



# The Kemsley Mill K4 Combined Heat and Power Generating Station Development Consent Order

PINS Ref: EN010090



Applicant's response to the ExA's  
schedule of amendments to the  
draft DCO

Document 12.3

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November 2018 - Deadline 5

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# 1 Introduction

## 1.1 Overview

- 1.1.1 This document has been prepared on behalf of DS Smith Paper Ltd (DS Smith) in respect of its application for a Development Consent Order (DCO) for a gas fired Combined Heat and Power Plant at the Kemsley Paper Mill in Sittingbourne, Kent. The Application was accepted for examination by the Planning Inspectorate on behalf of Secretary of State for Business, Energy and Industrial Strategy on 26 April 2018 and given the application reference EN010090.
- 1.1.2 The application was submitted to the Inspectorate on the 6th April 2018 and was accepted by the Planning Inspectorate on the 26th April 2018. As part of the Examination the Examining Authority compiled a number of Second Written Questions (ExQ2) about the application and representations received so far.
- 1.1.3 This document provides the applicant's response to the Schedule published by the Examining Authority (ExA) on the 22<sup>nd</sup> October 2012 of recommended amendments to the applicant's draft DCO, which was submitted by the applicant following Deadline 4 on the 17<sup>th</sup> October 2018. The response takes the form of a schedule which responds to the individual points raised by the ExA.
- 1.1.4 This document should be read alongside the other submissions by the applicant at Deadline 5, including an updated Application Guide (Document 1.2), revised elements of the Environmental Statement, an amended SoCG between the applicant and the Environment Agency and a response to the ExA's Second Written Questions.

## 1.2 The Application Site

- 1.2.1 The Site lies in the south east corner of the existing Kemsley Paper Mill approximately 600m west of the Swale Estuary and north of Milton Creek in the Borough of Swale, Kent. The entire Site is within the security fence for the Paper Mill. The main part of the Site is roughly triangular in shape and consists almost entirely of existing concrete hardstanding. The Site lies within the wider Paper Mill industrial complex which comprises a number of existing large industrial buildings, flue emission stacks, concrete hardstanding and other associated development.
- 1.2.2 The nearest statutory designation with regard to ecological interest is the Swale Special Protection Area and Site of Special Scientific Interest which lies approximately 280m east of the Site at its closest point. The Site is also less than 200m from the Milton Creek Local Wildlife Site.

## 1.3 The Proposed Development

- 1.3.1 DS Smith is seeking permission to decommission the existing gas-fired CHP Plant (K1) and build a new gas-fired CHP plant (K4) with a nominal power output of 68-73 Megawatts to be operated by DS Smith and/or other companies to supply steam and power to their existing Kemsley Paper Mill, with excess electricity being exported to the grid.

- 1.3.2 The Proposed Development will comprise a combined cycle plant fuelled by a gas turbine of 52-57 MW nominal power output, waste heat recovery boilers providing 105 MWth steam and steam turbine technology of around 16 MW nominal power output.
- 1.3.3 The proposed K4 plant would replace the existing K1 CHP generating station at the paper mill which is nearing the end of its operational life. The decommissioning of the K1 CHP plant comprises works to make K1 inoperable but no physical demolition of the existing K1 structure is proposed as part of this DCO.

## **2 Applicant's Responses to the ExA's recommended amendments to the Applicant's draft DCO**

2.1.1 The following Table provides the Applicant's response to the amendments proposed by the ExA to the Applicant's draft DCO.

# Comments on the ExA's preferred DCO



Reference	Text as set out in draft DCO Post Deadline 4 Version [AS-021]	ExA's Recommended Amendment	Reason and Notes	Applicant's comment
Art 2	<p><i>"Interpretation</i></p> <p><i>2(1) In this Order except where provided otherwise..."</i></p>	<p><i>"Interpretation</i></p> <p><i>2(1) In this Order except where provided otherwise...</i></p> <p><i>"lead local flood authority" has the same meaning as in the Flood and Water Management Act 2010[];</i></p> <p><i>"relevant internal drainage board" means the internal drainage board for the land in question;</i></p> <p><i>"Southern Gas Networks PLC" means the company of that name, company number [ ], whose registered office is at [ ];"</i></p>	Terms used in the draft DCO which require definition.	<p>The Applicant is content for these definitions to be added to the DCO.</p> <p>The Applicant suggests that it may be helpful to refer specifically to section 6 of the Flood and Water Management Act 2010 in the definition of 'lead local flood authority'.</p>
Art 8	<p><i>"(1) Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(b) in relation to a nuisance falling within paragraph (a), (c), (d), (fb) or (g) of section 79(1) (statutory nuisances and inspections therefor) of that Act</i></p>	<p><i>"Where proceedings are brought under section 82(1) (summary proceedings by person aggrieved by statutory nuisance) of the Environmental Protection Act 1990(b) in relation to a nuisance falling within paragraph (a), (c), (d), (fb) or (g) of section 79(1) (statutory nuisances and inspections therefor) of that Act no order is to be made, and no fine may be imposed, under</i></p>	To reflect the ExA's comments at ISH1:26 and ISH3:6 and the Applicant's responses.	The Applicant has nothing to add to its previous responses on this point.

	<i>no order is to be made, and no fine may be imposed, under section 82(2) of that Act if the defendant shows that the nuisance...</i>	<i>section 82(2) of that Act if the defendant shows that the nuisance...</i>		
Schedule 1	<p><i>"In connection with the construction of any of those works, further development within the Order limits consisting of...</i></p> <p><i>(e) such other works, working sites, storage areas and works of demolition, as may be necessary or expedient for the purposes of the construction of the authorised development but only insofar as they do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement."</i></p>	<p><i>"In connection with the construction of any of those works, further development within the Order limits consisting of...</i></p> <p><i>(e) such other works, working sites, storage areas and works of demolition, as may be necessary or expedient for the purposes of the construction of the authorised development, but only insofar as they do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement.</i></p> <p><i><u>but only insofar as they do not give rise to any materially new or materially different environmental effects from those assessed in the environmental statement."</u></i></p>	Separation of the text is required so that the final statement applies to (a) – (d) as well as (e).	The Applicant is content with this change.
Schedule 2 Table 1	<p>1(e) 70 AOD 73 AOD</p> <p>1(j) 35 AOD</p>	<p>Need for update to ensure that figures reflect site level AOD.</p> <p>Need for AOD to be defined in Art 2 Interpretation.</p>	To reflect Applicant's response to ExA Q1.2.7 and ISH2:2.	<p>The Applicant will include updated figures that reflect the site level AOD in Rev D of the DCO, to be submitted at Deadline 6.</p> <p>The Applicant is content for a definition</p>

				of 'AOD' to be added.  In relation to both points see further the Applicant's response to ExA Q2.10.2.
Schedule 2 R12	<p><del>"Contaminated land and groundwater"</del></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 not previously identified is found during the construction of the</p>	<p><del>"Contaminated land and groundwater"</del></p> <p><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 <del>contaminated land</del> <u>contamination</u> not previously identified is found during the</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.	The Applicant is content with these changes.



	<p>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 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>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 <del>contaminated land</del> <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>		
Schedule 2 R15	<p>"(2) Construction works for the authorised development must be carried out in accordance with the approved piling risk assessment."</p>	<p>"Construction works for the authorised development must be carried out in accordance with the approved piling <del>risk assessment</del> <u>method and agreed risk management for that method.</u>"</p>	<p>To clarify that the works must be undertaken on the basis of the approved piling method and the agreed risk management for that record as recommended by the EA.</p>	<p>The Applicant understands the reason for this change but is concerned about the deletion of the reference to the piling risk assessment.</p> <p>It is usual for requirements that require a particular document to be submitted and approved to then include a sub-paragraph explicitly requiring the</p>

				<p>development to be carried out in accordance with the approved document. At things stand, sub-paragraph (1) of this requirement requires the submission and approval of a 'piling risk assessment' and sub-paragraph (2) then requires the development to be carried out in accordance with it. The proposed change to sub-paragraph (2) would delete the reference to the piling risk assessment, leaving an implication (but only an implication) that the 'piling method and agreed risk assessment for that method' will be contained in the piling risk assessment approved under sub-paragraph (1).</p> <p>To address this the Applicant suggests that the wording is amended to read as follows:</p> <p><i>“(2) Construction works for the authorised development must be carried out in accordance with the approved piling method and agreed risk management for that method as set out in the approved piling risk assessment.”</i></p>
Schedule 2 R16	<i>“(1) No impact piling associated with the authorised development shall take place in the months of January and February.”</i>	<i>“(1) No impact piling associated with the authorised development shall take place in <u>the period consisting of</u> the months of January and February.”</i>	To clarify that the impact piling is limited to 10 days in total within November and December.	The Applicant does not consider that this change is necessary, but does not object to it.

Schedule 2		<p><u>Decommissioning and demolition strategy</u></p> <p><u>X.- (1) Unless otherwise agreed with the relevant planning authority, within 24 months of the authorised development ceasing to be used for the purposes of electricity and steam generation (either actively generating or being available to generate on a standby basis), a scheme for the decommissioning, demolition and removal of Work No. 1 must be submitted to the relevant planning authority.</u></p> <p><u>(2) Subject to obtaining the necessary consents and unless otherwise agreed with the relevant planning authority, the demolition and removal of Work No. 1 must be implemented in accordance with the approved scheme.</u></p> <p><u>(3) On the one year anniversary of the authorised development ceasing to be used for the purposes of electricity and steam generation (either actively generating or being available to generate on a standby basis), the undertaker must notify the relevant planning authority of the same.</u></p>		<p>The Applicant has nothing to add to its previous response on this point (ISH3:12).</p>
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