



Project Team
The Planning Inspectorate

Your Reference: EN010083
Our reference: DCO/2018/00017

By email only

31 July 2020

Dear Sir/Madam,

**APPLICATION BY WT/EFW HOLDINGS LTD FOR AN ORDER GRANTING
DEVELOPMENT CONSENT FOR THE WHEELABRATOR KEMSLEY (K3)
GENERATING STATION AND THE WHEELABRATOR KEMSLEY NORTH (WKN)
WASTE TO ENERGY FACILITY**

Marine Management Organisation Deadline 7 Response

This document comprises the Marine Management Organisation's ("MMO") Deadline 7 response in respect of the above Development Consent Order ("DCO") Application. This is without prejudice to any future representation the MMO may make about the DCO Application throughout the examination process. This is also without prejudice to any decision the MMO may make on any associated application for consent, permission, approval or any other type of authorisation submitted to the MMO either for the works in the marine area or for any other authorisation relevant to the proposed development.

The MMO reserves the right to modify its present advice or opinion in view of any additional matters or information that may come to our attention.

Yours faithfully,



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1. Examining Authority's Further Written Questions and Requests for Information (ExQ4)

- 1.1. With regard to Q4.5.1 – the MMO wish to highlight point 3.15 within the Ecological Management & Enhancement Plan, that if impact piling is to be undertaken, this should be done using soft start measures. Please refer to point(s) 3.4 and 3.7 of this response. The MMO Defer to NE as the SNCB for further comment.
- 1.2. In response to Q4.8.2 – the MMO acknowledge the inclusion of water quality in the appropriate assessment stage for the HRAR and that “*All existing discharges to The Swale or Medway are regulated by the Environment Agency, including through the Environmental Permitting process, with the consents for such discharge subject to their own Habitats Regulations Assessment.*” As stated in point 2.9 the MMO defer all further comments on the HRAR to NE as SNCB.
- 1.3. In response to Q4.12.1 –the MMO clarify that the whole project should be considered against the South East Inshore Marine Plan (“SEIMP”). While the majority of the policies relate to the marine environment, and the terrestrial aspect of the project will not apply, some of the policies within the SEIMP will be impacted by terrestrial works. The MMO refer to their deadline 6 response, point 1.5.
- 1.4. In response to Q4.12.2. – the MMO refer to points 2.8 and 3.3 of this response. The MMO consider the assessment submitted to be lacking in detail, when compared to terrestrial planning policies. There is no difference in how either planning statements should be treated. The assessment submitted could be considered quite high level, compared to the assessments made by the MMO ourselves.
- 1.5. With regard to Q4.13.1 – the MMO has no comment to provide on whether WKN is included within the DCO or not. As there is no DML, the MMO have no objections to the approach taken by PINS.
- 1.6. With regard to Q4.14.2 – the MMO welcome the clarification request from the Planning Inspectorate (“PINS”).

2. Comments on responses to ExQ3 (Late Submission)

Kent CC - Deadline 5 Submission - Late Submission accepted at the discretion of the Examining Authority - Response to ExQ3

- 2.1. With regard to points Q3.6.9 and Q3.6.10 - the MMO understand the applicant noted that transport by water is not feasible. The MMO refer to their deadline 6 response, point(s) 1.1, 1.3, and 1.5 for further information on the requirement to consider any activities which may be licensable under Section 66 of the Marine and Coastal Access Act (2009), and requirement to consider operational impacts if transport by water is required.

3. Comments on Deadline 6 Submissions

Applicant - 2.1 Draft Development Consent Order (DCO)

- 3.1. With regard to section 9 – Discharge of Water – the MMO defer to the EA for final comment on the suitability of this section.
- 3.2. With regard to section 10 – Authority to survey and investigate land – the MMO would like to query the interpretation of ‘land’ and suggest the addition of Mean High Water Springs (“MHWS”) under section 10 (4), including an interpretation of MHWS. The MMO recommend the following as an interpretation “*Mean high water springs*” means the average of high water heights occurring at the time of spring tides.
- 3.3. With regard to Schedule 2 (Part 1 – 4) – the MMO acknowledge that the applicant has confirmed that the decommissioning of the outfalls will be applied for by way of a separate marine licence and have no other comments to raise.
- 3.4. With regard to the ‘piling and penetrative foundation design’ (28) – the MMO wish to highlight that if impact piling methods are required then soft-start procedures must be implemented –
“If impact piling is required during construction the licence holder must ensure a gradual ramping up or slow start of piling. The soft-start duration must be a period of not less than 20 minutes. Should piling cease for a period greater than 10 minutes, then the soft start procedure must be repeated.”
- 3.5. With regard to the Construction Environmental Management Plan (22.—2 b. and 3) – the MMO recommend the European Protected Species requirements are highlighted if not already done so.

Applicant - 14.2 Applicant’s Response to Submissions at Deadline 5

- 3.6. With regard to section 2.6 – the MMO has addressed these points within previous deadline responses, and as such have no further comment to make.
- 3.7. With regard to point 2.6.11 – the MMO welcome the removal of requirement 29 (3), and suggest the addition of soft-start procedures for impact piling methods.
- 3.8. With regard to the marine plan assessment – It is the opinion of the MMO that the marine plan assessment should be incorporated into the applicant’s formal application documents as it is the equivalent of the terrestrial planning policies considered within the Planning Application Supporting Statement, section 5. The MMO refer to their deadline 6 response, point 1.5.

Applicant 3.1 - ES Volume 2 Appendix 11.2: Habitats Regulation Assessment Report

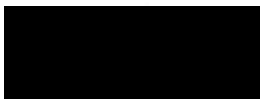
- 3.9. With regard to points 1.3 and 3.6 - the MMO confirm the correction of the typographic error. The MMO has no further comment to make regarding the Habitats Regulation Assessment Report (“HRAR”) and defer to Natural England (“NE”) as the Statutory Nature Conservation Body (“SNCB”).

4. Comments on Examining Authority’s Report on the Implications for European Sites (RIES)

4.1. With regard to point 4.2.1 – the MMO would like to highlight the soft-start mitigation for piling should be included within the DCO. Please refer to point 3.4 of this response for more detailed comments and suggested condition wording.

5. Comments on the Examining Authority's Draft K3 Development Consent Order

5.1. With regard to the removal of WKN from the proposed DCO by PINS - If the planning authority are minded to reintroduce WKN (Work No 2) in the DCO, then the MMO recommend the inclusion of piling mitigation measure previously discussed for the Applicant's draft DCO. Please see point(s) 3.4 and 3.7 of this response.



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