky waste).’

1.1.5 On page 6, EfW Statistics 2019 reports that around a third of the fuel treated at energy recovery facilities in England are classified as either 19 12 10/12. It is a

common waste type to treat within energy recovery facilities such as the Proposed Developments.

- 1.1.6 Efficient energy recovery facilities of the type proposed by the Applicant are able to treat fuels falling within a range of CV. The Proposed Developments can accept a range of materials, and for the purposes of the R1 application (see response to ExQ4.1.3 and **Appendix A** - K3 has a design point waste NCV of 10.5Mj/kg; this falls within the band reported in EfW Statistics 2019 (page 6, under title ‘Net Calorific Value of Residual Waste’):

‘Tolvik’s most recent analysis of data relating to the Net Calorific Value (“NCV”) of waste (from a variety of sources, some of which was under confidentiality) relates to 2017. This data suggested that the average NCV for Residual LACW in 2017 was 8.9MJ/Kg and for Residual C&I Waste was 11.0MJ/Kg. As previously reported, there is a very wide range of results and so these averages need to be treated with caution.’

- 1.2 Q4.1.2 - KCC - In your D5 submission BEIS Renewable Energy Statistics, Data Sources and Methodologies (July 2018) [REP5-044] please could you explain how the latent heat of the water vapour contained in exhaust gases, understood to be not normally recoverable (p33) would be calculated and verified in the eventual CHP process appertaining to the K3 Proposed Development, and how this affects if at all the NCV or, if this is explained in other document(s) submitted please provide a reference.**

- 1.2.1 The Applicant notes that this question is addressed to KCC and will review any response provided and comment accordingly at Deadline 8.

- 1.3 Q4.1.3 - Applicant - At Paragraph 1.12.6 of the Waste Hierarchy and Fuel Availability Assessment (WHFAR) [APP-086] the Applicant asserts that "Modern energy from waste plants such as K3/WKN are required to meet targets for recovery established through the Waste Framework Directive (2008/98/EC) (and as amended); they are designed to recover electricity effectively and efficiently, continuously minimising emissions." Please clarify what recovery targets are being referred to and how it is demonstrated that such targets have been or would be met.**

Please clarify what recovery targets are being referred to and how it is demonstrated that such targets have been or would be met.

- 1.3.1 At paragraph 1.12.6 (of Applicant’s Response to Examining Authority’s ExQ1A [REP3-004]) the Applicant is referring to the targets contained within the Waste Framework Directive 2008, commonly referred to as the R1 target. Annex II of the Waste Framework Directive (provided at Appendix A of Applicant’s Response to KCC’s Submissions at Deadline 5 [Document 13.3] presents the list of waste management facilities that can be classified as ‘Recovery Operations’; R1 is

defined as ‘Use principally as a fuel or other means to generate energy*’. The asterisk is used to denote a footnote, which provides the targets (the R1 target or test) that must be achieved in order for the use of waste as a fuel to generate energy to be formally recognised as a recovery facility. The footnote states:

‘This includes incineration facilities dedicated to the processing of municipal solid waste only where their energy efficiency is equal to or above:

– 0,60 for installations in operation and permitted in accordance with applicable Community legislation before 1 January 2009,

– 0,65 for installations permitted after 31 December 2008, using the following formula:

$$\text{Energy efficiency} = (E_p - (E_f + E_i)) / (0,97 \times (E_w + E_f))$$

In which:

E_p means annual energy produced as heat or electricity. It is calculated with energy in the form of electricity being multiplied by 2,6 and heat produced for commercial use multiplied by 1,1 (GJ/year)

E_f means annual energy input to the system from fuels contributing to the production of steam (GJ/year)

E_w means annual energy contained in the treated waste calculated using the net calorific value of the waste (GJ/year)

E_i means annual energy imported excluding E_w and E_f (GJ/year) 0,97 is a factor accounting for energy losses due to bottom ash and radiation.

This formula shall be applied in accordance with the reference document on Best Available Techniques for waste incineration.’

- 1.3.2 An application for R1 status can be made at any time. It may be submitted alongside an Environmental Permit application, at which point it will rely upon design data. However the Environment Agency will only validate R1 status on receipt of the actual boiler efficiency data that is captured through acceptance testing conducted during the commissioning stage. Once gained, the R1 status must be verified annually thereafter. **Appendix B** presents both the initial February 2018 R1 accreditation from the Environment Agency for Ferrybridge Multi Fuel 1 (‘FM1’), and the facility’s revalidation letter dated January 2019. This is how the R1 energy efficiency performance is verified by the Environment Agency.
- 1.3.3 FM1 is a power only plant, and readily meets the performance threshold set out in Annex II of the Waste Framework Directive. WTI Energy has commenced the application (intended to be submitted in September of this year) seeking R1 status for K3. **Appendix A** presents that draft application which relies upon the design data and consequently is indicative only. However, based on the design of the facility, as a combined heat and power (CHP) facility, K3 presents an indicative R1

factor of 0.93, far exceeding the 0.65 factor required by the Waste Framework Directive.

- 1.3.4 The Applicant has demonstrated that its facilities achieve R1 status, regardless of whether it is operating in power-only or CHP mode. Further to the R1 target being an industry standard to be demonstrated to be achieved, and formally recognised, it would be nonsensical for an energy recovery facility not to be run efficiently; this would mean a reduction of power output and consequent earnings. In addition, the Environmental Permit requires energy recovery facilities to be operated so as to recover as much energy as practicable.
- 1.3.5 Reference to EfW Statistics 2019 (presented in Applicant’s Responses to Deadline 4 Submissions [REP5-022] paragraphs 2.6.23 to 25) demonstrates that the industry is living up to this standard; that energy recovery facilities in England are performing well and making a material contribution to the renewable/low carbon energy demand. FM1 is identified as an optimal performing plan in exporting the highest level of power for three consecutive years; demonstrating the Applicant’s experience in operating efficient facilities that meet all relevant targets.
- 1.3.6 In addition to consideration of the Waste Framework Directive R1 target is consideration of recovery in a planning context. The primary policy basis for determining the Proposed Developments, submitted as an application for a Development Consent Order, is that set out in NPS EN-1 and EN-3. Neither policy document presents recovery targets and consequently the Proposed Developments cannot be in conflict with them. The Circular Economy Package (CEP) seeks increased recycling of municipal waste (reaching 65% by 2035) and a reduction in its landfill (no more than 10% by 2035). It does not have a target for recovery. Similarly, the adopted Kent Minerals and Waste Local Plan (policy CSW 4 monitoring targets, page 135) focuses on recycling/composting and landfill targets, whilst the Early Partial Review (policy CSW 4, table, page 14) does include a target for ‘other recovery’.
- 1.3.7 None of these policies (no planning policy to the Applicant’s knowledge) require compliance with the R1 target of the Waste Framework Directive; this is not surprising as the R1 target is focussed on plant efficiency rather than the waste hierarchy per se. Instead they provide a useful structure for establishing waste management expectations, although it should be remembered that the available data does not enable anyone to confirm the actual level of recycling or recovery achieved within any waste stream other than LACW. Consequently, whilst delivery of the waste hierarchy is a legal obligation, there is no definitive way to measure its implementation across municipal waste.
- 1.3.8 The approach used by the Applicant in its submission has been to assume that the recycling targets of the CEP are met, and consequently that this increased recycling reduces the amount of waste that would otherwise be disposed to landfill or exported outside the UK. The assumed additional recycling is subtracted from the calculated total of available fuel.
- 1.3.9 This approach means that the Applicant assumes that recycling targets are met (across municipal wastes) and that by diverting waste from landfill, to new

recovery capacity, the relevant landfill targets should also be met. The Applicant believes the waste hierarchy is implemented through the Proposed Developments having been designed to provide an appropriate level of recovery capacity that will operate at high efficiency standards.

- 1.3.10 As set out at paragraph 2.5.6 Applicant’s Response to D2 Submissions [REP3-003]:

‘K3/WKN would demonstrably take waste out of landfill and into recovery; this actively helps to drive waste to ascend the Waste Hierarchy. K3/WKN fully comply with adopted policy CSW2. In doing so, they also comply with all other legislative requirements in relation to the waste hierarchy. Not least this is demonstrated by reference to the Environmental Permit already granted for the existing K3 Facility which requires that wastes accepted at this facility shall be ‘treated’ such that they will be the residual output of re-use and recycling activities. It is to be expected that the same restriction would apply to WKN.’

1.4 Q4.1.4 - Applicant & KCC - Please provide updated information, if any, that is additional to what has already been provided to date, concerning your understanding of the position regarding the developments in Table 3.9 WHFAR [APP-086] which assesses comparable future capacity likely to be delivered.

- 1.4.1 The ExA will already be aware of the update provided in the Applicant’s Responses to ExQ1A [REP3-004] (responding to Q1A.1.37, page 38).

- 1.4.2 In addition to which, the Applicant has replied to both:

- KCC’s response to ExAQ1A, response made in Applicant’s Response to Submissions at Deadline 4 [REP5-022] (page 20 under title of ‘Q1A.1.37’); and
- KCC’s Comments on the Applicants Response to the Examining Authority’s Written Questions (ExQ1A) made in Applicant’s Response to KCC’s Submissions at Deadline 5 [Document 13.3] at paragraph 2.2.82 (last paragraph on page 23).

- 1.4.3 The status of each of the facilities presented in Table 3.9 of the WHFAR [APP-086] has been reviewed again since making those submissions. The row reference is as given in Table 3.9:

- Row a: Thames Gateway Energy Facility, no update to that previously provided
- Row b: In June 2020, the developers of the Rivenhall Integrated Waste Management Facility (IWMF) stated that the Environment Agency had issued the Variation of the Environmental Permit for the facility.

- Row c: Tilbury Green Power Ltd, no update to that previously provided
- Row d: Kemsley Sustainable Energy park, included in calculations, no update necessary
- Row e: Kemsley Park EfW, no update to that previously provided
- Row f: Beddington ERF, included in calculations, no update necessary

1.4.4 The Applicant continues to believe that there is no other new capacity that needs to be considered further.

2 ExQ4.2 – Environmental Impact Assessment

No questions at ExQ4

3 ExQ4.3 – Air Quality

No questions at ExQ4

4 ExQ4.4 – Archaeology and Cultural Heritage

No questions at ExQ4

5 ExQ4.5 – Ecology

- 5.1 Q4.5.1 - NE & IPs - A Draft Ecological Management & Enhancement Plan (EMMP) was provided at D5 [REP5-005], as requested in ExQ3. Are you content that it provides sufficient information and if not please comment accordingly?
- 5.1.1 The Applicant will review any responses to this question and will comment accordingly at Deadline 8.

6 ExQ4.6 – Greenhouse Gases and Climate Change

No questions at ExQ4

7 ExQ4.7 – Ground Conditions

No questions at ExQ4

8 ExQ4.8 – Habitats Regulations Assessment (HRA)

8.1 Q4.8.1 - Applicant - The second sentence in Evidence Note c to the Integrity Matrices in Appendix 2 [REP4-012] is unfinished. It currently reads 'To ensure no visual disturbance...'. The Note cross-references to the relevant information in the body of the HRAR. Please provide the missing text.

8.1.1 The Applicant has provided an updated HRAR at Deadline 7 which includes the missing text at Evidence Note c.

8.2 Q4.8.2 - MMO - At D5 the MMO [REP5-030] raised points about potential effects of the discharge of water on mussel beds as a result of changes in salinity and turbidity, and requested further elaboration on why there would be no likely significant effects.

Does the revised HRAR [REP6-008] now address your comments and if not why not?

8.2.1 The Applicant notes that this question is directed at the MMO and will review their response in order to comment as necessary at Deadline 8. The Applicant contacted the MMO on the 31st July 2020 to check if the MMO had any queries regarding the impacts of the proposed development on mussel beds but none have been raised with the Applicant to date.

9 ExQ4.9 – Landscape and Visual Impact

No questions at ExQ4

10 ExQ4.10 – Noise and Vibration

No Questions at ExQ4.

11 ExQ4.11 – Traffic and Transport

11.1 Q4.11.1 – HE & KCC - If you seek to secure the completion of highway improvement works within your responsibility before commencement, commissioning or as the case may be, operation of any part of the authorised development, please provide justification and a precise form of wording, preferably agreed, to be inserted into the DCO.

11.1.1 The Applicant notes that this question is directed to HE and KCC, although feels that a response would assist the Examining Authority. The Applicant has been in discussion with HE with regards to their proposed restrictions.

11.1.2 HE has advised the Applicant that the consented K3 traffic flows have already been factored into HEs future year modelling work and HE are not seeking any restrictions to be applied to K3 (noting that the existing consent already restricts these movements to 348 HGV movements per day). The Applicant has progressed a draft Statement of Common Ground with HE on this basis, a draft version of which has been submitted by HE at Deadline 7.

11.1.3 The Applicant intends to submit shortly after D7 an agreed Statement of Common Ground with HE in which peak hour and ‘shoulder’ restrictions will be applied to the HGVs generated by the K3 increased tonnage, the WKN construction and the WKN operation, with the lifting of these restrictions when the M2 Junction 5 and Grovehurst improvements are complete not agreed, whereby the Applicants position is they should and HEs position being they should not. The peak hour and ‘shoulder’ restrictions will cover the periods 07:30 to 09:30 and 16:30 to 18:30 with application to weekends as well as to weekdays not agreed, whereby the Applicants position is they should not and HEs position being they should.

11.1.4 Given that HGV movements generated by the K3 increased tonnage, the WKN construction and the WKN operation have an element of control by the operator (unlike vehicles generated by residential developments), such restrictions covering the peak hours and ‘shoulders’ can be managed by the operators.

11.1.5 Thus, HGV restrictions covering the peak hours and ‘shoulders’ can be applied to the K3 increased tonnage, the WKN construction and the WKN operation, unlike the residential developments currently in the planning system. For the residential developments, wholesale restrictions on development are necessary to achieve HEs aim of no increased traffic during the peak hours or ‘shoulders’ until such time as the M2 Junction 5 and Grovehurst improvements are complete.

11.2 Q4.11.2 - KCC - Has the Council as local highway authority secured the required development contributions and grant funding to improve the Grovehurst junctions and please explain the current position? What is the latest estimation

of when, in line with grant requirements, construction of the road improvements is expected to commence?

11.2.1 The Applicant will review the response to this question and will comment if necessary at Deadline 8.

11.3 Q4.11.3 – Applicant, HE & KCC - What degree of confidence is there in light of any relevant factors that may affect timescales in programmed highways improvement schemes of this nature, that i) completion of the A249 Grovehurst improvement works or ii) the M2/J5 improvement works would be completed in advance of a) commencement of construction and b) operation of the WKN Proposed Development, and please explain your reasoning?

11.3.1 Construction of the WKN Proposed Development would commence after the grant of the DCO in Q1 2021 and then become fully operational by Q3 2024. Construction of the WKN Proposed Development is estimated over an approximate 3.5 year period.

11.3.2 The Applicant understands the business case for the Housing Infrastructure Fund monies was that the A249 Grovehurst works were necessary to deliver the surrounding strategic and allocated residential sites.

11.3.3 The Applicant understands that the granting of Housing Infrastructure Fund monies for the A249 Grovehurst improvement works is conditioned by the scheme being delivered by an agreed date with the Department for Communities and Local Government, which the Applicant understands is before 2024.

11.3.4 The Applicant therefore understands that the A249 Grovehurst works must be completed and open to traffic before the WKN Proposed Development would become operational. Based upon this, there will be a minimum of a six month period before the WKN Proposed Development is fully operational when the A249 Grovehurst works have been completed and open to traffic.

11.3.5 In early 2020, a Public Inquiry for the M2 Junction 5 works was programmed for April 2020 with Highways England predicting a construction start date of summer 2020 and scheme opening of winter 2021 / spring 2022. A progress report on the Highways England website currently (on 27th July 2020) states:

'The Public Inquiry which was due to commence on 28 April 2020 has been postponed until further notice on the recommendation of the Planning Inspector, based on the Government's latest advice regarding Coronavirus (COVID-19). We are actively working with the Department for Transport (DfT) to arrange a future Public Inquiry for the M2 junction 5 Improvements Scheme.'

11.3.6 Based upon the timeline for the M2 Junction 5 works in early 2020, there was an approximate two year period when the improvements would be open to traffic prior to the WKN Proposed Development becoming operational. That would

mean that the M2 Junction 5 improvements would have been be open to traffic for two years of the 3.5 year construction period of the WKN Proposed Development.

- 11.3.7 Allowing for rescheduling of the Public Inquiry, the Applicant considers that it appears likely that the M2 Junction 5 works would be completed and open to traffic during the construction period of the WKN Proposed Development and thus prior to its opening.
- 11.3.8 The Applicant notes that planning conditions are being applied to the surrounding strategic and allocated residential sites that are in the planning system that prevent occupation of those dwellings until the A249 Grovehurst works and the M2 Junction 5 works are complete.
- 11.3.9 The delivery of the housing allocated within the Swale Local Plan (adopted in 2017) is therefore dependent upon these works being completed. There must therefore be high confidence amongst the housing developers, Swale Borough Council, Kent County Council and Highways England that these highway improvement schemes will be completed in the near future and prior to WKN becoming operational.
- 11.3.10 Notwithstanding the completion of these highway improvement works, and the matters remaining under discussion with HE (whether the restrictions should also apply to weekends and after completion of the works), the Applicant has agreed with HE that peak hour and ‘shoulder’ restrictions covering the weekday periods 07:30 to 09:30 and 16:30 to 18:30 until such time as the M2 Junction 5 and A249 Grovehurst works are complete. This means that even if these highway improvement works were delayed for any reason, then the HGV restrictions would still apply until the works were complete.

11.4 Q4.11.4 – HE & KCC - What precise restrictions if any are proposed to be placed on the WKN Proposed Development relating to traffic flows generated during the weekday peak hours or specified hours around peak hours, in advance of completion of (i) the M2/J5 and (ii) A249 Grovehurst improvement works? If there are any such, please provide a precise form of wording to be inserted into the DCO.

- 11.4.1 The Applicant notes that this question is directed to HE and KCC, although feels that a response would assist the Examining Authority.
- 11.4.2 Following discussions with HE, the Applicant will be submitting a Statement of Common Ground with HE shortly after D7 which will confirm that peak hour and ‘shoulder’ restrictions will be applied to the HGVs generated by the K3 increased tonnage, the WKN construction and the WKN operation, with the lifting of these restrictions when the M2 Junction 5 and Grovehurst improvements are complete not agreed, whereby the Applicants position is they should and HEs position being they should not. The peak hour and ‘shoulder’ restrictions will cover the periods 07:30 to 09:30 and 16:30 to 18:30 with application to weekends as well as to

weekdays not agreed, whereby the Applicants position is they should not and HES position being they should. These discussions remain ongoing.

11.5 Q4.11.5 – KCC - The Applicant states in its Transport Assessment Part 1 - ES Appendix 4.1 [APP-020] that KCC asked for evidence from other waste to energy sites (i.e. Aylesford) regarding vehicle arrival times to substantiate the estimations of vehicle profiles throughout the day, and replied with reasons that this is an inappropriate methodology and a flat profile has been assumed throughout the day to maximise the number of HGV movements during the highway network peak hours. Are you satisfied with this response and if not why not?

11.5.1 The Applicant will review the response to this question and will comment if necessary at Deadline 8.

11.6 Q4.11.6 – KCC - The Applicant’s response to S42 Consultation [APP-017] concerning requests for information from the neighbouring Countrystyle Recycling plant at Ridham Docks stated all waste movements are assumed to be new to the network, rather than coming from Countrystyle. Is this information still required and if so, please state why?

11.6.1 The Applicant notes that this question is directed to KCC, although feels that a response would assist the Examining Authority. Countrystyle’s depot is located in Ridham Dock and their RCVs travel along Swale Way and Barge Way past the K3 and WKN Proposed Developments access when travelling to / from their depot. The Preliminary Environmental Information submitted as part of the Section 42 consultation makes reference that RCVs from Countrystyle could access the K3 and WKN Proposed Developments.

11.6.2 If that were to occur, then those vehicle movements would already be on the network and they would not be ‘new’ vehicle movements, thus they would not need to be counted as part of the K3 and WKN Proposed Development traffic flows. The Applicants response to the Section 42 consultation confirms that no such reductions have been made and that all of the K3 and WKN Proposed Development traffic flows are treated as new to the highway network. On that basis, the K3 and WKN Proposed Development traffic flows do not need to be based upon Countrystyle’s RCV movements.

11.7 Q4.11.7 - Applicant - In paragraph 6.55 et seq of the Transport Assessment Part 1 [APP-020] it is estimated that the construction of WKN Proposed Development would generate a maximum of 45 HGV deliveries per day

(maximum of 90 HGV movements per day) during the peak construction period, based on “estimations of the project team”. Please:

- i) explain why it is not possible to retrieve data from HGV movements associated with the construction of the consented K3 facility; and
- ii) provide a reasoned justification for the maximum figure of 45 HGV deliveries per day and where this is based on previous examples please provide the source material and/or where it is based on any standard methodology please provide details that justify the extrapolation of this figure.

- 11.7.1 There were no planning conditions or obligations attached to the K3 planning consent (SW/10/444) that required details of its construction activities or its construction vehicle movements to be recorded. The Principal Contractor did not therefore make any such records and any such recording was outside of their contract requirements. Hence, there are no records available of the construction activities or construction vehicle movements for K3.
- 11.7.2 This is normal for construction sites, whereby such recordings are generally not a requirement of planning consents and Principal Contractors are not contracted to make any such recordings.
- 11.7.3 Construction activities at K3 commenced in July 2016 and at the time of undertaking assessment for the DCO application was approaching the latter stages of its construction. Estimates of construction vehicle movements for the WKN Proposed Development were therefore made based upon estimates that were made of construction vehicle movements for K3 as part of its planning application (SW/10/444).
- 11.7.4 The K3 estimates of construction HGV movements were made in 2009, however, they were not published as part of that planning application. They are not therefore in the public domain. The Applicant was not connected to the K3 planning application (SW/10/444) and thus the 2009 estimates of the K3 construction HGV movements are third party data.
- 11.7.5 Although the original 2009 estimates cannot be published, the Applicant has used its monthly HGV profile to generate the construction HGV profile for the WKN Proposed Development, as attached at **Appendix C**, which shows how the construction HGV movements peak at up to 45 deliveries per day.
- 11.8 **Q4.11.9 - Applicant & KCC - A review period of the Rail and Water Transportation Strategy of five years was imposed in the 2011 consent. Should:**
- i) **the five-year period be reassessed in light of current national and other planning policies and if so what period would be appropriate and why?; and**

ii) the review period be stipulated in the DCO and if not why not?

- 11.8.1 At Deadline 5 the Applicant submitted the KCC Committee Report relating to application SW/18/503317; a S73 application to increase the number of HGV movements permitted as part of the operation of K3 [Appendix I to Document 13.2 – Applicants Response to ExQ3 at D5]. The report, which was taken to Planning Committee in October 2018 confirmed that the 2017 revised rail strategy provided for a review to be undertaken on a five yearly basis, and was concluded at that time by KCC to remain an appropriate mechanism for encouraging alternatives to road use.
- 11.8.2 The Applicant acknowledges that since the determination of that application there has been an increased focus on climate change, illustrated by the amendment to the Climate Change Act in June 2019 and the commitments made by KCC and Swale BC to be carbon neutral by 2050. The Rail and Water Transportation Strategies reflect that focus on climate change by ensuring that opportunities to use rail and water transportation continue to be explored and reviewed. However as set out within the Applicant’s submissions at Deadline 5 [Document 13.2 – Applicant’s Response to ExQ3] the ability to use those forms of transport will primarily be dictated by the source of the waste being processed. Given the typical length of waste contracts a five yearly period is submitted to remain appropriate at this stage.
- 11.8.3 Further to the above, the Applicant considers that the Rail and Water Transportation Strategies remain the most appropriate place in which to stipulate the review period. Whilst the Applicant’s position is that a five year review period remains appropriate at this point, it acknowledges that in the future changes to national or local planning policies or other circumstances could result in a different review period being suitable. In that case having a review period defined in the Rail and Water Transportation Strategies themselves would allow that to be flexible and to be able to be altered through discussions between the Applicant and KCC, together with other interested parties, than if the review period were defined within the DCO.

11.9 Q4.11.10 - DfT - In ES Appendix 3.4 - S42 Consultation Letter and S42 Responses [APP016] the DfT stated it would be keen to see evidence that the scheme developers and the local authorities have considered with Network Rail what potential exists for a rail solution for the waste flows to the site. Please describe:

- (i) **what action(s) the DfT has taken itself or in conjunction with other government agencies or other authorities, if any, to pursue or facilitate the assembly of land, provision of funding or provision of necessary infrastructure with a view to realising (a) an improved rail terminal at Ridham Dock or (b) the use of land at Ridham dock for transportation by barge, for industries including the applicant’s, in proximity to the dock, to utilise a rail or a marine solution that would take heavy goods**

traffic off the highways network, specifying the particular action that the DfT itself has taken; and

(ii) what specific plans or programmes the DfT is pursuing if any to realise an improved rail terminal or transportation by barge at Ridham Dock as described in (i) above.

11.9.2 The Applicant will review the response to this question and will comment if necessary at Deadline 8.

11.10 Q4.11.11 - KCC - Please describe:

i) what action(s) KCC has taken itself or in conjunction with other government agencies or other authorities, if any, to pursue or facilitate the assembly of land, provision of funding or provision of necessary infrastructure with a view to realising (a) an improved rail terminal at Ridham Dock or (b) the use of land at Ridham Dock for transportation by barge, for industries including the applicant’s, in proximity to the dock, to utilise a rail or a marine solution that would take heavy goods traffic off the highways network, specifying the particular action that KCC itself has taken; and

ii) what specific plans or programmes KCC is pursuing if any to realise an improved rail terminal or transportation by barge at Ridham Dock as described in (i) above.

11.10.1 The Applicant will review the response to this question and will comment if necessary at Deadline 8.

11.11 Q4.11.12 - SBC - SBC’s strategic model report is referenced in a link that was given in its response to ExQ3.11.3 [REP5-027]. Please state where this document is submitted or supply it to the ExA.

11.11.1 The Applicant will review the response to this question and will comment if necessary at Deadline 8.

11.12 Q4.11.13 - Applicant - The ExA notes the Applicant was continuing to engage with HE to discuss matters in order to provide a SoCG “as soon as possible”. The Applicant would provide an update to the ExA ahead of ExQ4 being issued “if considered necessary”. The intention in requesting such documents is not that parties should hold back from submitting them until they have agreed matters, but to assist the ExA by providing a continuous and candid

explanation of exactly which matters are not agreed as well as well as those that are agreed. Please provide for D7 a SoCG with HE that fulfils this role.

- 11.12.1 The Applicant has progressed a draft SoCG with HE and issued this to HE prior to a meeting held between the Applicant and HE on 4th August 2020 with a view to submitting an agreed draft SoCG at D7. During this meeting, there were discussions that resulted in alterations being required to the draft SoCG to enable an agreed version to be submitted. HE have included the latest draft of the SoCG with their submissions at D7 and discussions between the parties are continuing on the basis that an agreed draft SoCG will be submitted shortly after D7.
- 11.13 Q4.11.14 - HE - Please comment on the email sent to you by the Applicant on 2 July 2020 [AS-018].**
- 11.13.1 The Applicant will review the response to this question and will comment if necessary at Deadline 8.
- 11.14 Q4.11.15 - Applicant - In its Additional Submission [AS-019] the site location of the Ferrybridge Multifuel 1 (FM1) site is referred to by a hyperlink. Please provide the evidence as a separate document.**
- 11.14.1 A Site Location Plan of the Ferrybridge Multifuel 1 (FM1) site, as submitted in support of its Section 36 application, is attached at **Appendix D**.
- 11.15 Q4.11.16 – KCC - Please comment on the Applicant’s post D6 Additional Submission [AS-019] relating to the Ferrybridge HGV movements.**
- 11.15.1 The Applicant will review the response to this question and will comment if necessary at Deadline 8.
- 11.16 Q4.11.17 – Applicant & KCC - If, as is asserted at para 2.4.7 of the Applicant’s post D6 Additional Submissions [AS-017] all HGV movements at Allington are during daytime periods, is the distance travelled by the vehicles relevant and if so how?**
- 11.16.1 Noting that this question relates to Allington, the key consideration that contributes to its vehicle deliveries occurring during daytime periods is it being primarily a municipal facility, meaning that the majority of its input is household waste that is collected at kerbside during daytime periods and delivered during daytime periods.

- 11.16.2 Waste being delivered to a facility over short distances would typically be delivered direct within Refuse Collection Vehicles as part of their daily rounds, meaning they would typically deliver during daytime periods.
- 11.16.3 Waste being delivered to a facility over longer distances would typically be from a Waste Transfer Station, which introduces some flexibility to when that waste is delivered to the facility. However, if the Waste Transfer Station is only operational during daytime periods (either by operator choice or by planning restrictions), then waste would typically be delivered to a facility during daytime periods. Waste could be delivered outside of daytime periods if the Waste Transfer Station was operational outside of daytime periods.
- 11.16.4 The timing of waste being delivered from longer distances is therefore dependent upon the operation of the Waste Transfer Station from which it is delivered. Operation of the Waste Transfer Stations dictate the timing of deliveries more so than the distance it is from a facility.
- 11.16.5 The type of waste can affect delivery timings as shown at the Allington facility. Municipal waste will typically be delivered during daytime periods whereas commercial and industrial waste has more opportunity for deliveries outside of daytime periods due to the greater flexibilities associated with not collecting from kerbside.
- 11.16.6 Other factors also include staffing. For example, Waste Transfer Stations may be operational outside of daytime periods, but HGV movements may only occur during daytime periods because staff for HGV loading etc may only work during daytime periods.
- 11.16.7 Staffing at the facility also contributes to the timing of waste deliveries. Suitable staff are required at the facility to accept waste deliveries and staff shifts are devised accordingly to optimise staff requirements with staff numbers. For example, operators would be unlikely to employ staff shifts outside of daytime periods for waste deliveries when there is limited demand, hence suppliers would be instructed to deliver during other periods when such staff are employed. The time periods over which facility operators advise suppliers they can accept waste deliveries therefore dictates the timings of such waste deliveries.
- 11.16.8 In summary, there are various factors that affect the delivery timings of waste, of which the distance travelled is one but is not one of the overriding factors.

12 ExQ4.12 – Water Environment

- 12.1 **Q4.12.1 - MMO - The MMO appears to advise the Applicant in its submission [REP6-012] that there is a need to consider the whole project against the SEIMP but does not identify any policy or legislative requirement in relation to it. However, in para 1.4 of the MMO’s D5 submission [REP5-030] they comment that only that the marine aspects of the project should be considered against the Plan. Please clarify the position.**
- 12.1.1 The Applicant notes that this question is directed at the MMO and will review their response and comment accordingly. The Applicant confirmed to the MMO on the 21st July 2020 that its position was that the assessment it provided at Deadline 4 was proportionate and appropriate, particularly in relation to the emerging status of the plan.
- 12.2 **Q4.12.2 – MMO - Applicant - Please supply any further submissions you wish to make, if possible, on an agreed basis, about the Applicant’s assessment [REP4-006] of the South East Inshore Marine Plan (SEIMP) - [REP6-010 & REP6-012], by D7.**
- 12.2.1 As noted in respect of Q4.12.1 the Applicant confirmed its position on the SEIMP to the MMO on the 21st July 2020, which remains as per its assessment at Deadline 4 [REP4-006]. The Applicant will review any clarification of the MMO’s position provided at Deadline 7 and will comment accordingly.

13 ExQ4.13 – Draft Development Consent Order

- 13.1 Q4.13.1 – Applicant & IPs - On 15 July the ExA has published suggested changes to the Applicant’s preferred dDCO (most recent version submitted at D6 [REP6-003]) predicated on consent for the K3 and WKN Proposed Developments. The ExA considers there are benefits to the K3 and WKN Proposed Developments being assessed comprehensively, however given the two proposals are in effect separate projects, the possible outcomes of the Application must be clear to all, which are: consent or refusal in respect of both projects, consent for the K3 Proposed Development only, or consent for the WKN Proposed Development only.

It is thus important that the dDCO separates out the two projects so that any eventual recommendation or decision to consent one only of the Proposed Developments is clearly set out in terms of a recommended DCO or DCOs. It follows that alternative sets of plans and drawings that show items and boundaries applicable only to K3 and its associated development, and an amended BoR should also be available to the Secretary of State. This request, to be made to the applicant for the amended documents for K3 only, is for them to be submitted in the alternative, rather than removing from the examination existing versions covering both generating station projects.

The ExA has therefore decided to issue an alternative proposed version of the dDCO (“K3 DCO”) [PD-017] based on an eventual consent for the K3 Proposed Development only. The ExA emphasises that no conclusions have been reached on the desirability of one alternative outcome over another at this stage of the Examination.

Therefore, please consider and comment as appropriate on both alternatives.

The ExA considers it unlikely, on the evidence currently available, that any recommendation to grant consent for the WKN Proposed Development would not also justify consent for the K3 Proposed Development, although the position will be continuously reviewed throughout the examination. Nevertheless if you consider justification exists for an outcome that results in consent for the WKN Proposed Development only please clarify your position and explain your reasoning.

- 13.1.1 The Applicant acknowledges the ExA’s comments on the possible outcomes of the application as set out within Q4.13.1, and the requested 'K3 only' documents have been provided.
- 13.1.2 The Applicant agrees that there is unlikely to be a situation where there is justification to grant consent for the WKN proposed development but not the K3 proposed development, given the existing K3 is now an established operational facility under its own planning permission.
- 13.1.3 For the avoidance of any doubt the Applicant’s position remains that the K3 and WKN proposed developments are both acceptable in planning terms, as

demonstrated through the application and the Applicant’s subsequent submissions. K3 and WKN would deliver priorities for energy recovery (regardless as to whether it is agreed that the Proposed Developments would recover renewable/low carbon energy or not) and diverting wastes from landfill and would contribute to meeting the identified urgent need for all types of electricity generation within the UK, within an appropriate location where any significant environmental impacts have been demonstrated to be avoided or mitigated.

- 13.1.4 Even if the ExA was to take the view that the Proposed Developments provide too much waste capacity in conflict with the waste hierarchy as set out in local plan policy, that is not a conflict which would result in K3 and WKN being in conflict with the development plan as a whole. Any adverse impacts which could be evidenced as arising from such a conflict would not in the Applicant’s view outweigh the clear benefits of the facilities under EN-1 and EN-3, the evidence for which stands and has failed to be disproven by any evidence submitted by the Interested Parties. It is submitted that there are no matters which have arisen during the Examination which would justify a situation where consent is granted for one of the facilities in the absence of the other, or indeed for neither facility.

13.2 Q4.13.2 - Applicant - Please state as exactly as possible when it is expected that the consented K3 scheme (KCC/SW/10/444) will be operational, providing details of what further steps need to be undertaken by the Applicant or others to make it so.

- 13.2.1 The consented K3 scheme become fully operational on the 16th July 2020.

13.3 Q4.13.3 - Applicant - In relation to the ExA’s K3 DCO [PD-017] please submit new alternative sets of plans and drawings that show items and boundaries applicable only to K3 and its associated development, and an amended BoR. (This request is made to the applicant for amended plans, drawings, BoR, etc. for K3 only for them to be submitted in the alternative, rather than removing from the examination existing versions covering both generating station projects).

- 13.3.1 The Applicant has submitted at Deadline 7:

- Document 2.8 – K3 Book of Reference (August 2020)
- Document 5.15 – ExA’s K3 Alternative DCO – Land Plan (9812-0071-02- July 2020)
- Document 5.16 – ExA’s K3 Alternative DCO – K3 Works Plan (9812-0072-02- July 2020)

13.4 Q4.13.4 – Applicant - In relation to the K3 dDCO [PD-017] in particular, please:

- i) indicate which if any of the requirements 14 to 30 (proposed to be deleted in the K3 DCO [PD-017] should nevertheless apply to the K3 Proposed Development, and if so why;**
- ii) state which if any of the detailed items of associated development for Works Nos. 1, 2, 3, 4, 5, 6, and 7 described in Schedule 1 should be included in the K3 authorised development and if so why; and**
- iii) In Article 16 K3 dDCO [PD-017], please consider how some of the documents listed will need to change to new ones not yet submitted into the examination, these would appear to be the alternative versions of the BoR, the Land Plan and the Works Plan.**

13.4.1 The Applicant’s position is as follows:

- (i) None of the requirements 14 to 30 apply to the K3 proposed development;
- (ii) Notwithstanding the fact that in reality K3 is now operational, the K3 DCO would make provision for the construction and operation of the K3 Proposed Development in its entirety. The Applicant therefore considers it to be appropriate that the following elements of Associated Development be retained within the K3 DCO:
 - Work No1C;
 - Work No1D;
 - Work No1E;
 - The list of ‘Further associated development’ items.
- (iii) Article 16 of the K3 DCO would need to be amended as follows, to reflect the alternate plans submitted at Deadline 7 (which are also listed in Q4.13.3):
 - 16 (a) – the book of reference (dated August 2020)
 - 16 (b) – the land plan (drawing number 9812-0071-02- July 2020)
 - 16 (c) – the works plan (drawing 9812-0072-02- July 2020)

13.5 Q4.13.5 - Applicant - Should “commissioned” in Requirements 15(1) and 25(1) in dDCO [REP6- 003] read “commenced”?

13.5.1 The Applicant agrees that Requirement 15 should provide for the written detailed landscaping scheme to be submitted and approved prior to the commencement of any part of Work No 2 and has made that change to its final preferred DCO submitted at Deadline 7.

13.5.2 The Operational Traffic Routing and Management Plan which is the subject of Requirement 25 applies to operational traffic associated with the WKN Proposed Development. The Applicant’s position is that it is therefore appropriate to require that plan to be submitted and approved prior to the commissioning of the WKN facility, rather than prior to the commencement of that development. Requirement 24 provides for the WKN CTMP to be submitted and approved prior to the commencement of development, thereby ensuring that WKN construction traffic is appropriately managed and controlled.

13.6 Q4.13.6 - Applicant - Requirement 21 in dDCO [REP6-003] has not been updated to make reference to the draft ecological management and enhancement plan. Should Requirement 21(2)(a) be amended to read “be in accordance with the draft ecological management and enhancement plan certified by the Secretary of State under article 16”?

13.6.1 The Applicant agrees and has made that change within its final preferred DCO submitted at Deadline 7.

13.7 Q4.13.7 - Applicant - With reference to the preceding question, should Article 16 dDCO [REP6- 003] be amended accordingly to include the draft ecological management and enhancement plan?

13.7.1 The Applicant has made this change to its final preferred DCO submitted at Deadline 7.

13.8 Q4.13.8 - KCC - In KCC D5 Submission - Highways Response to dDCO Requirement 10 – Heavy Goods Vehicles, [REP5-037] you dispute the figure of 416 movements per day. What exact amendments if any do you propose to Requirement 10 [REP6-003] as currently drafted and why?

13.8.1 The Applicant will review the response to this question and will comment if necessary at Deadline 8.

- 13.9 Q4.13.9 - KCC - Also in [REP5-037] you consider Requirement 10 does not adequately encourage use of Ritham Docks and therefore the number of movements should be reduced accordingly. What exact amendments if any do you propose to Requirement 10 [REP6-003] as currently drafted and why?**
- 13.9.1 The Applicant will review the response to this question and will comment if necessary at Deadline 8.

14 ExQ4.14. – Other Matters

- 14.1 Q4.14.1 - Applicant - The Applicant stated in their D6 covering letter that it expected to submit a draft SoCG with KCC and an updated Statement of Commonality of SoCGs prior to ExQ4 being issued. As these have not been received by the due date they should be received at the earliest opportunity. The intention in requesting these documents is not that parties hold back from submitting them until they have agreed matters, but to assist the ExA by providing a continuous and candid explanation of the matters not agreed as well as well as those that are agreed. Therefore please provide an updated SoCG on that and any other outstanding SoCGs by D7.**
- 14.1.1 The Applicant and KCC have had continued correspondence in the lead up to Deadline 7 in order to advance the SoCG to a point where it can be submitted. Whilst the two parties have endeavoured to find common ground in as many areas as possible the SoCG records those areas where there are matters which are under discussion or where agreement has not been reached. The Applicant and KCC are resolving a final point within the SoCG, following which it will move through the KCC internal sign-off procedures. The Applicant anticipates that the wording of the SoCG will be agreed on the 6th August 2020 and will therefore submit the SoCG as soon as it has received confirmation from KCC that it is able to do so. The Applicant will provide an updated Statement of Commonality alongside that SoCG when submitted.
- 14.2 Q4.14.2 - Applicant - The finalised SoCGs with EA and NE both appear incorrectly to reference the Marine Licence (ML) application reference (MLA/2017/00316) as the ML number. MMO state the correct ref is L/2017/00482/2 [REP6-012]. Also, both SoCGs incorrectly state that the ML was for the discharge of water from the outfalls instead of for their construction. Please would the Applicant clarify the position?**
- 14.2.1 The Applicant has provided tracked and clean versions of amended SoCG’s with the Environment Agency and Natural England at Deadline 7. The EA SoCG corrects the reference to the Marine Licence and the scope of the consent it provides. The NE SoCG makes that same change and clarifies other elements in response to the MMO representations [REP6-012].
- 14.3 Q4.14.3 - Applicant - KCC Please provide an updated “K3 Planning Permission – Planning Conditions Tracker” appended to the Planning Statement [APP-082] as an appendix to the latest SoCG with KCC which is due at D7.**
- 14.3.1 The Applicant has provided an updated version of the K3 Planning Permission – Planning Conditions Tracker to KCC and understands that KCC will be including a further version of that with their comments as part of their Deadline 7 submissions.

The Applicant will review those comments and will liaise with KCC in order to reach an agreed position on the matters raised.

14.4 Q4.14.4 – Applicant, KCC, SBC & HE - The submission at D6 of Allyson Spicer [AS-015] refers to a contract between Norfolk County Council and Veolia which appears to be a six-year contract for waste to be delivered initially to incineration facilities operated by the Applicant at Kemsley until 2021. Please add or comment on any information contained therein as you consider appropriate in response to the submission.

- 14.4.1 An extract from The Norfolk County Council Cabinet Report is provided as **Appendix E**. Paragraph 2.3 confirms that Norfolk County Council intend to direct waste to K3 until such time as the Rookery South Energy Recovery Facility is available, which is expected to be in late 2021. The report confirms that K3 would continue to act as a contingency solution during the term of the contract in question. K3 (and WKN) are intended to be regional facilities and the receipt of waste from Norfolk would be within the normal operation of the K3 facility as currently consented and operational.