

Meeting note

Project name	Wheelabrator Kemsley Generating Station (K3) – Power Upgrade
File reference	EN010083
Status	Final
Author	The Planning Inspectorate
Date	24 May 2018
Meeting with	Wheelabrator Technologies Inc (WTI)
Venue	Rivergate, Bristol
Attendees	The Planning Inspectorate Chris White – Infrastructure Planning Lead Emre Williams - Case Manager Ewa Sherman - Case Officer Alison Down – EIA and Land Rights Advisor The Applicant Chris Ratcliffe – WTI Paul Green – WTI Yohanna Weber – Fieldfisher David Harvey - DHA
Meeting objectives	Project update meeting
Circulation	All attendees

Summary of key points discussed and advice given

The Planning Inspectorate (the Inspectorate) advised that a note of the meeting would be taken and published on its website in accordance with section 51 (s51) of the Planning Act 2008 (the PA2008). Any advice given under s51 would not constitute legal advice upon which applicants (or others) could rely.

Project update

The Applicant provided an update in relation to the K3 project since the last meeting with the Inspectorate on 12 October 2017. They stated that they had carried out a substantial amount of work regarding the consultation, with the timetable/ programme for submission of the K3 application dependant on the outcome of s35 discussions with the SoS, which formed the subject of the meeting.

The proposed development is adjacent to the Kemsley Mill, on land owned by DS Smith. The Applicant, having an agreement with the landowner, is developing K3 which is a combined heat and power facility which will generate up to 49.9MW (gross) of clean, sustainable electricity. At present, the facility is being constructed under the terms of its existing planning permission granted by Kent County Council in 2012. K3 is in construction to operate in July 2019, under the TCPA permission for the output of up to 49.9MW.



The Applicant is proposing to increase the operating generating capacity of the K3 plant to more than 50MW (gross) meaning it would then be classed as a Nationally Significant Infrastructure Project (NSIP). This will allow for the delivery of an estimated increased electrical output of up to 75MW (gross) (for export to the grid) and 70 tonnes of steam per hour to be used by the mill.

The Applicant is also proposing to develop Wheelabrator Kemsley North (WKN), formerly known as K5, a waste from energy plant which would have a total generating capacity of up to 42MW. As the WTI commissioned fuel capacity reports identified capacity gaps and a need for an additional facility to supply energy in Kent, the Applicant considers that WKN new single facility will potentially help to fill the gap. The Applicant did not proceed with plans for an Incinerator Bottom Ash (IBA) facility on site, but plan to transport this product through a 3rd party, which allowed land to be freed up for WKN. Access to the new proposed development would be along Barge Way, and there would be a common access point. At the moment the proposed site for WKN is being used as a construction lay down area for K3. Formal consultation on the K5 proposal would be scheduled for October/ November 2018, with the operation commencing in 2023.

Section 35 direction

Under s35 of PA2008, the relevant Secretary of State (SoS) can give a direction for certain projects to be considered a NSIP, if they do not currently meet the thresholds within the PA2008.

The Applicant stated their current intent is to seek a s35 Direction for WKN, given its location, context within the Kemsley Paper Mill, benefits beyond the local region, and the role it can play in supporting the transition to a low-carbon economy. They consider the proposal to be supporting industrial businesses in the vicinity, contributing to local economy, local regional growth and the national economy.

The Inspectorate advised that the Applicant may wish to contact the Department for Business, Energy and Industrial Strategy (BEIS) regarding the eligibility for consideration of the project under s35(1)(d), to seek guidance as to what information is required to be provided with an application for a Direction.

The Applicant has not engaged in discussions with BEIS yet, as they are currently considering the consenting options, which are dependent on the constraints of the site. The Applicant considers that optimum use of land would have a two-fold benefit as showing a clear functional link between K3 and WKN, and having the same owner and access. They consider that examining two projects together in one application would save time and cost during Examination, and also have benefit from the Local Authority's perspective in terms of understanding the overall impacts of the scheme, and save on resources.

In response to the Inspectorate's query as to whether a new development would be considered as an extension to the existing plant, the Applicant advised that these will be separate facilities although with connection on the same grid connection route, but although they could potentially use the same ducting, they would link into different grid connections. The Inspectorate advised the Applicant to ensure robust explanation about the separate processes to BEIS and to look at previous s35 applications. Considering



material requested at Acceptance (excluding consultation) under Regulations 5 & 6 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP), and also reviewing past s35 Directions issued by the relevant SoS such as the Norwich Northern Distributor Road, Silvertown Tunnel, IAMP, Triton Knoll Connection, which should be helpful. However, if the reasoning is not accepted by the SoS, then the Applicant will need to reconsider the consenting route.

The Applicant intends to submit the s35 application by 31 May 2018, and BEIS will have 28 days to make a decision thereto.

If accepted/ approved the Applicant will carry out statutory consultation for both projects, K3 and WKN, simultaneously which will also simplify the process for the members of public, and avoid consultation fatigue. The Inspectorate advised to ensure clarity to avoid any timetable clashes as another project (Kemsley Paper Mill (K4) CHP Plant) at the same site is currently on the pre-examination stage.

Proposed joint K3/WKN DCO application (if Section 35 request granted)

DCLG Guidance on associated development applications for major infrastructure projects states at paragraph 9:

'A single application can cover more than one project requiring development consent under the Planning Act. Applicants are encouraged, as far as is possible, to make a single application where developments are clearly linked.'

However, the Inspectorate advised this would depend on the outcome and decision made by the SoS on s35 Direction and the application made. It is in the relevant SoS' remit to decide whether K3 and WKN could form a single proposal or be considered as two separate NSIPs. Clarity about requirements to cover additional output is the key when drafting a DCO. Additionally, wording within the DCO, reasoning within the Explanatory Memorandum, Environmental Statement and Cumulative Effects should be consistent.

The Applicant stated that although no formal discussions have been held, the Local Authorities are aware of the proposed consenting route considered by the Wheelabrator Technologies Incorporated.

The Inspectorate advised the Applicant to sign up to receive alerts and automatic notifications when key guidance and Advice Notes are updated on the National Infrastructure website.

Regarding the General Data Protection Regulations 2018 (GDPR 2018) the Applicant stated that it will be taking into account rights and responsibilities under the requirements of GDPR 2018 to ensure compliance with new Regulations, especially when preparing the Consultation Report.

The Inspectorate also advised to schedule a further meeting after the key stages during pre-application which can be very beneficial, and to build in time in the programme for the review of the draft application documents, if required. The Inspectorate can review

and comment on the draft DCO, especially if the Applicant considers it contains any new or novel issues.

Specific decisions

The following actions were agreed:

- The Inspectorate requested to be updated about progress on the Applicant's s35 Direction application to BEIS.