



**Document 3.1- ES Volume 2**

**Appendix 3.3 Response to**

**PINS Scoping Opinion**

**The Kemsley Mill K4 Combined Heat and  
Power Generating Station Development  
Consent Order**

**April 2018 - Submission Version**

**PINS Ref: EN010090**

# Response to the Planning Inspectorate's Scoping Opinion

## Introduction

A formal request for a Scoping Opinion with regard to the Proposed Development was made to the Planning Inspectorate (PINS) in July 2017. A Scoping Report produced by DHA Environment and RPS setting out the key potentially significant effects was submitted at the same time as this request to help inform PINS formal scoping opinion (Appendix 3.1).

This document provided a summary of the proposals, identified the main environmental effects to be addressed within the EIA and scoped out issues that did not require consideration. In accordance with the EIA Regulations PINS consulted a number of statutory and non-statutory bodies on the proposed scope of the EIA. The planning authority's scoping opinion (provided pursuant to Regulation 10 of the EIA Regulations) represents its formal opinion on the information that needs to be presented in the ES.

The following table presents the key issues raised by PINS and consultees and provides responses to each of the relevant comments i.e. where a suggested amendment to the proposed scope of the ES is made. Comments that do not suggest an amendment to the scope of the ES as set out in DHA's Scoping Report have been excluded for ease of reference. PINS full Scoping Opinion and those of the statutory consultees are provided as Appendix 3.2.

Where applicable, cross-references are made to where the issues have been addressed in the Environmental Statement. Please note, where the scoping comments received from consultees are quite lengthy, only the main points have been extracted and noted in the comments column below.

Statutory and non-statutory consultee scoping response/ comments	Response to issues raised in scoping/ cross references to where issues have been addressed
<b>PLANNING INSPECTORATE</b>	
<b>General Scope of the ES</b>	
<b>Scope of the assessment pages 14-18 of PINS Scoping Opinion</b>	
<p>"The ES should include details of difficulties (for example technical deficiencies or lack of knowledge) encountered compiling the required information and the main uncertainties involved.</p>	<p>A list of general limitations and assumptions applicable to the production of the ES are provided in Chapter 3 of the ES with topic specific acknowledgements made in each technical Chapter 4-12.</p>
<p>A number of topic chapters refer to relevant guidance that will be used to undertake the assessments but there is no description of the specific methodology that will be applied. The Inspectorate advises that the ES should present the assessment methodology for each individual topic chapter. If an overarching methodology is applied this should be explained with relevant cross reference, and any departure from that methodology should be described.</p>	<p>An overarching generic methodology is presented in Chapter 3 to assist the reader in understanding the Impact Assessment process, however specific topic assessment methodologies and relevant guidance is set out in each technical Chapter 4-12.</p>
<p>The ES should contain the timescales upon which the surveys which underpin the technical assessments have been based. For clarity, this information should be provided either in the introductory chapters of the ES (with confirmation that these timescales apply to all chapters), or in each technical chapter.</p>	<p>Details on when each baseline survey has been undertaken are provided as relevant in each technical Chapter 4-12.</p>
<p>If the ES does make use of an overarching methodology this should be clearly set out and ideally within a separate chapter, which explains the approach for determining which effects are 'significant' and 'non-significant' for the purposes of the EIA.</p>	<p>As above.</p>

The extent of the study area is not identified for many of the topic assessments. The study area must be clearly delineated in the ES topic chapters, and all receptors within that area which could potentially be significantly affected by the Proposed Development should be identified and described.

Relevant details on study area and receptors are included in each of the technical chapters.

#### Residues and emissions

The EIA Regulations require an estimate, by type and quantity, of expected residues and emissions. Specific reference should be made to water, air, soil and subsoil pollution, noise, vibration, light, heat, radiation and quantities and types of waste produced during the construction and operation phases, where relevant. This information should be provided in a clear and consistent fashion and may be integrated into the topic based assessments.

Relevant details are provided in Chapter 2 of the ES and each technical chapter as required.

The Scoping Report identifies that the construction phase as having the potential to generate noise, dust, and greenhouse gas (GHG) emissions (from plant), and that operation of the gas fired turbine will result in emissions to air (including nitrogen dioxide and GHG), and noise, but has not quantified these. The Inspectorate expects information on such emissions to be included in the ES. No means of waste recovery/disposal or related development is identified. It is concluded in Table 2.1 that the Proposed Development would not generate a significant quantity of demolition or contaminated waste; however no information has been provided on demolition or construction in support of this.

Quantification of emission levels are provided in each technical chapter as required.

Details on waste disposal are provided in Chapter 2.

#### Vulnerability of the development to risks of major accidents and/or disasters

The Applicant's Scoping Report refers to risk of accidents and disasters in Chapter 3.11. The Scoping Report seeks to subdivide matters according to whether they are 'natural hazards' or 'technological hazards'. The Inspectorate reminds the Applicant that the ES should (where relevant to the specific characteristics of the particular development or type of development and to the environmental features likely to be significantly affected) include a description of the expected significant adverse effects of the development on the environment deriving from the vulnerability of the development to risks of major accidents and/or disasters. The

Whilst the EIA Regulations do not subdivide major accidents and disasters, literature on the matter e.g. 'Environmental Hazards: Assessing Risk and Reducing Disaster, Keith Smith, 2009' adopts this as an approach with the intention of covering both man made hazards/technological risk and the risk of development to natural disasters. Further there is no published Government guidance on the scope or approach to be taken when assessing the vulnerability of development to risk of major accidents and/or disasters.

Regulations do not differentiate between natural hazards and technological hazards. The Applicant should take care to ensure that the ES includes the information necessary to satisfy the Regulations.

The Inspectorate notes that the Applicant proposes to scope out a standalone risk assessment for consideration in the ES (Chapter 3.11). Having regard to the nature of the Proposed Development and the justification provided the Inspectorate agrees that the Proposed Development is unlikely to require a standalone assessment regarding its vulnerability to risks of major accidents and/or disasters. However where this matter is considered within any topic chapters it should be clearly identified. Further commentary on this issue is provided in the 'Risks of Accidents and Disasters' topic based table in Section 3.4 of this Opinion. The Applicant should liaise with the relevant statutory consultees to better understand the likelihood of an occurrence and the Proposed Development's susceptibility to potential major accidents and hazards.

#### Transboundary effects

The Inspectorate considers that where Regulation 32 applies, this is likely to have implications for the examination of a DCO application. The Inspectorate recommends that the ES should identify whether the Proposed Development has the potential for significant transboundary impacts and if so, what these are and which EEA States would be affected.

In a similar fashion to screening for likely significant effects where mitigation is accepted as a means of negating the potential for significant environmental effects the presence of other legal mechanisms to secure such mitigation has been adopted (when considering the likelihood of significant effects the 2017 EIA Regulations in recognition of the Court of Appeals decision in [Loader] 2012 EWCA Civ 869 allow mitigation measures that are modest in scope and/or plainly and easily achievable to be taken into account by the local planning authority during screening). A list of the relevant Regulations in place is provided in Chapter 2. Furthermore it is noted that regulation 14 (3) (c) states that an ES must 'be prepared taking into account the results of any UK environmental assessment, which is reasonably available to the applicant with a view to avoiding duplication of assessment.'

It is noted in the Health and Safety Executives consultation response to scoping stage that the proposed development does not fall within the consultation zones of any major accident hazard site with Hazardous Substance Consent. HSE is in consultation with DCLG regarding the requirements of the EIA Regulations to this regard in the absence of Government guidance.

Furthermore the development does not fall within the remit of Directive 2012/18/EU (control of major-accident hazards involving dangerous substances) or Directive 2009/71/Euratom (d) (establishing a Community framework for the nuclear safety of nuclear installations) specifically identified in the EIA Regulations.

The Proposed Development does not have the potential to result in significant transboundary effects.

A reference list

A reference list detailing the sources used for the descriptions and assessments must be included in the ES.”

A topic/chapter specific reference list is provided at the end of each ES chapter where applicable.

**Traffic and transport**

**Section 3.4 of PINS Scoping Opinion**

**Traffic and Transport, pages 19 -22**

“Effects on air traffic

The Inspectorate agrees that this can be scoped out for the construction and decommissioning phases but does not agree that the information provided supports scoping this out during the operational phase. The Scoping Report explains that the gas turbine stack height and resultant plume height are currently unknown. The Inspectorate notes the proximity of the Proposed Development to nearby airports and considers that air traffic movements and radar systems should be considered by the Applicant in preparing the ES. If impacts to these receptors cannot be ruled out the ES should assess the potential for significant effects.

See Appendix 3.4 which provides a response from the Civil Aviation Authority as part of the S42 Consultation stating that they have no concern over the stack height proposed and do not require the implementation of a safety warning light. It is therefore considered that this can be scoped out of the ES.

Effects on public transport

The Scoping Report does not provide information on the anticipated number of workers required for construction and decommissioning. It is possible that there would be impacts to public transport provision during the height of construction activities. The Inspectorate considers that this matter should be addressed within the ES.

An estimation of construction workers and the possible impact on public transport is provided in ES Chapter 4.

All traffic effects during decommissioning

The Inspectorate does not agree that this matter can be scoped out according to the justification that the effects identified during the construction phase would be applicable to those during the decommissioning phase and that therefore any construction mitigation or management measures identified would equally apply to the decommissioning phase. Potential significant effects resulting from decommissioning activities and any corresponding mitigation measures should be clearly and discretely identified in the ES topic chapter.

At this stage the exact decommissioning procedure associated with K4 is unknown given its decommissioning would not occur for at least 25 years but the nature of effects are likely to result in the same potential environmental effects.

**Other points**

Baseline

The approach taken to the establishment of the baseline is unclear. The information provided suggests that the baseline used for the assessment would be 2019/2020 when 'construction would be ongoing.'. However, it is also stated that K4, if consented, would be fully operational in 2020 (Scoping Report, paragraph 1.4.13), after which K1 would be decommissioned. The Applicant is referred to the Inspectorate's general comments on this point made above in Section 3.3, under 'Baseline'.

The baseline for the traffic and transport assessment is set out in Chapter 4 and accords with the project timeline set out in ES Chapter 2.

Description of development

It is stated at paragraph 3.2.8 that there are two points of vehicular access to the Paper Mill, although the site description (paragraph 1.2.3) refers only to one, via Swale Way. It is therefore unclear whether two site accesses are envisaged for the Proposed Development. All potential access points should be assessed in the ES.

This is clarified in Chapter 4 of the ES.

Assessment

It is not clear if the criteria used to establish receptor sensitivity for this assessment is the Applicant's own or based on the 1993 IEMA guidance. The ES should explain the

Chapter 4 of the ES clearly sets out the assessment methodology and the standard industry guidance followed in the assessment.

origin and justify the use of the criteria necessary to inform the assessment of receptor sensitivity. In respect of relevant guidance, the Applicant is referred to Highways England’s scoping consultation response, specifically in relation to having regard to DfT Circular 02/2013 and the September 2015 HE guide.

The Scoping Report explains that significance is determined having regard to the combination of receptor sensitivity and the magnitude of the impact. Sensitivity levels, which range from ‘Negligible’ to ‘Substantial’, are not defined in the Scoping Report and should be in the ES.

This is clarified in Chapter 4 of the ES.

Miscellaneous

The assessment of traffic and transport effects should include consideration of trips resulting from waste generated at the site during construction and decommissioning. These movements should also be factored into other assessments as relevant, such as air quality and noise.

The traffic movements considered in the assessment in Chapter 4 include anticipated trips generated from the removal of waste from the site during construction of K4.

For the avoidance of doubt, in relation to the construction and decommissioning phases of the Proposed Development, which are likely to generate increased traffic on the local roads network, the Inspectorate considers that the ES should include an assessment of the impacts to the M2 and A249. The Applicant is referred to Highways England’s scoping consultation response, in this regard.”

The effect of the Proposed development during construction and decommissioning phases on the M2 and A249 is provided in Chapter 4 and the relevant technical appendices.

**Air Quality**

**Section 3.4 of PINS Scoping Opinion**

**Air Quality, pages 23 -25**

“Traffic-related effects on local air quality during all phases

The Inspectorate does not agree to scope out this matter insofar as it relates to the

The number of vehicle movements anticipated fall below the thresholds set out in the



construction and decommissioning phases, as the Scoping Report does not include sufficient justification to support the approach requested. The Inspectorate notes that it is possible that some construction traffic could route through an Air Quality Management Area (AQMA) on the M20 at Maidstone (proximity to the site not identified). The Inspectorate has a particular concern regarding the uncertainty surrounding the proposed construction and decommissioning programme and the likely number of Heavy Goods Vehicle (HGV) movements and construction traffic routes.

#### Effects on odour

The Inspectorate agrees that this can be scoped out during operation and decommissioning, based on the nature and characteristics of the Proposed Development as described in the Scoping Report. However, it is not agreed that it may be scoped out during construction, as insufficient information has been provided in the Scoping Report regarding the ground conditions, particularly the potential for contaminated land and in relation to material storage methods.

#### Other points

Other than a reference to having regard to IAQM guidance, limited information is provided on the methodology that will be used for this assessment. The ES should set out the methodology applicable to the individual topic chapter. If an overarching methodology is applied this too should be referenced and any departure from that should be described. The Applicant should seek agreement on the methodology with relevant consultees, such as Swale Borough Council (SBC).

#### Miscellaneous

The ES should consider and assess the Applicant's proposed approach to waste management during construction and decommissioning and take into account any potential impacts associated with proposed storage and handling methods."

Institute of Air Quality Management (IAQM) guidance whereby assessment is required. No assessment of traffic related effects on local air quality is therefore necessitated and likely significant effects can be ruled out.

Construction is not a typically odour emitting activity. The nearest residential receptors are over 600 from the Site and the land is not thought to be significantly contaminated (see Chapter 8). A list of construction materials is provided in Chapter 2, none of which are considered to be a significant odour emitting source. No assessment of odour during the construction of the development has therefore been undertaken.

Chapter 5 of the ES clearly sets out the assessment methodology and the standard industry guidance followed in the assessment. Direct consultation with SBC's Environmental Health Officer has been undertaken and a record of the correspondence set out in the assessment.

It is assumed that this makes reference to the potential for fugitive dust emissions, an assessment of which has been included in Chapter 5.

<b>Climate Change</b>	
<b>Section 3.4 of PINS Scoping Opinion</b>	
<b>Climate Change, pages 26</b>	
<u>“Effects of greenhouse gas emissions (GHG) on global climate during decommissioning</u>	
<p>No information has been provided in the Scoping Report on the decommissioning activities or whether the Applicant intends to assess effects arising from decommissioning. The Inspectorate considers that decommissioning impacts should be addressed and the assessment in the ES must also justify the approach taken to identifying all emissions (including those that are direct or indirect) and considered within the assessment.”</p>	<p>A full comprehensive GHG assessment has been undertaken which incorporates these requirements and is set out in Chapter 6 of the ES.</p>
<b>Noise &amp; Vibration</b>	
<b>Section 3.4 of PINS Scoping Opinion</b>	
<b>Noise &amp; vibration, pages 27-29</b>	
<u>“Effects of road traffic noise</u>	
<p>The Applicant should provide traffic flow data for construction, operation and decommissioning (of the proposed development and K1). In the absence of this data, the Inspectorate does not agree that road traffic noise effects can be scoped out.</p>	<p>The perception of sound level is subjective, but as a general guide a 10dB(A) increase can be taken to represent a doubling of loudness, whilst a change in the order of 3dB(A) is generally considered to be just perceptible. Guidelines for the Environmental Assessment of Road Traffic (1993) state that: “typically, a halving or doubling of flow produces a 3dB(A) change in noise level.” A screening exercise using</p>

the traffic data produced as part of traffic transport assessment has been undertaken that indicates that likely significant road traffic effects will be below this threshold and therefore further assessment is not required.

No measurement of baseline vibration

The SoS requires further justification to exclude baseline vibration measurement from the assessment in light of construction vibration being identified as a potential impact in paragraph 3.5.5.

A qualitative assessment of vibration during construction and operation of K4 has been provided in Chapter 7 including justification as why no baseline vibration measurement is required and why no significant effect is likely.

**Other points**

Study Area

No study area is defined. The study area should be justified in the ES and agreed with the LPA.

A study area has been defined in Chapter 7.

Methodology

The assessment should consider the requirements of the Noise Policy Statement for England and the need to establish Lowest Observed Adverse Effect Levels (LOAEL) and Significant Observed Adverse Effect Level (SOAEL) thresholds for noise and vibration during construction and operation.

The assessment has been undertaken on this basis as set out in Chapter 7.

Currently known baseline

The text states 'surveys to gather additional baseline noise data will be undertaken where appropriate'. The need for further baseline noise data should be agreed with the LPA.

Direct consultation with SBC's Environmental Health Officer has been undertaken and a record of the correspondence set out in the assessment. No further baseline noise data was deemed necessary.

Baseline vibration

Table 2.1 refers to vibration effects during construction only in respect of foundation piling, although the topic chapter refers more generally to construction plant. The Inspectorate advises that all potential sources of significant vibration effects should be identified, not only piling.

#### Qualitative operational vibration assessment

The operational noise and vibration performance requirements of the proposed development should be agreed with the LPA. The need for quantitative operational vibration assessment to underpin these requirements should also be agreed with the LPA.

#### Methodology

The ES should set out the full assessment method in the ES, including details of any plant and equipment sound power/pressure level assumptions used to inform noise assessments.

#### Operational effects

Whilst the baseline noise environment is proposed to be characterised using BS4142, the Applicant has not stated that operational effects will be assessed using BS4142 criteria. For the avoidance of doubt the Inspectorate considers that a BS4142 assessment should be undertaken unless otherwise justified.

A qualitative comparison of decommissioning compared with construction effects is proposed.

Decommissioning of K1 should be considered as part of the BS5228 assessments. The Applicant should ensure that the distinction between decommissioning of K1 during construction and decommissioning of K4 at end of life is clearly articulated in the ES.

A qualitative assessment of vibration during construction and operation of K4 has been provided in Chapter 7 including justification as why no baseline vibration measurement is required and why no significant effect is likely.

Direct consultation with SBC's Environmental Health Officer has been undertaken (see Chapter 7).

Chapter 7 of the ES clearly sets out the assessment methodology and the standard industry guidance followed in the assessment.

Chapter 7 of the ES clearly sets out the assessment methodology and the standard industry guidance followed in the assessment. At this stage the exact decommissioning procedure associated with K4 is unknown given its decommissioning would not occur for at least 25 years but the nature of effects are likely to result in the same potential construction effects.

<u>Consultation</u>	
No reference is made to consultation with any relevant bodies to agree the scope of the assessment. SBC and NE should be consulted in relation to the assessment of potential effects on ecological receptors and to agree the detailed method of assessment, noise monitoring approach and selection of noise sensitive receptors."	Direct consultation with SBC's Environmental Health Officer has been undertaken (see Chapter 7).
<b>Ground Conditions</b>	
<b>Section 3.4 of PINS Scoping Opinion</b>	
<b>Ground Conditions, pages 30-32</b>	
<u>"Cumulative effects</u>	
The Inspectorate considers that the Applicant's proposed approach is inconsistent with the approach to the assessment of cumulative effects outlined in Chapter 3.12 of the Scoping Report.	A commentary on the likelihood of significant cumulative ground condition effects occurring with other local development is provided in Chapter 8 of the ES.
The Inspectorate considers that an assessment of cumulative effects should be included within the ES. In undertaking the assessment the Applicant should have regard to the advice contained in the Inspectorate's Advice Note 17.	
<u>Transboundary effects on hydrology receptors</u>	
The Scoping Report includes an assertion that the Proposed Development would not have transboundary effects on hydrology receptors. However, there is no supporting information to justify this statement. It is also unclear what the intent is in this regard.	The scale, location and nature of the development clearly indicate that there is unlikely to be significant transboundary effects on hydrology receptors.
<u>Ecological receptors</u>	
The Inspectorate notes that the consideration of potential effects on ecological receptors is not included in the matters to be considered in this topic of the ES. This is despite the Swale Estuary Special Protection Area (SPA), Ramsar site, Marine	Contamination of controlled waters and resultant standard mitigations measures form part of standard SUDs practice and a requirement of KCC as lead local flood authority. These safeguards ensure that no likely effects on surface or groundwater

Conservation Zone (MCZ) and Site of Special Scientific Interest (SSSI) being mentioned in the baseline information. The Inspectorate considers that interrelated effects on ecological receptors should be included in this assessment, as contamination of controlled waters could potentially result in impacts on ecological features related to the water environment.

occur as standard practice and in doing so safeguarding ecological receptors. Nonetheless this has been expressly set out in Chapter 8.

#### Methodology

The Inspectorate notes that the level of significance of an effect will be derived having regard to the sensitivity of a receptor and the magnitude of the impact. The Scoping Report states that a significant effect is defined as one that is concluded to be moderate or above.

This information is set out in Chapter 8.

Although Tables 3.5.1 and 3.5.2 indicate the values that will be used to define sensitivity and magnitude respectively, no information is provided to indicate how these values combined will be used to determine significance. This information should be included in the ES.

#### Baseline description

It is stated that the ground beneath the Proposed Development is likely to include 'Upper Cretaceous White Chalk Subgroup Bedrock at depth'. However, it is unclear from the descriptions of geological strata subsequently provided whether this is an aquifer (and what type) or unproductive strata, and therefore whether it is water-bearing and to what degree. The ground conditions beneath the site should be clearly described in the ES.

This information is set out in Chapter 8.

#### Inter-relationships with other environmental topics

No reference is made to the interrelationships between this topic and others, such as, for example, the water environment and biodiversity. The Inspectorate considers that this should be covered in the ES, as contamination of controlled waters has been identified as a potential effect, which could then impact on ecological receptors."

Cross reference to other relevant topic assessments is included in the technical chapters where required. A general summary the potential topic interactions is provided in Chapter 3.

**Landscape and visual effects**

**Section 3.4 of PINS Scoping Opinion**

**Landscape and visual effects, pages 34-35**

“Sensitive receptors

The Inspectorate notes that a number of local footpaths are identified, the users of which may be affected. The ES should assess any impacts to the Public Right of Way (PRoW) footpath ZU1 in the assessment, in addition to the Saxon Shore Way identified in the Report.

ZU1 and the Saxon Shore Way are for all intent and purposes one and the same and contiguous therefore an assessment of the Saxon Shore Way intrinsically includes ZU1.

Effects on sensitive visual receptors ‘during and post construction phase’, including night time lighting

It is not clear whether it is intended to take this matter forward for inclusion in the ES as the information provided in paragraphs 3.7.10. – 3.7.11 is contradictory, and it is not included in the summary table (4.1) of matters that will be included in the ES. For the avoidance of doubt, the Inspectorate does not consider that this can be scoped out, particularly as the dimensions of the flue/stack and the extent of the visible plume are not known at this time.

An assessment of the effects on sensitive visual receptors during and post construction is included in ES Chapter 11.

Other points

The Scoping Report does not address the need to include an assessment of effects on amenity receptors. The Inspectorate considers that potential impacts on amenity receptors should be assessed within the ES.”

It is not known what the Inspectorate means exactly when it refers to ‘amenity receptors’ except perhaps by its earlier reference to public rights of way. Nonetheless a full assessment of the development on all relevant receptors in accordance with the Guidelines for Landscape and Visual Impact Assessment 2013 has been undertaken.

Biodiversity	
<b>Section 3.4 of PINS Scoping Opinion</b>	
<b>Biodiversity, pages 38-41</b>	
<u>“Effects on habitat types during construction and decommissioning</u>	
<p>The Inspectorate does not agree that this matter can be scoped out. The justification provided in the Scoping Report relies on the Proposed Development site being entirely composed of concrete hardstanding. The justification neglects the possibility for indirect effects and those generated by wider construction/decommissioning activities, e.g. changes in water quality, dust deposition and vehicle emissions.</p>	<p>An assessment of the indirect effects of the development on ecological receptors including cross reference to other relevant studies has been included in Chapter 10.</p>
<u>Effects on the conservation status of faunal communities during all phases</u>	
<p>The Inspectorate does not agree that this matter can be scoped out for any phase as insufficient information has been provided to support this approach.</p>	<p>The effects on the Proposed Development are unlikely to be of magnitude or extent to affect the conservation status of faunal communities nonetheless commentary on this has been provided within Chapter 10.</p>
<u>Effects on individual/protected species during construction and decommissioning</u>	
<p>Although it is proposed in column 3 of the table that effects during construction are scoped out, in addition to decommissioning, the accompanying text notes that construction noise could have adverse effects on the overwintering birds which are a feature of the Swale SPA. This is reiterated in Chapter 3.9, which additionally refers to potential effects on the Swale Ramsar site and SSSI. The Inspectorate does not agree that this matter can be scoped out for either of these phases, and advises that the assessment should also consider the potential effects of noise and disturbance during construction and decommissioning on other species in the area, including but not limited to features of other European sites, not only those which are a feature of the</p>	<p>The potential noise effects on protected species including the interest features of the Swale SPA and SSSI are assessed in Chapter 10.</p>



SPA.

Effects on ecosystem integrity during all phases

The Inspectorate does not agree that this matter can be scoped out for any phase, as insufficient information has been provided to support this approach.

The effects on ecosystem integrity have been included in Chapter 10 and are relevant to the Habitat Regulations Assessment provided in the accompanying technical appendix.

Effects on wildlife conservation during construction and decommissioning

Although it is proposed in column 3 of the table that effects during construction are scoped out, in addition to decommissioning, the accompanying text notes that noise and the creation of new contamination pathways during construction has the potential to affect interest features of the nearby Swale SPA and SSSI. The Inspectorate advises that the ES includes an assessment of these impacts during decommissioning, and also in relation to other ecological features. The Inspectorate does not agree that this matter can be scoped out.

The potential noise effects on protected species including the interest features of the Swale SPA and SSSI are assessed in Chapter 10.

Effects on natural resources management during all phases

The Inspectorate does not agree that this matter can be scoped out for any phase, as insufficient information has been provided to support this approach.

The Proposed Development will not affect the existing management of natural resources due to its nature and location.

Effects on natural processes during construction and decommissioning

The Inspectorate does not agree that this matter can be scoped out for these phases as no information has been provided to describe this matter or support this approach.

An assessment of the indirect effects of the development on ecological receptors including cross reference to other relevant studies has been included in Chapter 10 i.e. air quality and water.

Transboundary effects

The Inspectorate does not agree that this matter can be scoped out as insufficient information has been provided to support this approach. The Inspectorate notes the proximity of the site to European sites, such as the Swale SPA and Ramsar site.

The zone of influence of the air quality assessment has been determined as 10km where effects beyond this area can be screened out as negligible. The site does not lie within 10km of any Member State. See Chapter 5 Air Quality for further information.

Simultaneous operation of K1 and K4

The Scoping Report anticipates that air quality will improve when K4 replaces K1. However; paragraph 1.4.12 states that K1 will only be decommissioned once K4 is fully operational. This suggests the possibility of simultaneous operation of both K1 and K4. Therefore the assessment should take this into account and address any impacts associated with dual operation, including those on ecological receptors.”

The effects of K1 & K4 operating simultaneously during commissioning/decommissioning has been embedded in the air quality assessment the result of which have been used in Chapter 10 to inform the likelihood of significant effects on habitats and protected sites.

**Water environment**

**Section 3.4 of PINS Scoping Opinion**

**Water Environment, pages 42-44**

“Effects on surface water temperature during all phases

The Scoping Report includes insufficient information to support the request to scope this matter out of the ES. The Inspectorate does not agree that this can be scoped out of the ES.

Information regarding the potential effect of the development on surface water temperature is set out briefly in Chapter 2 of the ES and in Chapter 8.

Effects on groundwater quantity during all phases

The Inspectorate does not agree that this can be scoped out according to the information provided, and on the basis that the site is underlain by a secondary aquifer. The Applicant is advised to take into account the comments of the EA in this regard.

There will be no discharge to groundwater as part of the Proposed Development. Construction related effects on groundwater quality are provided in Chapter 8.

Effects on groundwater temperature during all phases

The Scoping Report includes insufficient information to support the request to

There will be no discharge to groundwater as part of the Proposed Development.

scope this matter out of the ES. The Inspectorate does not agree that this can be scoped out of the ES.

Effects on coastal/oceanic water quality during decommissioning

The Inspectorate does not agree that this matter may be scoped out during decommissioning. It is indicated in Table 2.1 that pollution during demolition activities which are likely during decommissioning could affect surface water quality in the Swale Estuary.

This has been considered in Chapters 8 & 9 and the relevant safeguards/mitigation measures highlighted.

Effects on water resources (ground/surface) during construction and decommissioning

The Inspectorate agrees that this can be scoped out based on the likely activities and water demands during decommissioning. However it is not agreed that it may be scoped out during construction. The Inspectorate considers that the impact of proposed activities, during construction (as well as operation) on groundwater resources is carried out in consultation with the EA.

DS Smith have confirmed that the water supply to the Paper Mill is by way of licensed abstraction from groundwater of which there is considerable remaining headroom in the EA permit to facilitate the Proposed Development. The Proposed Development will not be able to exceed existing permit limits without prior agreement and assessment of the effects by the EA albeit this is considered unlikely to be necessary. The Proposed Development by virtue of being a smaller more efficient plant will use less water than the existing K1 plant. Therefore the potential for significant water resource effects is considered negligible and does not require detailed assessment. This is set out in Chapter 9.

Surface water quality during operation

The Inspectorate notes that this topic chapter identifies potential effects on surface water quality only 'during and post construction', although it is indicated in Table 2.1 that this matter will be considered for all phases of the Proposed Development. The justification provided in Table 2.1 relates only to demolition and construction activities. In the absence of a clear approach and justification for scoping out surface water quality effects, the Inspectorate confirms that it should be considered for all phases. The Inspectorate considers that the impact of proposed activities, during operation likely to affect surface water quality is carried out in consultation with the EA.

The effects of the development during all stages of the development are considered within the assessment in Chapter 9.

Other matters

The ES should consider and assess the Applicant's proposed approach to waste management during construction and decommissioning and take into account any potential impacts associated with proposed storage and handling methods."

The assessment in Chapter 9 sets out the recommended mitigation measures required during construction to safeguard the water environment. It is suggested that a Construction Environmental Management Plan forms a required of any DCO consent.

**Risk of major accidents and disasters**

**Section 3.4 of PINS Scoping Opinion**

**Risk of accidents and disasters, pages 45-46**

"Risk of major accidents and/or disasters during construction and decommissioning

The Inspectorate does not agree that this matter may be scoped out for these phases as no information has been provided in support of this approach. The Inspectorate notes the comments contained in the Health and Safety Executive's scoping consultation response that while the development is outside the safeguarding distance it is within the vicinity of a port licensed to handle explosives, and agrees that the safeguarding distances may need to be reviewed depending on the final nature of the development."

It is noted that the EIA Regulation require an ES to assess the likely significant effects of a development. It is not therefore considered that the construction or decommissioning of the Proposed Development will generate a significant risk of accident or disaster and subsequent environmental effects for the purpose of EIA except by virtue of gas connection that is covered by the Regulatory regime set out in Chapter 2. A list of relevant health and safety regulations and requirements that aim to reduce adverse effects during construction as far as reasonably practicable is set out in Chapter 2. It is not therefore considered necessary to assess effects unless they are likely to remain significant following mitigation required under other regulatory regimes. No effects of this nature have been identified.

<b>ENVIRONMENT AGENCY</b>	
<b>Ground Conditions</b>	
<p>The EA have requested that the ES:</p> <ul style="list-style-type: none"> <li>• Applies the risk-based framework set out in the Model Procedures for the Management of Land Contamination (CLR 11) and follow the guidance in that document so that the best decision are made for the site;</li> <li>• Refers to the Environment Agency guidance on requirements for land contamination reports;</li> <li>• Uses BS 10175 2001, Investigation of potentially contaminated sites – Code of Practice as a guide to undertaking the desk study and site investigation scheme;</li> <li>• Uses MCERTS accredited methods for testing contaminated soils at the site; and</li> </ul>	<p>The recommendations of the EA have been incorporated into the ground conditions assessment in Chapter 8.</p>
<b>Biodiversity</b>	
<p>“From a biodiversity perspective, we have no concerns about the proposed development given that the site is being redeveloped and currently offers negligible opportunities for wildlife. We do however have some concerns about reference to the lack of water at the site (page 19) and the potential for more than is currently used to be required. As this means the operator may need to abstract ground or surface water, it is important that the EIA Scoping Request considers the potential for impacts on designated sites in the wider area and fish in the vicinity of point abstraction from surface water. All requirements of the Eels Regulations that apply here, for example, would need to be implemented in the final design.”</p>	<p>DS Smith have confirmed that the water supply to the Paper Mill is by way of licensed abstraction from groundwater of which there is considerable remaining headroom in the EA permit to facilitate the Proposed Development. The Proposed Development will not be able to exceed existing permit limits without prior agreement and assessment of the effects by the EA albeit this is considered unlikely to be necessary. Therefore the potential for significant water resource effects is considered negligible and does not require detailed assessment. This is set out in Chapter 9.</p> <p>This has been referenced as appropriate within the relevant chapters of the ES.</p>

<b>HIGHWAYS ENGLAND</b>	
<b>Traffic and transport</b>	
Highways England have stated that the Transport Assessment should be undertaken in accordance with:	The recommendations of Highways England have been incorporated into the traffic and transport assessment in Chapter 4.
<ul style="list-style-type: none"> <li>• “DfT Circular 02/2013 The Strategic Road Network and the Delivery of Sustainable Development (September 2013) HE publication: Planning for the future – A guide to working with Highways England on planning matters (Sept 2015)</li> <li>• We would also recommend that paragraph 15 of the Guidance for Travel plans, transport assessments and statements in decision-taking (DCLG March 2014) is followed when completing the Transport Assessment.”</li> </ul>	
<b>KENT COUNTY COUNCIL</b>	
<b>Biodiversity</b>	
KCC stated:	An assessment of the likely effects on Milton Creek Local Wildlife Site has been included in the biodiversity assessment in Chapter 10.
<p>“In terms of protected species, KCC recognises that as the site is predominantly surfaced with hard standing, it is unlikely to have any significant impacts. Nevertheless, the site is also located almost adjacent to the Milton Creek Local Wildlife Site, which is a non-statutory designated site of importance for the conservation of wildlife in Kent. KCC recommends that the ES includes a full assessment of any potential impacts on the Milton Creek Local Wildlife Site, along with any necessary preventative measures.</p> <p>KCC is satisfied that the potential impacts upon these sites have been identified,</p>	

<p>particularly with regard to dust soiling, changes in air quality and construction noise.</p> <p>KCC agree that noise modelling will need to be undertaken but it is recommended that the ES includes appropriate breeding/wintering bird surveys within the appropriate vicinity to fully assess any potential impacts upon the designated sites.”</p>		<p>Subsequent consultation with KCC has confirmed that breeding/wintering bird surveys are not required as sufficient third party data for the area exists. A copy of this correspondence is provided in Appendix 10.1</p>
<b>NATURAL ENGLAND</b>		
<b>European and nationally designated sites</b>		
<p>Natural England have advised that development site is in close proximity to the following designated nature conservation sites:</p> <ul style="list-style-type: none"> <li>• The Swale SPA/Ramsar/SSSI</li> <li>• The Swale Estuary Marine Conservation Zone (MCZ)</li> <li>• Medway Estuary and Marshes SPA/Ramsar/SSSI</li> <li>• Thames Estuary and Marshes SPA/Ramsar/SSSI</li> <li>• Queendown Warren SAC/SSSI</li> </ul> <p>“The sites listed above are sensitive to the following impacts, which should be considered in the EIA:</p> <ul style="list-style-type: none"> <li>• Disturbance during construction, operation and demolition, including from noise, visual intrusion and lighting</li> <li>• Water quality and hydrological impacts on adjacent habitats</li> <li>• Air pollution impacts”</li> </ul> <p><u>Additional specific comments on the Scoping Report</u></p> <ol style="list-style-type: none"> <li>1. “Natural England’s comments on Table 2.1: <ul style="list-style-type: none"> <li>• Biodiversity – habitat types – air quality assessment should include consideration of Queendown Warren as well as the Swale.</li> </ul> </li> </ol>	<p>The biodiversity assessment in Chapter 10 in accordance with Natural England’s comments has assessed the identified impacts on all of the designated sites identified.</p>	<p>The air quality assessment has taken into account potential effects on Queendown Warren which has been used in Chapter 10 to assess the likely significant effects thereon.</p>

<ul style="list-style-type: none"> <li>• Biodiversity - Individual/protected species – SPA/Ramsar/SSSI birds may be affected by the construction and demolition phases, as well as during operation.</li> <li>• Biodiversity – wildlife conservation – The Swale Estuary MCZ should be included in the assessment.</li> </ul> <p>2. Air quality, paragraph 3.3.13, The Swale Ramsar and SSSI, Medway Estuary and Marshes Ramsar and SSSI, Thames Estuary and Marshes Ramsar and SSSI and The Swale Estuary MCZ should also be included as potential receptors.</p> <p>3. Biodiversity, para 3.9.12, should include construction and demolition disturbance to marsh harrier breeding in adjacent reedbeds, as part of the SPA breeding assemblage.</p> <p>4. The Swale Estuary MCZ should be added to the map on p.73.</p> <p>5. It would be helpful to set out clearly how the proposed K4 CHP plant will tie in to the existing surface effluents out take, and where this water is discharged. This is important in assessing potential pathways for impact on any ecological receptors.”</p>	<p>The effects of construction on protected species has been fully addressed in Chapter 10.</p> <p>The potential effects on the Swale MCZ have been considered in Chapter 10.</p> <p>The air quality assessment has taken into account potential effects on these receptors which have been used in Chapter 10 to assess the likely significant effects thereon.</p> <p>Potential noise effects on marsh harrier during construction have been considered in Chapter 10.</p> <p>Chapter 10 assesses the potential for surface water quality effects on ecological receptors and crosses reference Chapter 9, Water Environment, to inform its conclusions.</p>
<b>PUBLIC HEALTH ENGLAND</b>	
<b>Waste</b>	
<p>Public Health England have stated that the EIA should demonstrate compliance with the waste hierarchy (e.g. with respect to re-use, recycling or recovery and disposal).</p> <p>For wastes arising from the installation the EIA should consider:</p> <ul style="list-style-type: none"> <li>• the implications and wider environmental and public health impacts of different waste disposal options</li> <li>• disposal route(s) and transport method(s) and how potential impacts on public health will be mitigated</li> </ul>	<p>Chapter 2 of the ES sets out DS Smith’s commitment to the disposal of waste both during construction of K4 and the application of the waste hierarchy. It is suggested that a Construction Environmental Management Plan forms a requirement of any DCO consent to inform the appointed contractors at the time of construction.</p> <p>A Construction Traffic Management Plan will form part of the Construction Environmental Management Plan. The impacts of dust soiling and vehicle emissions during construction have been considered where appropriate in accordance with IAQM guidance in Chapter 5.</p>



<b>Other aspects</b>	
<p>“Within the EIA PHE would expect to see information about how the promoter would respond to accidents with potential off-site emissions e.g. flooding or fires, spills, leaks or releases off-site. Assessment of accidents should: identify all potential hazards in relation to construction, operation and decommissioning; include an assessment of the risks posed; and identify risk management measures and contingency actions that will be employed in the event of an accident in order to mitigate off-site effects.</p> <p>The EIA should include consideration of the COMAH Regulations (Control of Major Accident Hazards) and the Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009: both in terms of their applicability to the installation itself, and the installation’s potential to impact on, or be impacted by, any nearby installations themselves subject to the these Regulations.”</p>	<p>Information with regard to the legal requirements and safeguards in place with regard to major accidents and disasters is set out in Chapter 2 of the ES. The potentially for flood and spills or leakages is addressed in Chapter 9, Water Environment. This is considered proportional to address the likely significant effects of the development in this regard.</p> <p>The Proposed Development does not fall within the remit of the Regulations identified. The Health and Safety Executives consultation response confirms that the site does not fall within the consultation zones of any major accident hazard site with Hazardous Substance Consent.</p>
<b>Electromagnetic fields (EMF)</b>	
<p>Public Health England have provided the following guidance regarding Electromagnetic fields (EMF):</p> <p>“This statement is intended to support planning proposals involving electrical installations such as substations and connecting underground cables or overhead lines. PHE advice on the health effects of power frequency electric and magnetic fields is available in the following link:</p> <p><a href="https://www.gov.uk/government/collections/electromagnetic-fields#lowfrequencyelectric-and-magnetic-fields">https://www.gov.uk/government/collections/electromagnetic-fields#lowfrequencyelectric-and-magnetic-fields</a></p> <p>There is a potential health impact associated with the electric and magnetic fields around substations, and power lines and cables. The field strength tends to reduce with distance from such equipment.</p> <p>The following information provides a framework for considering the health impact</p>	<p>Design specifications for all electrical equipment to be utilised in the completed CHP installation shall be compliant with Council Recommendation 1999/519/EC or harmonised EMF standards.</p> <p>Management of Electro Magnetic Fields during installation, commissioning and ongoing maintenance shall conform to the Control of Electromagnetic Fields at Work Regulations 2016.</p> <p>It is therefore considered that EMF can be scoped out of the EIA on this basis.</p>

<p>associated with the electric and magnetic fields produced by the proposed development, including the direct and indirect effects of the electric and magnetic fields as indicated above.”</p>	
<p><b>Ionising radiation</b></p>	
<p>Particular considerations apply when an application involves the possibility of exposure to ionising radiation. In such cases it is important that the basic principles of radiation protection recommended by the International Commission on Radiological Protection<sup>5</sup> (ICRP) are followed. PHE provides advice on the application of these recommendations in the UK. The ICRP recommendations are implemented in the Euratom Basic Safety Standards<sup>6</sup> (BSS) and these form the basis for UK legislation, including the Ionising Radiation Regulations 1999, the Radioactive Substances Act 1993, and the Environmental Permitting Regulations 2016. PHE expects promoters to carry out the necessary radiological impact assessments to demonstrate compliance with UK legislation and the principles of radiation protection. This should be set out clearly in a separate section or report and should not require any further analysis by PHE. In particular, the important principles of justification, optimisation and radiation dose limitation should be addressed. In addition compliance with the Euratom BSS and UK legislation should be clear.</p>	<p>During the detailed design stage the use of ionising radiation will be considered, with the primary objective of preventing and eliminating the use of any source of ionising radiation on site.</p> <p>Should it be necessary to utilise ionising radiation on site at any stage during construction, operation or de-commissioning then the project team will be fully compliant with the current ionising radiation regulations 1999, which are subject to revision in 2017.</p> <p>A commitment to compliance with this legislation is made in ES Chapter 2.</p>
<p><b>ROYAL MAIL</b></p>	
<p><b>Traffic and transport</b></p>	
<p>Royal Mail made the following comments/requests:</p>	
<p>Royal mail requests that the ES includes information on the needs of major road users (such as Royal Mail) and acknowledges the requirement to ensure that major road users are not disrupted through full advance consultation by the application at the appropriate time in the DCO and development process.</p> <p>The ES should include detailed information on the construction traffic mitigation</p>	<p>Chapter 4 of the ES includes an assessment of the effects of the development on driver delay and highways safety for all road users.</p> <p>It is suggested that a Construction Environmental Management Plan forms a</p>

measures that are proposed to be implemented, including a draft Construction Traffic Management Plan (CTMP).

With the adjacent Wheelabrator Kemsley Generation Station (K3) Power Upgrade planning permission and the DCO proposal together with other nearby planned major developments, careful attention must be given in the ES to the potential for cumulative traffic impact during construction and operation phases.

Royal Mail requests that it is fully pre-consulted by Highways England on any proposed road closures/diversions/alternative access arrangements, hours of working and the content of the CTMP. The ES should acknowledge the need for this consultation with Royal Mail and other relevant local businesses/occupiers.

requirement of any DCO consent to inform the appointed contractors at the time of construction.

A Construction Traffic Management Plan will form part of the Construction Environmental Management Plan.

A full cumulative impact assessment has been undertaken and included in Chapter 4.

The ES has stated that the CTMP and associated matters should be discussed with local stakeholders at the relevant time as part of the CEMP.