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**Our ref:** KT/2018/124279/01-L01  
**Your ref:** EN010090  
**ID:** 2001035  
**Date:** 06 June 2018

Dear Sir/Madam

**Application for Development Consent Order - Construction and operation of a combined heat and power (CHP) plant ('K4') to supply electricity and steam to the Kemsley Paper Mill in Sittingbourne, Kent.**

**The Kemsley Paper Mill, Swale Way, Kemsley, Sittingbourne, Kent, ME10 2TD**

- **Written Representations on behalf of the Environment Agency**
- **Comments on Relevant Representations – Mr Vick and Natural England**
- **Response to the Examiners Written Questions – Question 57**
- **Statement of Common Ground – The Applicant and the Environment Agency**

The above matters are to be addressed by Deadline 1 (31 July 2018) as part of the DCO examination.

The following pages will address each of the above points.

If you have any questions, please do not hesitate to contact me.

Yours faithfully

**Ms Jennifer Wilson**  
**Planning Specialist**

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- **Written Representations on behalf of the Environment Agency (ID 2001035)**

In our previous relevant representations we raised some concerns. Since that time we have had discussions with DHA and they have provided us with additional information, which have addressed our concerns.

Below for ease of reference are our previous comments plus our updated position following receipt of the additional information.

**“Environmental Statement**  
**Chapter 9, Water Environment**

There is no evidence of a Water Framework Directive (WFD) Assessment having been carried out, despite the intention to discharge cooling water into the Swale transitional WFD water body.

We are concerned by the statement pertaining to the monitoring conditions placed on the permit stating “*No limits are defined for; Flow (m<sup>3</sup>), pH, Mercury (kgs) or Cadmium (kgs)*”. The WFD sets strict chemical limits (as Environmental Quality Standards:EQS’s) for many chemicals, including mercury and cadmium. If mercury or cadmium are in the effluent then their concentration need to be determined when that discharge reaches WFD waters.

Any discharges to WFD water bodies should be assessed in relation to their potential for impacts on the compliance of those receiving WFD water bodies (and any adjoined water bodies).

Whilst we appreciate that Environmental Statements have their own relative scales for magnitude and severity of potential impacts, these are subjective and cannot be considered a substitute for a WFD Assessment, where the question is necessarily a detailed one; primarily will the activities being licensed/permitted cause a failure of any of the multiple EQS concentration limits laid down in the WFD and its daughter directives, or prevent the waterbody from meeting its WFD objectives as laid down in the River Basin Management Plan. Specific consideration of the concentrations of all discharged chemicals on the WFD & EQSD lists are required before it might be concluded whether or not they meet water quality criteria for WFD.

We suggest the applicant visits the government website where guidance on conducting a WFD assessment is provided: <https://www.gov.uk/guidance/water-framework-directive-assessment-estuarine-and-coastal-waters>

Any elements of the application which require a marine licence should be WFD assessed, and the discharge permits intended to be (re-)used should be WFD compliant.

**Chapter 10, Ecology**

There remains concern that the effect of the temperature of the discharges from the works will adversely affect the water temperature of the Swale. This will be looked at in more detail as part of the Permit Variation for the site, however it should be noted that in Section 10.4.14 on Protected species, the authors have only relied on records of protected species. Many of the ditches in the area contain Eel, *Anguilla anguilla*. This should be addressed particularly in the context of the temperature of discharges, above, and light scatter from the development, which might not reach the designated sites but could affect the marshes near the proposal site.”

## **Environment Agency's Updated Position**

We agree that the water quality sections of the WFD scoping assessment do not indicate the discharge will cause WFD deterioration of chemical water quality.

Dissolved oxygen is claimed not to be affected because it is “monitored internally and will not change”, however the fact that it will not change, assuming the assertion is true, doesn't necessarily mean the discharge does not already affect dissolved oxygen levels locally, though we anticipate that this would not be of a sufficient scale to affect the dissolved oxygen WFD compliance of the waterbody as a whole.

The existing permit carries limits for Biological Oxygen Demand (BOD) for the discharge, and we would expect this to continue. Limits on BOD will tend to preserve dissolved oxygen in the receiving waters, though higher temperature in discharge may introduce a higher risk of chemical oxygen demand and biological oxygen demand from heated sediments over which the discharge may flow, especially at low water where the receiving discharge channel would be in effect undiluted and the heat unattenuated until it reaches the water in the Swale, where mixing, cooling and dilution would occur within the mixing zone of 0.4 ha. You have stated that the temperature within the plume will not change as a result of the application, so any adverse effects that might be due to the plume (locally) must presumably already be being experienced (at a local scale) by a proportion of the biota in the Swale waterbody.

### **“Draft Development Consent Order, Schedule 2 - Requirements**

#### **9 External lighting**

This requirement specifies that *“no part of the authorised development may be commenced until a scheme for the management and mitigation of artificial light emissions during the construction, operation and decommissioning of the authorised development has been submitted to and approved by the relevant planning authority”*.

When the planning authority assesses the lighting scheme, they should also consider the impact of lighting on eels and elvers that might be in the ditch network near to the development site. As stated above eels and elvers have not currently been considered in the Environmental Statement which focuses on light impacts on birds that are only reported to be found at a distance from the site.”

## **Environment Agency's Updated Position**

As you can see from above we were concerned about the potential for the new facility to cause unnecessary light pollution and was keen for the re-development to provide an opportunity to assess it properly.

Requirement 9 of the draft Development Consent Order specifies that there will be a scheme for the management and mitigation of artificial light emissions during the construction, operation and decommissioning of the authorised development and that it will be submitted to and approved by the relevant planning authority.

The specified purpose of the scheme is to ensure that there are no consequential impacts on eel and elver, *Anguilla anguilla*.

This is as we hoped when we originally responded to the application because it appeared that it had been overlooked despite their presence in the marshes around the site.

Taking into consideration the above, we are satisfied our concerns have been fully addressed.

- **Environment Agency's (ID 2001035) comments on Relevant Representation – Mr Vick**

Mr Vick's complaints are believed to be related to noise from the paper mill vacuum pump system, which he hears intermittently, potentially in relation to a temperature inversion or other weather related phenomenon. It is a very unusual situation as Eleanor Drive is a significant distance from the mill, and we do not receive complaints from anyone else in Kemsley who are between Mr Vick and the Mill.

The noise monitoring he refers to was initiated by DS Smith following replacement of one of the vacuum pump systems. During the exercise, noise was detected outside his property at a frequency in the 3<sup>rd</sup> Octave Band (Frequency), which corresponds to the frequency of noise emitted from a set of vacuum pumps at the mill. Although it was detected, we have yet to substantiate the noise at a level, which would be considered to be nuisance – largely because of its intermittent nature.

The Environment Agency is working with DS Smith to understand noise potential and manage the issues. We have yet to formally require the mill to have a noise management plan, although the mill does have procedure to manage noise impacts.

The application is for a replacement gas fired CHP plant, located on the other side of the paper machine buildings. The Environment Agency has no record of complaints about noise from the current operations and would not anticipate any for the replacement technology which does not use the technology (Vacuum Pumps) Mr Vick can hear.

- **Environment Agency's (ID 2001035) comments on Relevant Representation – Natural England**

Natural England (NE) have raised the following matter that requires addressing in their relevant representation.

*"2.16. We note that during operation, process water will be discharged to the Swale and will continue to comply with the existing Environmental Permit. However, it is not clear whether this permit was issued before or after The Swale Estuary MCZ was designated. Therefore, Natural England recommends that an MCZ assessment of the discharge is carried out, in accordance with the Marine and Coastal Access Act 2009."*

Since NE's original submission we have discussed with them and DHA Consulting how the MCZ assessment should be carried out.

NE's view is that if the WFD assessment says that the permit is fine on water quality, then the MCZ assessment will conclude the same, as the targets are aligned. As such, we understand DHA consulting need to do a simple MCZ assessment, drawing on the conclusions of the WFD assessment.

Please note that since our request for a WFD assessment to be carried out, one has been submitted to our satisfaction, and we have informed NE of this. .

- **Environment Agency’s (ID 2001035) response to the Examiners Written Questions – Question 57 – Draft DCO, Schedule 2 Requirement 11 (2)**

**Question 57:** *Are the Environment Agency, Lead Local Flood Authority and Internal drainage Board content that the scope of these items is appropriate?*

Requirement 11 relates specifically to Surface and foul water drainage and refers to the items listed below in *Environmental Statement Volume 1– April 2018, Ref: EN010090 – Document 3.1, page 9-29.*

**Mitigation from Completed Development Effects**

Mitigation measures adopted as part of the Proposed Development	Justification
<b>Operation</b>	
<p><b>Drainage maintenance plan</b> This plan is applicable throughout the lifetime of the development for the drainage within the Proposed Development, and any connections to the surface water, or foul sewer and trade waste networks.</p> <p><b>Flood management plan</b> This plan is applicable throughout the lifetime of the development, and should include flood-warning measures. This plan applies to the Site on a regional basis.</p> <p><b>Emergency spillage management plan</b> This plan is applicable throughout the lifetime of the development, and should include emergency measures. This plan applies to the Site on a regional basis.</p> <p><b>Water quality monitoring strategy</b> Ongoing water quality monitoring should be undertaken throughout the lifetime of the development. This will apply to the drainage ditches within and surrounding the Site.</p> <p><b>Flood Evacuation Plan</b> A flood evacuation plan will be developed for the construction and operational phases of the Proposed Development, with staff training provided, to ensure in the event of the plan be activated staff are aware of the procedures upon receipt of the flood warning, together with evacuation routes. The flood evacuation plan should be practiced regularly.</p>	<p>To reduce the risk of surface water pollution and to maintain the drainage network in order that flood risk does not increase temporarily.</p>
<b>Decommissioning</b>	
No additional mitigation measures are needed for the decommissioning phase of the development	

Table 9-17: Operational and Decommissioning designed-in mitigation measures adopted.

Having looked into this requirement, we can advise that the our area of interest in relation to surface and foul drainage will relate to pollution prevention of controlled waters, not surface water flooding, as this is the Lead Local Flood Authority’s (Kent County Councils) remit.

Therefore from a pollution prevention perspective, we are satisfied that the criteria identified in table 9-17 are adequate and appropriate.

- **Statement of Common Ground (SoCG) – The Applicant and the Environment Agency (ID 2001035)**

The Environment Agency and the Applicant have agreed a SoCG, signed by both parties on 25 July 2017.

The Applicant will be submitting this document in due course.