



Meeting note

Project name	Wheelabrator Kemsley K3 Wheelabrator Kemsley North WKN
File reference	EN010083
Status	Final
Author	The Planning Inspectorate
Date	19 June 2019
Meeting with	Developer
Venue	Planning Inspectorate
Meeting objectives	Project (DCO) update
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 of the Planning Act 2008 (PA2008). Any advice given under section 51 would not constitute legal advice upon which applicants (or others) could rely.

Introduction

The Applicant presented details of the current stage of build of the K3 generating station to show that construction of the K3 site is already far advanced. It is proposed to complete commissioning and handover by the end of the year.

The Applicant noted the advice provided in the previous meeting with both BEIS and the Inspectorate, where advice was given to submit the application for construction of a 75MW generating station (even though the 49.9 MW generating station is already nearly constructed) and not simply for an increase in generating capacity as it might not constitute an NSIP.

Consultation Adequacy

The Applicant confirmed that full statutory consultation under s42 of the PA2008 was carried out for construction and operation of K3 in 2017 and for K3 with WKN in 2018 and that the 2018 consultation materials referred to the total installed capacity of 75MW.

K3 was initially being brought forward as a stand-alone project but for commercial reasons the Applicant later brought WKN and K3 together into a single proposed application.

The Inspectorate advised the Applicant to re-consult on the basis that the application would now be for 'construction' of 75MW generating station and will require another round of formal statutory consultation (s42, 47 and 48 of the PA2008) that would explain the current form of the application.

The Inspectorate stated that the Applicant should have regard to guidance given by BEIS (seeking application as if nothing has yet been constructed) and raised concerns regarding the consultation which needs to show exactly what is applied for and advised that the statutory consultation should be repeated informing clearly that the application is for construction of the 75MW generating station explaining at the same time that 49.9MW is already constructed.

The Inspectorate advised that anybody could make a representation regarding the whole project even in relation to the part which would already be constructed at the time of consultation (planning permission granted under the Town and Country Planning Act 1990 (TCPA)).

EIA Information Adequacy

The Applicant confirmed that the Environmental Statement (ES) which is being submitted would be in compliance with the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (EIA Regs) and described the proposed approach to compiling the assessment and how to deal with new aspects of the EIA Regs.

The Applicant was advised that the ES should include information to support the entirety of the Proposed Development including the theoretical construction of K3 (which in actuality is largely complete). The Applicant suggested the ES that supported the TCPA application could be used to inform the ES to support the DCO application. The Inspectorate advised that this would be a pragmatic approach. There was a discussion about the mechanisms for doing this and the Applicant was advised to consider presenting the information in a factual, clear and open way to support a reasoned conclusion regarding the likely significant effects associated with the Proposed Development.

The Inspectorate noted that the environmental information which will be examined would not be limited to the ES only and other relevant information may also be introduced into the examination.

Advice about the Preliminary Environmental Information Report (PEIR) was provided and the Inspectorate advised that it is not expected to replicate or be a draft of the ES (as this is stipulated in the pre-application guidance from MHCLG) but it should be sufficient for the purposes of the PA2008. The Applicant explained that it was their intention to use an updated non-technical summary.

Conclusions and next steps

The Applicant is considering how they will consult and stated that it is their intention to commence a fresh consultation which explains the approach that is now adopted.

The Inspectorate advised that consultation may not necessarily need to include further exhibitions but it needs to present to the public and all other consultees clearly that the Applicant is consulting on the 'development from the beginning'. However, at the same time informing of the fact that there is a significant part of the development already built.

The Applicant was also advised to support the consultation with project drawings and plans to illustrate and help the public understand the scheme better and to give an opportunity for people to comment on the development already constructed.

The Applicant informed that it will reconfirm with Swale Borough Council and Kent County Council whether they're content with the statutory consultation/Statement of Common Ground.

Application information

The Applicant advised that they would send a draft DCO to the Inspectorate for review.

Electronic submission of the application was also discussed and agreed upon with the proviso that the Applicant should be prepared to submit hard copies of any documents as requested and will need to provide hard copies of documents to be certified by the SoS at the relevant time.

The Applicant proposed **August 2019** for the new submission date of the application.

Further Advice

Following the meeting a telephone conversation was held between the Inspectorate and the Applicant to discuss the approach to the assessment of significant effects in the ES. The Applicant asked for advice regarding the approach to the assessment of the proposed development having regard to the relationship between the extant TCPA permission and the proposed DCO application. The Applicant confirmed their intent to make use of existing information to ensure legal and technical compliance with the requirements of the EIA Regulations and the PA2008 whilst maintaining proportionality and avoiding confusion between parties.