



Environment, Planning and Enforcement

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13 November 2018

Mr. Kevin Gleeson
National Infrastructure Planning
Temple Quay House
2 The Square
Bristol
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BY EMAIL ONLY

Dear Mr. Gleeson,

Re: Application by DS Smith Paper Ltd for an Order Granting Development Consent for The Kemsley Paper Mill K4 Combined Heat and Power Generating Station — Response to Examining Authority's Second Written questions

Following the Planning Inspectorate's Second Written Questions issued on 22 October 2018, Kent County Council (KCC) would like to submit its response.

1. Environmental Impact Assessment

ExQ2.1.1

Section 3.7 of the Outline Construction Environmental Management Plan (CEMP) [REP3-009] provides additional guidance with regard to the scope of the Construction Traffic Management Plan (CTMP). The CTMP would be secured through R8 of the dDCO [AS-021].

Does the Outline CEMP provide sufficient guidance as to the content of the CTMP or should an outline CTMP be provided before the end of the Examination? If an outline CTMP is necessary how should this be addressed in R8 of the dDCO?

KCC response

The Outline CEMP refers to the Environmental Statement Chapter 4 which provides sufficient guidance as to the content of the CTMP. R8 of the dDCO provides sufficient assurance, and KCC therefore has no concern.

ExQ2.1.4

The Applicant's Post Deadline 4 Covering Letter [AS-019] confirms the plans for a vertical boiler configuration with the minimum height of the Heat Recovery Steam Generator (HRSG) Stack being 70m AOD and the maximum height being 73m AOD. The ES has assessed a 70m stack. The Applicant concluded that the flexibility in stack height being sought would not be material to other ES assessments, apart from air quality and landscape and visual matters which are addressed below.

Do IPs agree that increasing the stack height to 73m AOD is not material to other assessments undertaken and reported in the ES? If not, please explain how the potential increase in height would have an effect on the findings of other assessments?

KCC response

The County Council has not identified any other assessments to which the change in stack height would be material.

ExQ2.1.5

In line with the Applicant's answer to Q1.1.16 [REP2-030] a Register of Environmental Actions and Commitments (REAC) has been provided as an Appendix to the outline CEMP [REP3-009]. This establishes the outline CEMP requirement, responsibility and date actioned.

Does the REAC comprehensively address all the environmental actions required to deliver mitigation?

Should the REAC be subject to any formal mechanism to ensure that the matters it addresses are satisfactorily discharged? For example the REAC establishes the need to develop a site-specific Dust Management Plan whereas paragraph 4.2.2 also addresses compliance.

KCC response

KCC has no further comments on whether the REAC should be subject to any formal mechanism to ensure that the matters addressed are adequately discharged.

4. Ecology including Habitat Regulations Assessment

ExQ2.4.1

A revised Habitats Regulations Assessment Report (HRAR) was submitted by the Applicant as a Post Deadline 4 Version [AS-022].

All IPs are asked for their comments on the findings of the revised HRAR.

KCC response

KCC does not disagree with the conclusions of the HRAR, however would draw attention to the fact that that limited information has been submitted to demonstrate that the proposed development will not have an impact on the Special Protection Area (SPA) as a result of hydrological changes.

Paragraphs 6.11 and 6.12 of the report state the following:

6.11 A site-wide Drainage Strategy will be developed with the aim of ensuring that surface water runoff is suitably managed, and not substantially altered as a result of the proposed project. The key features will be as follows:

- *the site will be expected, wherever possible, to utilise practical systems for the collection and re-use of water, particularly from roof areas, to help reduce both potable water demand and surface water runoff all surface water drainage will continue to be discharged to the Swale;*
- *the surface water drainage, including the existing primary gravity drainage channels will be utilised for K4 and will remain in place and managed by DS Smith.*

6.12 Following implementation of mitigation measures, no adverse effect on site integrity of the Swale SPA/Ramsar site is anticipated as a result of the proposed project

These paragraphs are vague, and as such, KCC advises that this section should be much clearer in demonstrating how the submitted Drainage Strategy will ensure that a likely significant effect on the designated site does not occur.

5. Landscape and Visual Impact

ExQ2.6.1

The Applicant's Post Deadline 4 Covering Letter [AS-019] confirms that the height of the HRSG Stack would be between 70m AOD and 73m AOD. The ES has assessed a 70m stack. AS-019 also states that an increase in stack height from 70m to 73m would represent a barely perceptible increase in the scale of the proposed development infrastructure. Consequently it is anticipated by the Applicant that any magnitude of change and level of effect identified within the ES for all landscape, townscape and visual receptors would remain the same and the conclusions within the Landscape and Visual Resources Chapter of the ES [APP-009] would remain unchanged. Similarly the increase in height would not result in any materially new or different effects on the setting of heritage assets from that assessed in the submitted ES according to the Applicant.

Do the Councils wish to comment on the Applicant's statement about the effects of the height increase on the findings of the landscape and visual and cultural heritage assessments in the ES?

KCC response

Assessment of the impacts on the setting of designated heritage assets is being led by Historic England and the district Conservation Officer. However, KCC notes that the previous conclusion on views from the Castle Rough Scheduled Monument was that the potential impact was considered negligible given the massing of the present mill and KCC would consider that an increase of the stack height by 3m is unlikely to alter that position.

8. Traffic and Transport

ExQ2.8.1

In their Relevant Representation [RR-003] and Written Representation [REP1-016] Kent County Council (KCC) indicated that the final Transport Assessment should provide justification for the predicted number of HGV movements.

What is the mechanism for the Applicant to provide a final Transport Assessment and how would this be secured through the DCO?

Do R8(2) of the dDCO [AS-021] and the amendments proposed on page 15 of the outline CEMP [REP3-009] provide for the preparation of a final Transport Assessment? If not, what mechanism would be required to meet KCC's concerns?

KCC response

KCC, as Local Highway Authority, is unable to see that the CEMP addresses the comments made in the Relevant Representations and Written Representations.

The County Council is of the view that the mechanism for the Applicant to provide for the preparation of a final Transport Assessment should be through a requirement attached to the DCO; the requirement should also require the placement of a traffic counter on the entrances and to provide KCC with that data. To further meet KCC's concerns, additional detail in R8 is also needed to restrict the hours of arrival and departure from the peak hours. R8 refers to avoidance of the peak times, which are set out as between 08:00 – 09:00 and 17:00 – 18:00; and KCC agrees that these times are appropriate.

ExQ2.8.2

Does R8(2) of the dDCO [AS-021] adequately address the concern of KCC as expressed in REP1-016 that there is a need to provide a clear indication as to the length of time that the peak number of staff would be expected to be on site and the number of remaining staff expected for the construction period?

KCC response

KCC does not consider that R8(2) adequately addresses the concerns. However, KCC recommends that measures and fines are be incorporated as part of the Travel Plan to ensure there is a clear indication as to the length of time that the peak number of staff are expected to be on site, and the number of remaining staff expected for the construction period. For the avoidance of doubt, KCC suggests that R8 (2C) includes "*measures and potential sanctions*" - KCC currently has no guarantee on the numbers proposed and there will need to be measures and/or sanctions implemented to address any unaccounted impacts

9. Water Environment

ExQ2.9.1

Paragraph 9.7.37 of the ES [APP-009] states that the EA and Medway Internal Drainage Board have not stipulated a requirement to reduce existing run-off rates.

Because the EA are no longer the lead for surface water drainage as set out in their response to the question at REP2-032, can KCC as Lead Local Flood Authority comment on any need to reduce existing run-off rates please?

KCC response

The Kemsley Paper Mill K4 project is located adjacent to the tidal waters of the Swale and therefore, control of discharge rates is not required. However, this does not preclude the need for the applicant to gain approval for discharge and, discharge arrangements to an ordinary water course.

The Development Control Order (in 9(3)) provides control of discharge to watercourses which have a responsible party e.g. adopting authority:

(3) The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs; and such consent may be given subject to such terms and conditions as that person may reasonably impose but must not be unreasonably withheld.

KCC has previously recommended revised wording within the draft DCO which captures the need for consent, along the lines of, “*with the consent of the person to whom it belongs or the consent of the authority which has consenting authority*” or similar. This addition therefore also needs to be included within 9(3)).

11. Other Matters

ExQ2.11.1

As discussed at ISH2 and ISH3 the Applicant made a number of submissions after Deadline 4 but before Deadline 5 of the Examination Timetable set out within the Rule 8 Letter of 24 July. This course of action was agreed by the ExA as a means of ensuring an efficient and effective Examination programme. A number of the documents have already been referred to in ExQ2 above.

For all of the remaining submissions referenced as AS-018 to AS-025 IPs are invited to comment on the documents.

KCC response

The County Council has no further comments to make on the documents.

KCC looks forward to continued working with the applicant and Planning Inspectorate as the project progresses through the Examination process. We would welcome the opportunity to comment on further matters of detail, as required, throughout the Examination.

Should you require any additional information or clarification, please do not hesitate to contact me.

Yours sincerely,



Katie Stewart

Director - Environment, Planning and Enforcement