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David Harvey
DHA Planning

Our Ref: EN010090

Date: 26 April 2018

Sent by email only

Dear Mr Harvey

Planning Act 2008 (as amended) – Section 51

Application by DS Smith Paper Ltd for an Order Granting Development Consent for the proposed Kemsley K4 CHP Generating Station

Advice following issue of decision to accept the application for examination

On 26 April 2018 the Secretary of State decided that the application for the proposed Kemsley K4 Combined Heat and Power (CHP) Generating Station satisfied the acceptance tests under section 55 of the Planning Act 2008 (PA2008). The Planning Inspectorate's (PINS) [acceptance checklist](#) and the Applicant's application documents have been published and made available on the [project page](#) of our website.

In undertaking checks at the acceptance stage, PINS did make some observations in relation to the application. This letter comprises advice to the Applicant provided under section 51 of the PA2008. The Applicant should pay attention to its content, and consider how appropriate action might be taken in response.

Section 42(1)(a) persons prescribed

As detailed in the published s55 checklist ('the checklist') (**Box 6**), there are a number of potentially relevant bodies which, on the basis of the information provided by the Applicant do not appear to have been consulted at the pre-application stage. These are:

- Network Rail Infrastructure Ltd
- Energy Assets Network Limited
- Energy Assets Power Networks
- Fulcrum Electricity Assets Limited
- Murphy Power Distribution Limited
- Vattenfall Networks Limited

Unless there is a good reason in each case why the Applicant considers that these bodies are not relevant to the proposed development, the Applicant is advised to include these bodies, or their appropriate successors, in the notification process of the accepted application. This should highlight the opportunities to become involved in the

examination of the application. In particular it should explain the process by which they may make relevant representations during the advertised period.

Draft Development Consent Order

It is noted in the checklist (**Box 30**, Regulation 5(2)(b) and 5(2)(j)) that there are some discrepancies regarding the Works Plans Drawing number references as provided in Article 12 of the dDCO. The Applicant is advised to carry out a full review of their dDCO to ensure that any plans to be certified are referenced accurately therein.

Works Plans

It is noted in the checklist (**Box 30**, Regulation 5(2)(j)) that *Work No.1 – Works Plan with limits of deviation for vertical tube boiler* (Doc 4.9), depicts works number 1(g) ("CHP Pipe Bridge, including pipes and cables") slightly outside the Limits of Deviation (LoD) shaded yellow. There appear to be some discrepancies regarding the positioning of the CHP pipe bridge, upon review of Doc 4.9 and Doc 4.10 in conjunction and it would be helpful, if the Applicant could provide a plan to show clearly the relationship of work number 1(g) to the Works and LoD.

Based on the documents provided, it appears to the Planning Inspectorate that the positioning of the CHP pipe bridge, in relation to the vertical tube boiler should be as that depicted on the plan entitled *Illustrative layout with vertical tube boiler* (Doc 4.10), which illustrates the laydown of the CHP pipe bridge at a 90° angle.

Works Plans – Work No.2

From a user perspective it would significantly assist comprehension of Work No.2 – Tie-ins to existing site facilities (Illustrative) (Doc 4.13) if these works (as depicted on the plan and referenced in the draft DCO; Schedule 1: Work No.2 (a to v)) were overlaid onto the Site Location Plan – Aerial Photo (Doc 4.2) to depict these existing items to be retained for the continued use with the proposed development. It would assist any future Examining Authority if such a plan was submitted.

Other Plans

It is noted in the checklist (**Box 30**, Regulation 5(2)(o)) that both illustrative plans depicting elevation cross sections for the Horizontal and Vertical Tube Boiler (Doc 4.7 and 4.11 respectively), depict the main and ancillary plant items associated to Work No.1. These works should be reviewed in conjunction with their respective plans illustrating the layout of the Horizontal and Vertical tube boiler depicted in Doc 4.6 (Illustrative layout with horizontal tube boiler) and Doc 4.10 (Illustrative layout with vertical tube boiler).

Upon review of these plans in conjunction it appears that Doc 4.7 and 4.11 do not depict the positioning of work number 1(v) ("*boiler water feed pumps*") at an elevation cross-section (North, South, East and West).

The Applicant is advised to undertake a full review of their plans submitted in support of the application and also consider the renaming of Doc 4.12a/b (Site Context – Illustrative 3d Visual – Vertical Tube Boiler), which share the same name and drawing number reference.

The Applicant is reminded to ensure that correct references and/or drawing numbers are provided; as well as ensure that correct details are depicted on each plan and/or drawing to avoid any confusion prior to the Examination. The Applicant is encouraged to take these points into consideration when preparing any updated documents for submission.

Habitats Regulations Assessment

The Applicant may wish to consider the following in relation to **Box 31** of the checklist. Following a request for a ruling, the European Court of Justice issued a judgement on 12 April 2018 about the interpretation of Article 6(3) of Council Directive 92/43/EEC on the conservation of natural habitats and of wild fauna and flora ('the Habitats Directive'). The reference of the case is C-323/17 - People Over Wind, Peter Sweetman v Coillte Teoranta.

The judgement concerns the stage at which mitigation measures should be taken into account when undertaking an assessment under The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations). The Applicant is advised to consider, in discussion with Natural England, whether the judgement has any implications for the Habitats Regulations assessment that has been undertaken in respect of the Proposed Development.

Submission of updated documents

With regard to the issues identified above, it would be helpful and assist the examination process if any other information, clarification documents or amendments made to the application documents were submitted to the Planning Inspectorate no later than 10 working days before the Preliminary Meeting (PM), to enable them to be published on the project page of our website before the PM.

Please pay close attention to the advice set out in this letter and act on it accordingly. This will contribute towards a more efficient examination and give any future Examining Authority (ExA) comfort that the documentation is complete and accurate.

We trust you find this advice helpful, however if you have any queries on these matters please do not hesitate to contact our office using the contact details at the head of this letter.

Yours sincerely

Emre Williams

Emre Williams
Case Manager

Advice may be given about applying for an order granting development consent or making representations about an application (or a proposed application). This communication does not however constitute legal advice upon which you can rely and you should obtain your own legal advice and professional advice as required.

A record of the advice which is provided will be recorded on the National Infrastructure Planning website together with the name of the person or organisation who asked for the advice. The privacy of any other personal information will be protected in accordance with our Information Charter which you should view before sending information to the Planning Inspectorate.