

K3 Planning Permission – Planning Conditions Tracker

KCC Commentary – August 2020

Condition	Original – SW/10/444 6 th March 2012	Variation of Conditions 2 and 4 - SW/14/506680 21 st April 2015	Variation of Condition 16 – SW/17/502996 23 rd August 2017	Variation of Condition 3 – SW/18/503317 11 th October 2018	Removal of Condition 11 – SW/19/501345 14 th June 2019	Status within DCO	KCC Commentary
							The County Council would like to draw attention to SW/12/1001 – the formation of an improved access road and associated development to serve the Kemsley Sustainable Energy Plant and how this factors in to the DCO. The consent was varied under SW/13/1257.
1	The development to which this permission relates shall be begun not later than the expiration of 5 years commencing with the date of this permission		The development to which this permission relates shall be begun not later than the expiration of 3 years beginning with the date of this permission. Written notification of the actual date of commencement shall be sent to the County Planning Authority within 7 days of such commencement.			The condition has been satisfied due to K3 now being constructed and operational. The dDCO contains its own provisions in terms of the commencement of the development it seeks to authorise.	
2	The Development to which this permission relates shall be carried out strictly in accordance with the details submitted with the application together with those further details to be submitted for approval.	The Development to which this permission relates shall be carried out strictly in accordance with the details submitted with the application as varied together with those further details to be submitted for approval.	Unless otherwise approved beforehand in writing by the Waste Planning Authority, the development to which this permission relates shall be carried out and completed in all respects strictly in accordance with the details permitted under planning reference SW/10/444 on 6 March 2012, as amended and/or supplemented by planning permission SW/14/506680 dated 21 April 2015,	Unless otherwise approved beforehand in writing by the Waste Planning Authority, the development to which this permission relates shall be carried out and completed in all respects strictly in accordance with the details permitted under planning reference SW/10/444 on 6 March 2012, as amended and/or supplemented by planning permission SW/14/506680 dated 21 April 2015,	Unless otherwise approved beforehand in writing by the Waste Planning Authority, the development to which this permission relates shall be carried out and completed in all respects strictly in accordance with the details permitted under planning reference SW/10/444 on 6 March 2012, as amended and/or supplemented by planning permission SW/14/506680 dated 21 April 2015,	The dDCO refers to a set of approved 'as built' documents, drawings and plans relating to K3, which will form the approved works plans in respect of the K3 facility.	

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			<p>the non-material amendment to planning permission SW/10/444 dated 27 March 2017 [i.e. building footprint, elevations, appearance and site layout] under planning reference SW/10/444/RB,</p> <p>the details approved pursuant to planning permission SW/10/444 on 23 September 2013 [i.e. rail strategy (condition 6), contamination risk (condition 10), buffer management zone for ditch (condition 11), environmental management plan (condition 12), programme of archaeological work (condition 13), scheme of landscaping (condition 14) and waste bunkers (condition 20)]</p> <p>and 27 June 2017 [i.e. rail strategy (condition 6), buffer zone alongside western ditch (condition 11), environmental monitoring and mitigation plan (condition 12), landscaping scheme (condition 14) and storage bunkers (condition 20)]</p>	<p>planning permission SW/17/502996 dated 23 August 2017,</p> <p>the non-material amendment to planning permission SW/10/444 dated 27 March 2017 [i.e. building footprint, elevations, appearance and site layout] under planning reference SW/10/444/RB,</p> <p>the details approved pursuant to planning permission SW/10/444 on 23 September 2013 [i.e. rail strategy (condition 6), contamination risk (condition 10), buffer management zone for ditch (condition 11), environmental management plan (condition 12), programme of archaeological work (condition 13), scheme of landscaping (condition 14) and waste bunkers (condition 20)]</p> <p>and 27 June 2017 [i.e. rail strategy (condition 6), buffer zone alongside western ditch (condition 11), environmental monitoring and mitigation plan (condition 12), landscaping scheme (condition 14) and storage bunkers (condition 20)],</p>	<p>planning permission SW/17/502996 dated 23 August 2017,</p> <p>planning permission SW/18/503317 dated 11 October 2018,</p> <p>the details approved pursuant to planning permission SW/10/444 on 23 September 2013 [i.e. rail strategy (condition 6), contamination risk (condition 10), buffer management zone for ditch (condition 11), environmental management plan (condition 12), programme of archaeological work (condition 13), scheme of landscaping (condition 14) and waste bunkers (condition 20)]</p> <p>and 27 June 2017 [i.e. rail strategy (condition 6), buffer zone alongside western ditch (condition 11), environmental monitoring and mitigation plan (condition 12), landscaping scheme (condition 14) and storage bunkers (condition 20)],</p> <p>the non-material amendment to planning permission SW/18/503317 dated 21 December 2018 [i.e. built elevations, appearance and site layout],</p>		

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			and the details submitted with the application referred to above, and as stipulated in the conditions set out above and below.	and the details submitted with the application referred to above, and as stipulated in the conditions set out above and below.	and the details submitted with the application referred to above, and as stipulated in the conditions set out above and below.		
3	The maximum number of Heavy Goods Vehicle movements to and from the Application Site shall not exceed a combined total of 258 movements per day save for movements in accordance with Condition (5) subject to any prior written variation as approved by the Waste Planning Authority.		The maximum number of Heavy Goods Vehicle movements to and from the Application Site shall not exceed a combined total of 348 movements per day save for movements in accordance with condition 5 subject to any prior written variation as approved by the Waste Planning Authority.			The dDCO seeks to establish an increased limit of daily HGV movements of 416, via Requirement 10, to reflect the proposed waste tonnage throughput increase being sought.	As per SoCG and representations made to the Examination, KCC would suggest that this would undermine the previous condition and be unacceptable in highway terms. No increase should be permitted other than those to and from the Ridham Dock to encourage the applicant to pursue more sustainable options in accordance with national and local policy.
4	Waste deliveries shall only take place between 07:00 and 18:00 hours Monday to Friday inclusive and 07:00 and 13:00 hours on Saturdays, no waste deliveries shall take place on Saturday afternoon, Sunday or Bank/Public Holidays save for those deliveries in accordance with condition (5) and subject to any prior written variation as approved by the Waste Planning Authority.	Condition deleted				The condition was deleted and no transfer to the dDCO is required.	Agreed.
5	Waste deliveries originating from and returning to the railway depot at Ridham Docks accessing and egressing the Application Site by the use of Ridham Dock Road shall not be subject to conditions (3) and (4) of the permission.		Waste deliveries originating from and returning to the railway depot at Ridham Docks accessing and egressing the Application Site by the use of Ridham Dock Road shall not be subject to condition 3 of the permission.			Requirement 10 transfers this condition to the dDCO.	Agreed
6	Prior to the Commencement of Development a strategy to encourage the use of the railway in the vicinity of the Application Site as a means of transporting waste deliveries to the Development hereby permitted shall be submitted to and approved in writing by the Waste Planning Authority and thereafter implemented in accordance with the approved strategy.		The rail strategy approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.			Requirement 6 requires the K3 facility to be operated in accordance with the K3 Rail and	Not agreed. The current strategy is not considered to be effective as the applicant has repeatedly requested increases in HGV movements from

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						Water Transportation Strategy [Document 4.8] which sets out how the use of rail as a delivery method is to be encouraged.	the original SEP consent. Suggest the original condition be replicated with a requirement for a new strategy to be written and approved by the Highway Authority that includes penalties unless increasing levels of waste delivery through sustainable means is evidenced.
7	With the exception of construction using the concrete slip-forming method, construction using constant pore methods for concrete laying and internal process works relating to mechanical and/or electrical equipment installation, construction activities shall only take place between 07:00 and 19:00 hours Monday to Friday inclusive and 07:00 and 16:00 hours Saturday and Sunday with no construction activities to take place on Bank or Public Holidays subject to any prior written variation as approved by the Waste Planning Authority.					This condition has not been transferred as the K3 facility is now operational with no construction required in practice to implement the K3 elements of the dDCO.	
8	All piling shall be by way of Auger other than where an alternative method is required for structural reasons. In such circumstances the prior written consent of the Waste Planning Authority shall be required which shall only be given if it has been demonstrated that there is no resultant unacceptable risk to groundwater and that impact piling will not take place between 1 April and 31 August in any given year, subject to any prior written variation as approved by the Waste Planning Authority.					This condition has not been transferred as the K3 now operational, with no construction required in practice to implement the K3 elements of the dDCO.	
9	Noise levels as measured at the residential locations as set out in Figure 12.1 of Chapter 12 (Noise and Vibration) of the Environmental Statement (March 2010) attributable directly to the Development hereby permitted shall not exceed the background levels as set out in Appendix 12.5 of the Environmental Statement (March 2010) (Operational Noise Assessment) dated 24 November 2009.					This level of mitigation is not considered necessary as the ES concludes that detailed design will be the primary mitigation for noise. In the case of WKN Requirement 14 states that noise	

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						mitigation measures will be built into the design.	
10	<p>Prior to the commencement of development the following components of a scheme to deal with the risks associated with contamination of the Application Site shall each be submitted to and approved in writing by the Waste Planning Authority and thereafter implemented in accordance with the approved scheme:-</p> <p>1.1 A preliminary Risk Assessment which has identified:- (a) All previous uses; and (b) Potential contaminants associated with those uses; and (c) A conceptual model of the Application Site indicating sources, pathways and receptors; and (d) Potentially unacceptable risks arising from contamination at the Application Site.</p> <p>1.2 A site Investigation Scheme based on the Preliminary Risk Assessment under 1.1 above shall identify those receptors which are most likely to be affected by contamination.</p> <p>1.3 A Detailed Risk Assessment shall be undertaken of those receptors identified in the Site Investigation Scheme.</p> <p>1.4 A Detailed Risk Assessment shall inform an Options Appraisal and Remediation Strategy for those receptors identified in the Site Investigation Scheme and shown by the detailed Risk Assessment to require remediation. Details of the required remediation measures recommended for implementation shall be included in the Detailed Risk Assessment.</p> <p>1.5 The recommendations of the Detailed Risk Assessment shall be undertaken in accordance with the provisions therein.</p> <p>1.6 A Verification Plan shall present data and evidence to show that the recommendations in the Detailed Risk Assessment have been undertaken.</p> <p>The Verification Plan shall set out details of any long term monitoring of pollutant linkages that is required and shall provide mechanisms for ongoing maintenance arrangements and contingency actions.</p>	The scheme to deal with the risks associated with contamination of the Application Site approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 23 September 2013 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.			This condition has not been transferred as the K3 facility is now operational, with no construction required in practice to implement the K3 elements of the dDCO.		

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	Following the commencement of Development any long term monitoring or maintenance arrangements and contingency actions identified shall be undertaken as provided for subject to any prior written variation as approved by the Waste Planning Authority.						
11	Prior to the Commencement of Development a scheme for the provision and management of a buffer zone alongside and including the ditch within the west of the application area as shown on Figure 4.2 of the Planning Application Supporting Statement shall be submitted to and approved in writing by the Waste Planning Authority. Thereafter the Development shall be carried out in accordance with the approved scheme subject to any written variation as approved by the Waste Planning Authority. The Scheme shall include the following: (a) Plans showing the extent and layout of the buffer zone; and (b) Details demonstrating how the buffer zone will be protected during construction of the Development and managed/maintained over the longer term.	The scheme for the provision and management of a buffer zone alongside and including the ditch within the west of the application area as shown on Figure 4.2 of the Planning Application Supporting Statement approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.		Condition Deleted		This condition has been deleted and does not therefore need to be transferred.	
12	Prior to the Commencement of Development a detailed Environmental Management Plan including Construction Method Statement to incorporate the proposed migration as outlined in the document entitled 'Appendix 9.6 Information for an Appropriate Assessment' for suppression of dust, construction noise, lighting and visual disturbance shall be submitted to and approved in writing by the Waste Planning Authority and thereafter be implemented as approved.	The detailed Environmental Management Plan including Construction Method Statement approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.				This condition has not been transferred as the K3 facility is now operational, with no construction required in practice to implement the K3 elements of the dDCO.	
13	Prior to the Commencement of Development a programme of archaeological work shall be submitted to the Waste Planning Authority for approval which shall include details of specification and timetables. The programme shall thereafter be implemented as approved.	The programme of archaeological work approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 23 September 2013 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.				This condition has not been transferred as the K3 facility is now operational, with no construction required in practice to implement the K3 elements of the dDCO.	
14	Prior to the Commencement of Development details of a scheme of landscaping and tree planting shall be submitted to the Waste Planning Authority for approval and shall thereafter be implemented as approved.	The scheme of landscaping and tree planting approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be implemented as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.				This condition has not been transferred, but the landscaping and	

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						tree planting scheme referred to is included in the dDCO as an approved K3 works plan.	
15	All trees and shrubs planted under the scheme as approved under condition (14) above shall be maintained for a period of 5 years. Any trees or shrubs that either die, are lost, damaged or become diseased during this 5 year period shall be replaced with a tree or shrub of the same species within the next available planting season.		All trees and shrubs planted under the scheme as approved under condition 14 above shall be maintained for a period of 5 years. Any trees or shrubs that either die, are lost, damaged or become diseased during this 5 year period shall be replaced with a tree or shrub of the same species within the next available planting season.			This condition has been transferred to the dDCO in the form of Requirement 11.	
16	The Development hereby permitted shall be carried out strictly in accordance with the Flood Risk Assessment (FRA) submitted in support of the application and which includes the following detailed mitigation measures:- 1.1 The surface water management scheme outlined within Appendix 4 of the FRA (Surface Water Management and Foul Drainage Philosophy Statement) and the storage areas shown on drawings 16315 AO 0600 and 16315 AO 0301 within Appendix B shall be constructed and operational prior to the acceptance of waste by the Development. 1.2 A safe route into and out of the Application Site to an appropriate safe haven shall be identified and provided. 1.3 Finished floor levels are to be set in accordance with the FRA.		The Development hereby permitted shall be carried out strictly in accordance with either: A. The Flood Risk Assessment (FRA) submitted in May 2017 which includes the following detailed mitigation measures: 1. The Surface Water Management and Foul Drainage Philosophy (including the drainage layout and surface water storage pond as shown on drawing referenced 16315 / A0 / 0301 Rev H and site section referenced 16315 / A0 / 0250 Rev G at Appendix B) which shall be constructed and operational prior to the acceptance of waste by the development; 2. A safe route into and out of the Application Site to an appropriate safe haven shall be identified and provided; and 3. Finished floor levels are to be set in accordance with the FRA. or B. A Flood Risk Assessment and Surface Water Drainage Philosophy submitted to and approved by the Waste Planning Authority in writing.			The Surface Water Management and Foul Drainage Philosophy referred to in the Condition is certified within the DCO .	The County Council request clarity on where this is certified within the DCO.
17	All surface water drainage from the Application Site discharging to a local water course shall be attenuated for a 1:100 year return storm with a limited discharge of 7 litres per second per hectare or the equivalent run off from a Greenfield site for a 1:2 year storm.					This condition has been transferred to the dDCO through Requirement 12.	
18	Work on the proposed drainage outfall to the Swale (as shown on Figure 4.25 Proposed Drainage Layout of the Planning Application Site Supporting Statement) shall only take place between 1 April and 31 September in any given year.					The outfall has now been constructed, so there is no need to transfer this condition.	
19	All fuels, oils and other liquids with the potential to contaminate the Application Site shall be stored in a secure bunded area in order to prevent any accidental or unauthorized discharge to the ground. The area for storage shall not drain to any surface water system. Where it is proposed to store more than 200 litres of any type of oil on the Application Site it must be stored in accordance with the provisions of the Control of Pollution (Oil Storage) (England) Regulations 2001. Where a drum or barrel has a capacity of less than 200 litres a drip tray capable of retaining 25% of the maximum capacity of the drum or barrel may be used in lieu of storing the drum or barrel in the secure bunded area.					This condition has been transferred to the dDCO through Requirement 5.	

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20	Prior to their installation/construction on the Application Site details of the storage bunkers (as shown on Figure 4.2 of the Planning Application Supporting Statement) into which waste would initially be tipped shall be submitted to the Waste Planning Authority for approval and then subsequently installed/ constructed in accordance with such approved details.		The storage bunkers into which waste would initially be tipped approved by the Waste Planning Authority under planning reference SW/10/444/RVAR on 27 June 2017 shall be installed / constructed as approved unless otherwise approved beforehand in writing by the Waste Planning Authority.			The details of the waste storage bunkers are included as an approved plan within the dDCO. As such this condition does not need to be transferred.	
21	Details of an external lighting strategy which follows best practice to reduce the impact of light spillage on the adjacent SPA and Ramsar site shall be submitted to the Waste Planning Authority for approval prior to the installation of external lighting on the Application Site. External lighting shall only be installed on the Application Site in accordance with the approved lighting strategy.					The condition was discharged on 14 th June 2019. The approved landscaping scheme is included in the approved drawings certified within the dDCO.	
22	Other than waste arising from within Kent all waste used as a fuel in the Sustainable Energy Plant hereby permitted shall be pre-treated. Unless otherwise agreed in writing by the Waste Planning Authority no less than 20% of the annual waste throughput shall be pre-treated waste sourced from within the area defined as Hinterland shown on the plan attached to the letter from RPS dated 17 March 2011 entitled KENT & HINTERLAND and which includes Kent, Tandridge, Thurrock and Medway.					As documented in the Planning Statement [Document 4.2], the level of control imposed by this condition is not considered by the Applicant to be justified and it is not proposed for it to be transferred to the DCO.	The County Council as Waste Planning Authority considers that the objective of condition 22 is still required in order for the development to be sustainable and for the waste proximity principle to be met. It is noted that the ground for imposing the condition was to ensure that the sourcing of the waste processed at the plant is consistent with the waste proximity principles and to secure waste management capacity sufficiently to achieve net regional and sub-regional self-sufficiency.
23	In the event that Kemsley Paper Mill no longer requires heat and/or power from the Sustainable Energy Plant hereby permitted, the operator of the plant shall submit a scheme to the Waste Planning Authority for approval setting out details of the steps that will be taken to identify alternative users of the heat and/or power generated.					This condition has been transferred to the dDCO through Requirement 13.	

