

The Planning Inspectorate  
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**Our ref:**  
**Your ref:** EN010090  
**ID:** 2001035  
**Date:** 16 August 2018

Dear Sir/Madam

**Application for Development Consent Order- Construction and operation of a combined heat and power (CHP) plan ('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**

**Response to further information requested by the Examining Authority**

Please find enclosed our response to the Examining Authority's request for further information.

We have no further comments or submissions for Deadline 2.

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

Yours faithfully

pp Jo Beck

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

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**EN010090: The Kemsley Mill K4 Combined Heat and Power Generating Station  
Environment Agency's response to the Examining Authority's Request for further information**

<b>Ref No.</b>	<b>Respondent</b>	<b>Question</b>	<b>Environment Agency response</b>
<b>Q1.1.4</b>	Applicant Environment Agency	The description of construction facilities and equipment set out in paragraph 2.5.6 of the ES [APP-008] differs from item (e) of the further development described in Schedule 1 of the dDCO [APP-005].  Please could the Applicant demonstrate that the ES has taken account of all of the elements described in (e)?	This question appears to be for the applicant and not for the Environment Agency to answer.
<b>Q1.1.6</b>	Applicant Environment Agency	Paragraph 2.9.25 of the ES [APP-008] states that the Applicant has entered into formal discussions with the Environment Agency (EA) regarding the Environmental Permit for the Proposed Development.  Could the Applicant and the EA provide an update as to how such discussions are progressing and when matters are likely to be finalised.	<b>Environmental Permit</b> We have had pre-application discussions with the Applicant on: <ul style="list-style-type: none"> <li>• The general principles of the proposals (proposed technology, abatement and emission limits).</li> <li>• A permitting strategy on how to incorporate the K4 plant and K1 upgrades into the permit, whilst maintaining operational plant to continue to serve the Kemsley Paper Mill.</li> <li>• Transitional requirements for IED compliance in the form of impending IED Chapter III ELV's and forthcoming BREF BAT AEL's, as well as the proposed approach to baseline ground conditions.</li> </ul> We are comfortable with the Applicant's proposals in respect of these issues. No technical determination has been undertaken with respect to impact on environmental receptors, (e.g. stack height, ground level concentrations of air pollutants), which would be assessed as part of the permit application.  <b>Flood Risk Activity Permit (FRAP)</b> The FRAP for the new outfall has been completed. The applicant has a MMO licence which means that an exclusion applies under the Environmental Permitting Regulations.
<b>Q1.1.8</b>	Applicant	Table 2.1 of the ES [APP-008] (page 2-4)	The applicant will need to demonstrate they are providing sufficient effective

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	Environment Agency	<p>indicates a minimum stack height of 75m although it is described in the table as a 70m high stack, which is consistent with Requirement (R) R5(4) Table 1 (1e) of the dDCO, which indicates a maximum height of 70m. Table 2.1 also shows the package boiler stack as having a minimum height of 35m, in contrast to Table 1 1(j) of the dDCO which shows this as the maximum height.</p> <p>Please could the Applicant explain these apparent discrepancies?</p> <p>In addition, please explain the reference to a 75m stack height in the table following paragraph 2.11.13 of the ES (also identified as Table 2.1) and why the height of 70m is proposed. The Stack Height Determination [APP-025] concludes that a suitable stack height for the assessment is considered to be 70m. There appears to have been no assessment of stack width/diameter.</p> <p>Please can the Applicant explain how the maximum diameter of the stacks was determined.</p> <p>Is it necessary to provide flexibility and is there any possibility of the proposed heights changing in response to further design work?</p> <p>Could the Applicant and the EA please comment on how a variation would be dealt with through the DCO and environmental</p>	<p>stack height to ensure adequate dispersion of air pollutants. Emissions of air pollutants will be lower than the current K1 permit allows so a lower stack than currently used on the K1 plant may be permissible. However since the K1 plant has been permitted additional sources of NOx have been permitted in the Kemsley / Ridham area which need to be taken into consideration by the Applicant's air dispersion model.</p> <p>We are unable to comment on the proposed stack height in advance of a permit application. During the determination of the application, we would audit the Applicant's approach to air modelling. If we consider the proposed effective stack height is insufficient to afford suitable environmental protection we would require the Applicant to increase the effective stack height, or refuse the application.</p>

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		<p>permitting procedures?</p>	
<p><b>Q1.1.16</b></p>	<p>Applicant Swale Borough Council Kent County Council Environment Agency Natural England</p>	<p>Appendix 2.1 of the ES [APP-011] provides an outline Construction Environmental Management Plan (CEMP).</p> <p>Is the CEMP subject to a process of verification / sign off when construction is complete, such as the preparation of a Handover Environmental Management Plan as occurs in other DCOs? Alternatively, or additionally, is there a need for a Register of Environmental Actions and Commitments which would identify and confirm the environmental actions required to deliver mitigation and could be a certified document.</p> <p>IPs are asked to comment on the scope of the outline CEMP including whether it comprehensively address the main construction impacts and is sufficiently detailed to provide confidence that the matters it addresses can be satisfactorily discharged at a later stage?</p>	<p>We suggest that the local Environment Health Officers are best placed to respond to these questions. CEMPs are usually operational documents and as such do not have a formal close out other than verification in land contamination reports if any pollution incidents occurred during works.</p>
<p><b>Q1.2.2</b></p>	<p>Applicant Environment Agency</p>	<p>Paragraph 5.2.14 of the ES indicates that the EA will ensure that Best Available Techniques (BAT) are used to deliver the maximum improvements to air quality where UK air quality objectives are in danger of being breached.</p> <p>As the environmental permitting process is separate from the DCO process, could the</p>	<p>The Applicant will need to meet Best Available Techniques (BAT) Associated Emission Levels (AEL's) prescribed by the Large Combustion Plant BREF. In doing so, a range of techniques may be utilised and presented as BAT.</p> <p>We have not made a formal assessment of the proposed abatement techniques proposed, however it is unlikely that the Applicant is proposing techniques to achieve BAT AEL's in the DCO that would be different to those they propose for the Environmental Permit application.</p>

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		design proposed in the DCO application require any other technologies or emission control measures (ie that are not assessed in the ES / Habitats Regulations Assessment Report (HRAR) in order to achieve BAT?	
<b>Q1.2.16</b>	Applicant Environment Agency	<p>Paragraph 9.5.4 of the Planning Statement [APP-057] states that the K1 boilers will be upgraded, with emissions likely to be lower, although that does not form part of the current DCO application.</p> <p>Can the Applicant please confirm whether the ES has assumed that there would be an improvement in efficiency? What scale of efficiency improvement is envisaged? When is the upgrade planned to be undertaken?</p>	<p>These questions appears to be for the applicant and not for the Environment Agency to answer.</p> <p>We may assess energy efficiency of the K1 boilers during the Environmental Permit application, but would principally be interested in upgrades to reduce Nox emissions (i.e. low Nox burners). The upgrade would need to comply with the implementation of the LCP BREF but the applicant may propose to do so sooner.</p>
<b>Q1.4.22</b>	Applicant Environment Agency	Whilst concluding that in both construction and operational phases there were no habitats on site of ecological value, the Applicant and EA are asked whether there is a need for mitigation to avoid harm to species or habitats off-site eg nesting birds, acknowledging that although the likelihood of impact is low, the impact without mitigation could be high? If so, please suggest an appropriate requirement.	We consider the mitigation required by Requirement 9 of the DCO to be appropriate. We do not anticipate that there will be other impacts from the site with the potential to affect any of the species for which we are considered to be the 'lead. Natural England will be able to advise on impacts on nesting birds.
<b>Q1.9.1</b>	Applicant Environment Agency	The ES, at paragraphs 2.7.4-2.7.6 [APP-009], indicates that any excess process water from the CHP will be conveyed to the Mill's existing Waste Water Treatment Facilities which is controlled by an EA permit. In addition the process water for K4 is intended to use ground	Our Statement of Common Ground with the Applicant submitted for Deadline 1 states that the Applicant expects K1's water demand will be met through DS Smith's existing licensed groundwater abstraction (9/40/02/0021) and without the need to vary licence conditions.

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		<p>water abstracted in accordance with an EA permit.</p> <p>The Applicant has indicated that there will be less excess water by way of volume comparing K4 with K1 and that less water will be abstracted. What evidence is there to support this position? In responding please quantify the volumes involved for the existing situation and for the proposed development.</p> <p>The Applicant and the EA are asked to confirm what discussions have taken place about the effect of the proposed development on the existing permit? This should be addressed in a response to this Question and in a Statement of Common Ground.</p> <p>Existing water abstraction and discharges are allowed under EA permits 9/40/02/0021/GR and EPR BJ74681C- V009, respectively, and it is anticipated that K4 could operate according to the terms of those permits. Please can the Applicant clarify whether the limits in the permits would allow for both K1 and K4 to operate together, and whether the period of time where both plants would operate simultaneously has been assessed, and if not provide such an assessment.</p>	
<b>Q1.9.2</b>	Applicant Environment Agency	A piling risk assessment is proposed to be undertaken to identify an appropriate method of piling which would minimise any downward migration of contamination. This would be	We are satisfied that R12(1) provides sufficient guidance. The Piling risk assessment should be undertaken in accordance with Environment Agency's piling guidance document.

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		<p>secured through R12(1) of the dDCO [APP-005].</p> <p>Could the Applicant and the EA comment on whether or not the reference in R12(1) provides sufficient guidance as to the scope of the piling risk assessment as a means of preventing downward migration of contamination?</p>	
<b>Q1.9.3</b>	Applicant Environment Agency	<p>Paragraph 22.4.2 of the DAS [APP-058] refers to R11 and the reference to Table 9-17 of the ES which addresses mitigation measures during the operational phase. Although mentioned in paragraph 22.4.2, there is no mention of a Surface Water Management Plan in Table 9-17. This is referred to in Table 9-16 which addresses mitigation during the construction phase.</p> <p>The Applicant is asked whether Table 9.16 which also identifies the need for a Flood Management Plan should also be referenced in R11? If not, why not? Alternatively, is there a need for a separate requirement to address drainage during construction?</p> <p>Could the EA comment on the scope of Tables 9-16 and 9-17 as proposed mitigation measures?</p>	<p>We have no comments on table 9-16 as we are no longer the lead for surface water drainage. We advise that Kent County Council as the Lead Local Flood Authority should be consulted.</p> <p>As stated in our response to the Examiners Written Questions answered for Deadline 1 we are satisfied that the criteria identified in table 9-17 are adequate and appropriate from a pollution prevention perspective.</p>
<b>Q1.9.6</b>	Applicant Environment Agency	As set out in paragraphs 9.3.3 and 9.3.28 of the ES [APP-009] the methodology for the assessment of development impacts is based	We have no concerns with this proposed approach.



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		<p>on guidance provided in the Design Manual for Roads and Bridges.</p> <p>The Applicant and the EA are asked to comment on the appropriateness of this methodology for the assessment of hydrology and flood risk?</p>	
Q1.9.7	Environment Agency	<p>Paragraph 9.4.18 of the ES [APP-009] indicates that the EA has confirmed that they have no record of groundwater flooding within the proposed development.</p> <p>Can the EA please confirm this?</p>	We can confirm that we have no record of groundwater flooding within the proposed development.
Q1.9.10	Applicant  Environment Agency	<p>In Table 9-14 of the ES [APP-009] reference is made to a Decommissioning Plan including a Decommissioning Environmental Management Plan to be produced and agreed with the EA as part of the environmental permitting and site surrender process.</p> <p>The Applicant and the EA are asked for their views on how the Decommissioning Plan should be secured? Should it be the subject of a separate requirement? For clarity, does this relate to decommissioning of K1 or the proposed K4?</p>	The Decommissioning Plan could be secured through the life of the permit. Permit Applications normally identify end of life proposals and Environmental Permits contain the following condition '4.3.6 The Environment Agency shall be given at least 14 days notice before implementation of any part of the site closure plan'. Surrender of a permitted operation requires a separate permit application to prove the activity has ceased, been decommissioned and the land/ groundwater is of the same quality as when permitted operations commence.
Q1.9.11	Environment Agency	Can the EA confirm that, as set out in paragraph 9.7.37 of the ES [APP-009] that there is no need for the proposed development to reduce existing run-off rates? If not, why not?	We are no longer the lead for surface water drainage and advise that Kent County Council as the Lead Local Flood Authority should be consulted.

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<b>Q1.9.17</b>	Applicant Environment Agency	<p>The response of Southern Water in Appendix 3.2 of the ES [APP-013] makes a number of observations in respect of the proposed development. These relate to the location of foul sewers, their ownership, the potential need for an application for a connection to be made to the public foul and surface water drainage, the potential for an application for a connection to the public water main, and an assessment of the impact of proposed site activities during construction and when operational on public groundwater resources and surface water quality.</p> <p>Can the Applicant indicate where these matters have been addressed in the applications documents? If they have not been considered please provide a response to Southern Water's comments.</p> <p>The EA is also asked to comment.</p>	<p>We are satisfied that the Applicant is appropriately protecting groundwater and surface water. This is covered in the historic contamination and remediation assessments and the land quality reports submitted. Impacts to groundwater and surface water during operation of the plant will be assessed as part of the EPR application.</p>
<b>Q1.9.18</b>	Applicant Environment Agency	<p>In its RR [RR-005], NE raised the issue of process water being discharged into the Swale noting that it was not clear whether the Environmental Permit was issued before or after the Swale Estuary Marine Conservation Zone (MCZ) was designated. Consequently, NE recommended that an MCZ assessment of the discharge is carried out in accordance with the Marine and Coastal Access Act 2009.</p> <p>Could the Applicant and the EA comment on</p>	<p>As stated in our comments on Natural England's Relevant Representation submitted for Deadline 1 we have confirmed that a simple MCZ assessment is required, drawing on the consultations of the Water Framework Directive (WFD) assessment.</p> <p>Note: The Applicant has undertaken a WFD assessment to our satisfaction. We have advised Natural England of this.</p>

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		NE's recommendation. If an assessment is necessary can the Applicant indicate when this will be provided.	
<b>Q1.11.12</b>	Applicant Environment Agency	<p>Paragraph 17.3.13 of the DAS [APP-058] states that it is 'anticipated that a suitable condition would be imposed in respect of contamination on any planning permission issued for the proposed internal road, which alongside [R12] ensures that the issue of potential contamination will be appropriately dealt with should the existing K4 site surface be broken up as part of works undertaken under a DCO or planning permission'.</p> <p>Can the Applicant please provide an update on this statement reflecting the evolving plans for the proposed road.</p>	This question appears to be for the applicant and not for the Environment Agency to answer.