



Meeting note

Project name	Wheelabrator Kemsley Generating Station (K3) and Wheelabrator Kemsley North (WKN) Waste to Energy Facility
File reference	EN010083
Status	Final
Author	The Planning Inspectorate
Date	29 May 2019
Meeting with	The Department for Business, Energy and Industrial Strategy and Wheelabrator Technologies Holdings Inc
Venue	Teleconference
Attendees	The Planning Inspectorate Chris White (Infrastructure Planning Lead) Siân Evans (Case Manager) Justin John (Legal advisor to the Planning Inspectorate) The Department for Business, Energy and Industrial Strategy ('BEIS') Denise Libretto Naomi Williams Jane Worsey (Legal advisor to BEIS) The Applicant Yohanna Weber Tom Jeral Jessica Gray Chris Ratcliffe
Meeting objectives	Discussion on the K3 application
Circulation	All attendees

Summary of key points discussed and advice given

Introduction

The Applicant, BEIS and the Planning Inspectorate ('the Inspectorate') case team introduced themselves and their respective roles. The Inspectorate outlined its openness policy and ensured those present understood that any issues discussed and advice given would be recorded and placed on the Inspectorate's website under s51 of the Planning Act 2008 (PA2008). Further to this, it was made clear that any discussion did not constitute legal advice upon which the Applicant (or others) can rely.

Discussions at the meeting focussed solely on the part of their project/proposed development that constitutes an upgrade to (and increase in generating capacity of) K3 ('the K3 upgrade')

BEIS explained that, on the facts of the case available:

1. There are concerns whether the K3 upgrade constitutes an "extension of a generating station" for the purposes of s15 PA2008;
2. A better alternative might be for the Applicant to submit an application for a Development Consent Order (DCO) for the construction of a generating station with a generating capacity of up to 75MW (rather than simply for upgrading works to increase the generating capacity of a generating station for a lower maximum generating capacity already benefitting from a planning permission granted under the Town and Country Planning Act 1990 (TCPA 1990)). This would seem to constitute "construction....of a generating station" falling within the parameters set out in s15 of PA2008 and, hence, would need to be consented by a DCO; and
3. On the basis of the above an application for a direction under s35 PA2008 direction to treat the K3 upgrade as development for which development consent is required does not seem appropriate.

Next steps

In light of the discussion above, the Applicant was then advised by the Inspectorate to consider:

- (i). whether their statutory consultation adequately presented an application for a generating station of up to 75MW generating capacity;
- (ii). whether their environmental impact assessment adequately presented any potential impacts of an application for a generating station of up to 75MW; and
- (iii). how their draft DCO is drafted in relation to any elements that will, by the time any possible examination of their proposed application closes, already have been built under their existing planning permission for construction of a generating station of up to 48.5MW (granted under TCPA 1990). The Applicant was advised to discuss the drafting of the requirements with the relevant Local Planning Authority to avoid unnecessary duplication of conditions in that planning permission that have been satisfied fully by that time.

Specific decisions

The Applicant and the Inspectorate agreed a meeting would be held, hopefully in the next few weeks, once the Applicant had considered their position in relation to the 'next steps' referred to above.