

Thank you for your enquiry with regard to your proposed approach to the DCO and Works Plans. See below comments on the approach you set out which expands on the advice provided by the Planning Inspectorate under section 51 of the Planning Act 2008 in our previous meetings.

Work No1 within the draft DCO would be worded as set out as “Work No 1 – An electricity generating station (the K3 Generating Station) with a gross installed generating capacity of up to 75MW.”

It is questioned why it is considered the wording does not need to list all the works required to construct the K3 generating station, given that the “starting point” for this Development Consent Order application is the position in which there is no generating station constructed. The works could potentially expressly refer to the works consented by the existing (annexed and defined) planning permission (if they are defined in sufficient detail in or by that planning permission), rather than listing out each individual work, and could potentially refer to “as built” drawings as constituting the relevant parts of the Works Plans.

It had previously been indicated that there were some new works required which were not consented by the existing planning permission to allow for the increase in K3’s generating capacity. It is considered that if there were any additional works, they would need to be listed in the draft DCO.

The Works Plan would remain as per the attached, which is the plan on which the previous 2018 consultation/publicity was based, and the extent of Work No1 would remain the K3 facility itself.

Any works referred to in the draft DCO, for which development consent is applied for, would need to be shown on Works Plans. See comments above.

The DCO would not need to contain any reference to temporary construction or individual works in respect of K3, and similarly we would not be including any associated or ancillary works associated with K3 (such as grid connections, laydown area and surface water outfall) given those will have also been installed or completed by the point of examination.

The Applicant is advised to consider the guidance set out in DCLG’s [Guidance on associated development applications for major infrastructure projects](#) when considering what should be included in the draft DCO. Whether any associated or ancillary works associated with K3 are included in the DCO may depend on whether any of the works are development of a nature for which PA2008 prescribes that development consent is required (rather than, as “associated development”, may be consented by a DCO). If these associated or ancillary works are necessary to be able to construct the development (from the starting point of there being no development on the application site), and/or to operate the generating station, then the application and consultation documentation may need to clearly set this out, and explain that they have already been consented under an existing planning permission (if this is the case), thereby justifying why they are not included within the draft DCO. It should also be noted that even if they are not works for which a DCO is required, they may still need to be assessed in the Environmental Statement.

The draft DCO would also then not contain any construction related requirements relating to K3, again as those would be obsolete given the completion of the construction of that facility.

The Applicant will need to carefully consider what construction requirements are required in relation to K3, including any new requirements that may be required that are relevant to new works not associated with the existing planning permission. It would be useful for the Applicant to get the view

of the Local Planning Authority (LPA) on this issue, as requirements that have already been discharged by/ fully satisfied to the satisfaction of the LPA may not be required in the DCO. This should be fully evidenced and justified in the DCO application.

With regard to the re-publication and consultation on the K3/WKN application, we would reiterate previous section 51 advice provided, in that the consultation should clearly set out that the project now being consulted on is development that includes the 75MW generating station from “new” and, although a significant element of the scheme has already been constructed (under the existing planning permission), there is still the opportunity for persons to comment on the scheme as a whole. This should also include any new works required for the increased capacity.

Please note, the above advice will be published in accordance with section 51 of the Planning Act 2008. Any advice given under section 51 does not constitute legal advice upon which applicants (or others) should rely.