



Marine
Management
Organisation

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Your reference: EN010090 KEMP4-SP028
Our reference: DC10165/Regulator

By email only

26 June 2018

Dear Project Team,

PLANNING ACT 2008 (AS AMENDED) – SECTION 88 AND THE INFRASTRUCTURE PLANNING (EXAMINATION PROCEDURE) RULES (AS AMENDED) – RULE 6

APPLICATION BY DS SMITH PAPER LTD FOR AN ORDER GRANTING DEVELOPMENT CONSENT FOR THE KEMSLEY MILL K4 COMBINED HEAT AND POWER GENERATING STATION

Thank you for your letter dated 18 June 2018, notifying the Marine Management Organisation (the “MMO”) of the Preliminary Meeting (PM) and Examination timetable for the above referenced application by DS Smith Paper Ltd.

The MMO’s role in Nationally Significant Infrastructure Projects

The MMO was established by the Marine and Coastal Access Act 2009 (the “2009 Act”) to make a contribution to sustainable development in the marine area and to promote clean, healthy, safe, productive and biologically diverse oceans and seas.

The responsibilities of the MMO include the licensing of construction works, deposits and removals in English inshore and offshore waters and for Welsh and Northern Ireland offshore waters by way of a marine licence¹. Inshore waters include any area which is submerged at mean high water spring (“MHWS”) tide. They also include the waters of every estuary, river or channel where the tide flows at MHWS tide. Waters in areas which are closed permanently or intermittently by a lock or other artificial means against the regular action of the tide are included, where seawater flows into or out from the area.

¹ Under Part 4 of the 2009 Act



In the case of Nationally Significant Infrastructure Projects (“NSIPs”), the Planning Act 2008 (as amended) enables Development Consent Orders (“DCO”) for projects which affect the marine environment to include provisions which deem marine licences².

As a prescribed consultee under the 2008 Act, the MMO advises developers during pre-application on those aspects of a project that may have an impact on the marine area or those who use it. In addition to considering the impacts of any construction, deposit or removal within the marine area, this also includes assessing any risks to human health, other legitimate uses of the sea and any potential impacts on the marine environment from terrestrial works.

Where a marine licence is deemed within a DCO, the MMO is the delivery body responsible for post-consent monitoring, variation, enforcement and revocation of provisions relating to the marine environment. As such, the MMO has a keen interest in ensuring that provisions drafted in a deemed marine licence (“dML”) enable the MMO to fulfil these obligations.

Further information on licensable activities can be found on the MMO’s website³. Further information on the interaction between the Planning Inspectorate and the MMO can be found in our joint advice note⁴.

Kemsley Paper Mill (K4) Combined Heat and Power (CHP) Plant

The MMO has previously reviewed the draft Environmental Statement submitted on 24 January 2018 (submitted as part of a Section 42 consultation) and determined that, based on the information provided, no element of the proposals are within the UK Marine Area (as defined by Section 42 of The 2009 Act) nor are capable of impacting the marine environment. Therefore, based on the information provided, it appears that proposals are wholly outside of the MMO’s remit.

The MMO will therefore not be in attendance at the PM or proposed Issue Specific Hearings (ISH). However, should it become apparent that any element of the proposals will extend below MHWS, the MMO reserves the right to provide further comment during the application process and therefore wishes to remain an Interested Party at this time.

As requested, I can confirm that the MMO is able to receive future communications via email at marine.consents@marinemanagement.org.uk.

Conclusion

Based on current information, the MMO does not intend to participate in the PM or proposed ISHs for the K4 CHP Plant as works appear to be wholly located above MHWS and are therefore outside our the remit. However, should it become apparent that any element of the proposals will extend below MHWS or fall under the UK Marine Area, the MMO reserves the right to provide further comment during the application process.

Your feedback

² Section 149A of the 2008 Act

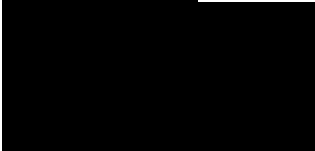
³ <https://www.gov.uk/planning-development/marine-licences>

⁴ <http://infrastructure.planningportal.gov.uk/wp-content/uploads/2013/04/Advice-note-11-v2.pdf>

We are committed to providing excellent customer service and continually improving our standards and we would be delighted to know what you thought of the service you have received from us. Please help us by taking a few minutes to complete the following short survey (<https://www.surveymonkey.com/r/MMOMLcustomer>).

If you require any further information please do not hesitate to contact me using the details provided below.

Yours sincerely,



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