

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

The Examining Authority's (ExA) Consultation Draft Development Consent Order (DCO)

**Environment Agency comments to the ExA proposed Development Consent Order
Deadline 5**

Reference.	ExA's Recommended Amendment	ExA's Reason and Notes	Environment Agency's comments
<p>Schedule 2</p> <p>R12</p>	<p>“Contaminated land and groundwater <u>Land contamination and groundwater</u></p> <p>12 (1) No part of the authorised development may be commenced, and no archaeological investigations, investigations for the purpose of assessing ground conditions or remedial work in respect of contamination or other adverse ground conditions may take place until details of ground gas protection measures for that part, or for those activities to the extent they may be required, have been submitted to and approved by the relevant planning authority in consultation with the Environment Agency.</p> <p>(2) Construction works for the authorised development must be carried out in accordance with the approved ground gas protection measures.</p> <p>(3) If contaminated land <u>contamination</u></p>	<p>The heading and references within R12 have been changed from contaminated land to land contamination to emphasise the need to address any contamination rather than the land affected by it.</p> <p>Other changes proposed by the Environment Agency (EA) are not considered necessary or appropriate.</p>	<p>We acknowledge and support the change of the heading for R12, so that it is now more legally sound. We note the heading refers to groundwater but the main part of this requirement only covers ground gas, therefore we make the following comment:</p> <p>R12 (1) in the main relates specifically to the approval of ground gas protection measures, these are not within our remit and therefore we would not be the appropriate authority to approve such measures. Our specific remit is groundwater protection and ensuring that land remediation is carried out to ensure there is no risk to any controlled waters as a consequence of any site activity, hence our previous suggested wording separating the issues. If 12 (1) is just to address gas protection measures reference to the Environment Agency in 12 (1) should be removed. The LPA Environmental Health Team would be the correct authority to contact. We still maintain that the design of gas</p>

	<p>not previously identified is found during the construction of the authorised development, no further works for the authorised development may be carried out in the affected area until an investigation and remediation scheme has been submitted to and approved by the relevant planning authority; and the scheme must include details of-</p> <p>(a) how the contaminated land <u>contamination</u> is to be identified and assessed;</p> <p>(b) timescales for carrying out the remediation measures: and</p> <p>(c) any ongoing monitoring or mitigation requirements.</p> <p>(4) Any remediation measures identified in the investigation and remediation scheme mentioned in sub-paragraph (3) must be carried out in accordance with the approved scheme.”</p>		<p>protection measures for the development rely on adequate ground investigations and monitoring activities, therefore it is in reverse order that measures should be approved prior to ground investigation or archaeological investigations activities, although obviously these activities must be carried out under standard H&S safeguards to the extent that they are required.</p> <p>R12 (2) – as detailed above this is not our remit.</p> <p>R12 (3 & 4) – This mostly reflects one of our standard land contamination requirements for groundwater protection, so we should in this instance be contacted, but only in relation to groundwater protection.</p>
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