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Dear Sir/ Madam

The Infrastructure Planning (Examination Procedure) Rules 2010 (as amended)

Application by DS Smith Paper Ltd for an Order Granting Development Consent for The Kemsley Mill K4 Combined Heat and Power Generating Station

Examining Authority's Agenda for Issue Specific Hearing 2 (ISH2) on Environmental matters, Landscape and Visual, Ecology, Air Quality and other matters

Further to the procedural decision and timetable enclosed with my Rule 8 letter of 24 July 2018, notifying you of the times, dates and locations associated with the Examination of this application, I am now providing my agenda for Issue Specific Hearing 2 (ISH2) to be held at the Coniston Hotel (Holiday Inn), from 10.00am on Thursday 13 September 2018. The agenda included at **Annex A**, identifies the Applicant (DS Smith Paper Ltd) and other Interested Parties (IPs) that I have invited to attend the ISH2. Any IPs who wish to be heard on the subject matters set out in my agenda for ISH2 may also participate in the hearing.

Any IPs that wish to participate in the ISH2 should notify the Planning Inspectorate indicating the issues that they wish to speak about no later than **midday on 10 September 2018** using the contact details above.

It would help with the management of the hearing if by the same date you can let the Case Manager know:

- whether you wish to speak at the hearing and on which agenda items, listing points you wish to make; and
- of any special needs you may have (e.g. disabled access, hearing loop).

Please ensure that you include your IP reference number in your correspondence.

Planning Inspectorate staff will be available at the venue for half an hour before the hearing commences. It is helpful if intending participants make themselves known to staff during this time. The ISH2 will be open to the public and anyone wishing to attend to observe may do so.

Hearings will finish as soon as the Examining Authority (ExA) deems that all those present have had their say and all necessary issues have been covered. Every effort will be made to ensure that the items in the agenda at **Annex A** and the issues in the 'ExA's Issues and Questions relating to ISH2' at **Table 1** will be discussed on the day.

Depending on the number of parties wishing to speak, it may be necessary to limit the time allocated to each speaker.

The ExA reserves the right to rearrange the agenda for this hearing on the day. If discussion of an issue takes longer than anticipated, it may have to be completed at a later date or responded to by the relevant deadline date within the Examination timetable.

The Examination timetable provides for the possible holding of further hearings on 6 and 7 November 2018. If I decide to proceed with these further hearings, I will write to you separately to provide formal notice. Agendas for any further hearings that I might hold would be provided for, at least 1 week in advance of such hearings and published on the project page for the Kemsley Mill K4 Combined Heat and Power Generating Station of the National Infrastructure website, which can be accessed via the following link:

<https://infrastructure.planninginspectorate.gov.uk/projects/south-east/kemsley-paper-mill-k4-chp-plant/?ipcsection=overview>

If you have any further queries, please do not hesitate to contact the case team using the above address, email address or telephone number.

Yours faithfully

Kevin Gleeson

Examining Authority

Annex A Agenda for Issue Specific Hearing 2 (ISH2)
Table 1 ExA's Issues and Questions relating to ISH2

This communication does not constitute legal advice.

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Kemsley Mill K4 Combined Heat and Power Generating Station - Issue Specific Hearing 2 (ISH2) on Environmental matters, Landscape and Visual, Ecology, Air Quality and other matters

This document sets out the agenda for Issue Specific Hearing 2 (ISH2) on Environmental matters, Landscape and Visual, Ecology, Air Quality and other matters, which I notified all Interested Parties (IPs) of in my Rule 8 letter of 24 July 2018 in **Annex C**.

Date: 13 September 2018
Time: 10.00am, room opens from 9.30am
Venue: **The Coniston Hotel (Holiday Inn)**,
70 London Road,
Sittingbourne
ME10 1NT

Access and Parking: Free parking available on site

Purpose of Issue Specific Hearing 2 (ISH2)

ISH2 is being held for the following purpose:

- To review environmental matters, including matters arising from the application documentation and representations relating to:
 - Environmental Impact Assessment;
 - Air Quality;
 - Ecology (including Habitats Regulations Assessment);
 - Landscape and Visual Impact;
 - Noise and Vibration; and
 - Other Matters.

ExA Table of Issues and Questions for ISH2

The ExA has prepared a table of issues and questions for ISH2, which has been published to the project page for the Kemsley Mill K4 Combined Heat and Power Generating Station of the National Infrastructure website. A copy of this table can be found below.

Issues and questions from the Applicant and IPs that arise from this table will also be heard.

Participation, conduct and management of hearing

This is the second ISH to be held in this Examination and the first to be held on broadly planning and environmental matters not directly related to the draft Development Consent Order (dDCO). A third ISH (ISH3) will be held on Friday 14 September 2018 into the dDCO and I have provided details of this ISH in a separate agenda, dated 5 September 2018.

Provision has been made for a further ISH (ISH4) into any outstanding matters to be held on 6 November 2018. Please note that ISH4 will only proceed if it is required. If

all necessary oral investigations are completed before that time, ISH4 will not proceed. If ISH4 does proceed, it is likely to enable only supplementary questions to be asked by the ExA. It will not re-examine IP's objections or matters of principle arising in relation to the broad environmental effects of the Proposed Development. For these reasons, it is important that any IP with outstanding objections or questions on environmental matters, landscape and visual, ecology, air quality and other matters who wishes to be heard should attend this hearing.

The business of an ISH is limited to the matters identified in the agenda. Oral submissions on other subject matters or from persons who are not IPs may only be heard at the discretion of the ExA. It is strongly preferable that any such issues arising from IPs are brought to the Open Floor Hearing (OFH)¹, scheduled for the evening of 12 September 2018 where there is no subject matter agenda and IPs may raise any relevant and important matter.

Participation is subject to the ExA's power to control the hearing.

Invited Participants

The ExA requests that the following bodies attend and participate in ISH2:

- **DS Smith Paper Ltd (the Applicant)** - including representatives of the Applicant who are in a position to discuss the matters on the agenda;
- **Swale Borough Council (SBC)**;
- **Natural England**; and
- **Any other Interested Parties (IPs)** – with a wish to be heard on topics in this agenda.

The ExA requests that invited participants who wish to make oral representations attend at the appointed start time of 10.00am.

Hearing Guidance

Participants may be legally represented if they wish, but the hearing will be conducted to ensure that legal representation is not required.

Guidance under the Planning Act 2008 (PA 2008) and the Infrastructure Planning (Examination Procedure) Rules 2010 provide that it is the ExA that will probe, test and assess the evidence through direct questioning of persons making oral representations at hearings. Questioning at the hearing will be led by the ExA.

Cross-questioning of the person giving evidence by another person will only be permitted if the ExA decides it is necessary to ensure representations are adequately tested or that a person has had a fair chance to put their case.

The hearing will run until all IPs have made their representations and responded to the ExA's exploration of the matters in accordance with the agenda set. The following agenda is indicative and may be amended by the ExA at the start of the hearing session. Furthermore, the ExA may wish to raise other matters arising from

¹ [Agenda for Open Floor Hearing](#)

submissions, and pursue lines of inquiry in the course of the discussion which are not on the agenda.

**Agenda for Issue Specific Hearing 2 (ISH2) on
Environmental matters, Landscape and Visual, Ecology,
Air Quality and other matters**

1. Welcome, introductions and arrangements for Issue Specific Hearing 2 (ISH2)

2. ExA's table of Issues and Questions for ISH2

The ExA will review the issues raised in the table.

Responses from the Applicant will be sought on all questions.

Any IP in attendance and wishing to speak in relation to matters arising from the published table will be invited to put oral submissions to the ExA.

The Applicant will be provided with a right of reply.

3. Review of issues and actions arising

The ExA will review how and by when any actions placed on the Applicant or other IPs are to be met.

4. Next steps

5. Closure of the hearing

Application by DS Smith Paper Limited for The Kemsley Mill K4 Combined Heat and Power Generating Station

Table of Examining Authority Issues and Questions on Environmental Matters, Landscape and Visual, Ecology, Air Quality and Other Matters

The issues and questions set out below expand on the Examining Authority's (ExA's) initial identification of principal issues as matters for examination. They will be referred to in the second issue specific hearing (ISH2) into environmental matters, landscape and visual, ecology, air quality and other matters on **Thursday 13 September 2018**. The issues follow on from the matters addressed in the ExA's Written Questions and Requests for Information (ExQ1) issued on 24 July 2018 and Interested Parties' responses submitted by Deadline 2 (21 August 2018). They are principally addressed to the Applicant but observations from other interested parties (IPs) attending the hearing are welcome.

Abbreviations Used

PA2008	<i>The Planning Act 2008 as amended</i>	MP	<i>Model Provision (in the MP Order)</i>
Art	<i>Article</i>	MP Order	<i>The Infrastructure Planning (Model Provisions)(England & Wales) Order 2009</i>
dDCO	<i>Draft DCO [APP-005]</i>	NPS	<i>National Policy Statement</i>
EM	<i>Explanatory Memorandum [APP-006]</i>	NSIP	<i>Nationally Significant Infrastructure Project</i>
ES	<i>Environmental Statement [APP-008-036]</i>	R	<i>Requirement</i>
ExA	<i>Examining authority</i>	RR	<i>Relevant Representation</i>
LIR	<i>Local Impact Report</i>	SI	<i>Statutory Instrument</i>
LPA	<i>Local planning authority</i>	SoS	<i>Secretary of State</i>

The Examination Library

References in these questions set out in square brackets (eg [APP-010]) are to documents catalogued in the Examination Library. The Examination Library can be obtained from the following link which will be updated as the examination progresses:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010090/EN010090-000344-K4%20Internal%20Examination%20Library%20-%20PDF%20Version.pdf>

Citation of Questions

Questions in this table should be cited as follows:

Hearing reference: question number, eg **ISH2:1** – refers to question 1 in this table.

Q No.	Topic	Question
	Environmental Impact Assessment	
ISH2:1		<p>See Q1.1.1</p> <p>Swale Borough Council (SBC) has not responded to any of the Written Questions at ExQ1. Could the Council confirm that it will do so by Deadline 3 (D3)?</p>
ISH2:2		<p>The Applicant's response to Q1.1.8 [REP2-030] refers to the need for flexibility in determining the stack height. It also states that the HSRG tendering process is due to be completed by the end of August at which point it will be possible to specify a maximum and minimum height for the stack.</p> <p>Can the Applicant please provide an update regarding this process and indicate whether or not there is any material difference to the stack height proposed?</p>
ISH2:3		<p>The Applicant is requested to provide a tracked changes version of REP2-011 (ES Appendix 5.4 – Air Quality Assessment of Ecological Impacts).</p>
ISH2:4		<p>REP2-030 Appendix 1 Table 1: Climate Change indicates a significant adverse effect prior to mitigation for the completed development. The Applicant is asked to clarify this effect on the basis that Chapter 6 of the ES [APP-009] indicates that it would be a beneficial effect and Table 2 indicates that no mitigation is required for that phase.</p>
ISH2:5		<p>Natural England (NE) confirmed that they agreed with the scope and conclusions of the in-combination effects assessment in their response to Q1.4.37 [REP2-034]. Nevertheless, in their response to Q1.4.45 it is stated that NE are still in discussion with the Applicant over air quality and noise impacts. On this basis, is the conclusion that there are no in-combination effects premature?</p>

Q No.	Topic	Question
ISH2:6		REP2-004, REP2-005 and REP2-006 do not identify features by name. The Applicant is asked to name the features in REP2-005 (Scheduled Monuments) and REP2-006 (Air Quality Management Areas) and for REP-004 to name those listed buildings within a 2km radius of the site.
	Air Quality	
ISH2:7		The ExA will be seeking further clarification from the Applicant regarding their answers to Q1.2.5 – Q1.2.11 including the methodology adopted in respect of the effects of the proposed development on air quality during the operational phase.
ISH2:8		See Q1.2.13. Can NE confirm that the Applicant has provided the further information sought on the calculation of Process Contribution and Predicted Environmental Concentrations as requested for Ramsar habitats?
	Ecology (including Habitats Regulations Assessment)	
ISH2:9		The Applicant proposes to provide a further version of Habitats Regulations Assessment Report (HRAR) at Deadline 3. The Applicant is asked to submit this in Word as well as PDF version. Updated HRA Screening Matrices will also need to be submitted which are consistent with the updated HRAR, as new evidence presented in the HRAR will need to be cross referenced from the Matrices evidence notes.
ISH2:10		See Q1.4.15. Can NE confirm that the MCZ screening assessment has been appropriately undertaken and that the conclusion that the proposed development would have no effect on the MCZ is agreed?

Q No.	Topic	Question
ISH2:11		<p>See Q1.4.16.</p> <p>The Applicant’s response confirms that the Outer Thames Estuary pSPA is now fully designated so that pSPA is no longer relevant. The Natura 2000 Data Sheet indicates that this occurred in November 2017 and therefore prior to the submission of the application. The HRAR and Screening Matrices refer to both sites and therefore the Applicant is asked to reflect the correct position in the updated HRAR and Screening Matrices to be submitted at Deadline 3.</p>
ISH2:12		<p>The Applicant’s response to Q1.4.17 [REP1-004] states that the decommissioning of K4 would make it inoperable but that the Applicant is not currently seeking consent to demolish the facility. Could the Applicant explain the discrepancy with the statement in paragraph 10.7 of the ES [APP-009] which addresses the effects of the decommissioning of K4 on ecology noting that it is likely that this will involve the removal of plant and demolition of buildings?</p>
ISH2:13		<p>Decommissioning is identified as a key activity in paragraph 2.4 of the HRAR. Can the Applicant please clarify / expand upon its response to Q1.4.31 [REP1-004] demonstrating how decommissioning of both K1 and K4 has been addressed in the HRAR?</p>
ISH2:14		<p>NE confirmed that the correct sites and features had been identified in the HRAR in their response to Q1.4.33 [REP2-034]. Some of the features included in the Screening Matrices differ to those listed in the tables in the HRAR. They are also not consistent with those shown on the JNCC website. NE is asked to confirm whether the features identified in the Matrices are correct and to identify any discrepancies. This should be done for Deadline 4 to respond to the Applicant’s revised HRAR and Matrices submitted at Deadline 3.</p>
ISH2:15		<p>The Applicant’s response to Q1.4.39 [REP1-004] states that Appendix 5.3 (Stack Height Determination) has been updated. Could the Applicant please provide an updated copy or should this be a reference to Appendix 5.4?</p>

Q No.	Topic	Question
ISH2:16		See Q1.4.42. Can the Applicant confirm that the CEMP covers all of the mitigation measures proposed in the revised HRAR?
	Landscape and Visual Impact	
ISH2:17		See Q1.6.11. The Applicant is asked to confirm with Historic England their position with regard to the methodology and findings of the LVIA in respect of its findings in relation to cultural heritage.
	Noise and Vibration	
ISH2:18		See Q1.7.3. Can the Applicant please clarify their response to this question in terms of the comparison of LAeqx and LMax?
	Other Matters	
ISH2:19		In providing updated documents or significant parts of documents could the Applicant please present a revised clean version together with a version showing the tracked changes from the previous version and given version numbers?
ISH2:20		The Applicant and all other IPs are asked to comment on whether the revised National Planning Policy Framework, published in July 2018 is materially different from the previous version in respect of the scope of this DCO application?
ISH2:21		In their LIR [REP2-036] SBC made reference to a number of Kent County Council documents. SBC is asked to confirm which policies in these documents are relevant and why.