



# SCOPING OPINION

## Proposed Perry's Farm Hazardous Waste Management Facility



January 2014





# CONTENTS

## EXECUTIVE SUMMARY

1.0	INTRODUCTION.....	1
2.0	THE PROPOSED DEVELOPMENT .....	4
3.0	EIA APPROACH AND TOPIC AREAS .....	13
4.0	OTHER INFORMATION .....	26

## APPENDIX 1 – LIST OF CONSULTEES

## APPENDIX 2 – RESPONDENTS TO CONSULTATION AND COPIES OF REPLIES

## APPENDIX 3 – PRESENTATION OF THE ENVIRONMENTAL STATEMENT





## EXECUTIVE SUMMARY

This is the Scoping Opinion (the Opinion) provided by the Secretary of State in respect of the content of the Environmental Statement for Perry's Farm Hazardous Waste Management Facility, located on the Isle of Grain Peninsula.

This report sets out the Secretary of State's opinion on the basis of the information provided in Peel Environmental Limited's ('the applicant') report entitled 'Perry's Farm, Isle of Grain, Proposed Hazardous Waste Management Facility – Request for Scoping Opinion' (November 2013) ('the Scoping Report'). The Opinion can only reflect the proposals as currently described by the applicant.

The Secretary of State has consulted on the Scoping Report and the responses received have been taken into account in adopting this Opinion. The Secretary of State is satisfied that the topic areas identified in the Scoping Report encompass those matters identified in Schedule 4, Part 1, paragraph 19 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended).

The Secretary of State draws attention both to the general points and those made in respect of each of the specialist topic areas in this Opinion. The main potential issues identified are:

- transport
- air quality; and
- impacts on ecology

Matters are not scoped out unless specifically addressed and justified by the applicant, and confirmed as being scoped out by the Secretary of State.

The Secretary of State notes the potential need to carry out an assessment under the Habitats Regulations<sup>1</sup>.

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<sup>1</sup> The Conservation of Habitats and Species Regulations 2010 (as amended)



# 1.0 INTRODUCTION

## Background

- 1.1 On 2 December 2013, the Secretary of State (SoS) received the Scoping Report submitted by SLR Consulting Ltd on behalf of Peel Environmental Limited under Regulation 8 of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) (the EIA Regulations) in order to request a scoping opinion for the proposed Perry's Farm Hazardous Waste Management Facility ('the Project'). This Opinion is made in response to this request and should be read in conjunction with the applicant's Scoping Report.
- 1.2 The applicant has formally provided notification under Regulation 6(1)(b) of the EIA Regulations that it proposes to provide an ES in respect of the proposed development in a letter dated 28 November 2013 and received by the SoS on 2 December 2013. Therefore, in accordance with Regulation 4(2)(a) of the EIA Regulations, the proposed development is determined to be EIA development.
- 1.3 The EIA Regulations enable an applicant, before making an application for an order granting development consent, to ask the SoS to state in writing their formal opinion (a 'scoping opinion') on the information to be provided in the environmental statement (ES).
- 1.4 Before adopting a scoping opinion the SoS must take into account:
  - (a) the specific characteristics of the particular development;
  - (b) the specific characteristics of the development of the type concerned; and
  - (c) environmental features likely to be affected by the development'.

*(EIA Regulation 8 (9))*
- 1.5 This Opinion sets out what information the SoS considers should be included in the ES for the proposed development. The Opinion has taken account of:
  - i the EIA Regulations
  - ii the nature and scale of the proposed development
  - iii the nature of the receiving environment, and
  - iv current best practice in the preparation of environmental statements.

- 1.6 The SoS has also taken account of the responses received from the statutory consultees (see Appendix 2 of this Opinion). The matters addressed by the applicant have been carefully considered and use has been made of professional judgement and experience in order to adopt this Opinion. It should be noted that when it comes to consider the ES, the SoS will take account of relevant legislation and guidelines (as appropriate). The SoS will not be precluded from requiring additional information if it is considered necessary in connection with the ES submitted with that application when considering the application for a development consent order (DCO).
- 1.7 This Opinion should not be construed as implying that the SoS agrees with the information or comments provided by the applicant in their request for an opinion from the SoS. In particular, comments from the SoS in this Opinion are without prejudice to any decision taken by the SoS (on submission of the application) that any development identified by the applicant is necessarily to be treated as part of a nationally significant infrastructure project (NSIP), or associated development, or development that does not require development consent.
- 1.8 Regulation 8(3) of the EIA Regulations states that a request for a scoping opinion must include:
- (a) 'a plan sufficient to identify the land;
  - (b) a brief description of the nature and purpose of the development and of its possible effects on the environment; and
  - (c) such other information or representations as the person making the request may wish to provide or make'.

*(EIA Regulation 8 (3))*

- 1.9 The SoS considers that this has been provided in the applicant's Scoping Report.

## The Secretary of State's Consultation

- 1.10 The SoS has a duty under Regulation 8(6) of the EIA Regulations to consult widely before adopting a scoping opinion. A full list of the consultation bodies is provided at Appendix 1. The list has been compiled by the SoS under their duty to notify the consultees in accordance with Regulation 9(1)(a). The applicant should note that whilst the SoS's list can inform their consultation, it should not be relied upon for that purpose.
- 1.11 The list of respondents who replied within the statutory timeframe and whose comments have been taken into account in the preparation of this Opinion is provided at Appendix 2 along with



copies of their comments, to which the applicant should refer in undertaking the EIA.

- 1.12 The ES submitted by the applicant should demonstrate consideration of the points raised by the consultation bodies. It is recommended that a table is provided in the ES summarising the scoping responses from the consultation bodies and how they are, or are not, addressed in the ES.
- 1.13 Any consultation responses received after the statutory deadline for receipt of comments will not be taken into account within this Opinion. Late responses will be forwarded to the applicant and will be made available on the Planning Inspectorate's website. The applicant should also give due consideration to those comments in carrying out the EIA.

## Structure of the Document

- 1.14 This Opinion is structured as follows:

Section 1 Introduction  
Section 2 The proposed development  
Section 3 EIA approach and topic areas  
Section 4 Other information.

This Opinion is accompanied by the following Appendices:

Appendix 1 List of consultees  
Appendix 2 Respondents to consultation and copies of replies  
Appendix 3 Presentation of the environmental statement.

## 2.0 THE PROPOSED DEVELOPMENT

### Introduction

- 2.1 The following is a summary of the information on the proposed development and its site and surroundings prepared by the applicant and included in their Scoping Report. The information has not been verified and it has been assumed that the information provided reflects the existing knowledge of the proposed development and the potential receptors/resources.

### The Applicant's Information

#### Overview of the proposed development

- 2.2 The proposed development is a hazardous waste management landfill with associated facilities. The development site is currently an active sand and gravel quarry and the remainder arable farmland.

#### Description of the site and surrounding area

##### *The Application Site*

- 2.3 The site is located at Perry's Farm at the eastern end of the Isle of Grain Peninsula on the southern bank of the Thames Estuary (Drawing PF 1 in the Scoping Report) some 0.3km west of the village of Grain. Part of the development site is an active sand and gravel quarry and the remainder arable farmland. Drawing PF2 in the Scoping Report illustrates the current land uses on the site.
- 2.4 The sand and gravel is underlain by superficial River Terrace and Head Deposits which overlie the London Clay Formation. The top of the London Clay has been proven at depths of between 1.6 and 2.5m below ground level and extends to approximately 60-80m below ground level.
- 2.5 The application site is located in Flood Zone 1 (see Drawing 3.1 in the Scoping Report). The Application Site does not lie on or near a Groundwater Source Protection Zone. The site is located on a secondary aquifer. The groundwater flows laterally to the northwest over the surface of the London Clay emerging at surface drains at the outcrop of the London Clay on the western site boundary.
- 2.6 There are no Air Quality Management Areas (AQMA's) located within the site or the surrounding area.
- 2.7 No statutory designations relating to heritage, landscape, or ecology are identified within the site boundary.

*The Surrounding Area*

- 2.8 Drawing PF2 in the Scoping Report illustrates the land uses in the area surrounding the site.
- 2.9 There is residential development in the village of Grain some 0.3km to the east of the application site. Harvest Cottages immediately south of the application site have been demolished. To the south of the site there is a large industrial area comprising Grain Power Station, a disused oil refinery, gas storage facilities, a container port and a Liquefied Natural Gas (LNG) import facility.
- 2.10 A clay extraction site, operated intermittently, is located to the north of the site (Scoping Report Section 3.3).
- 2.11 Adjacent to the site there is an area of land previously used for hazardous waste disposal in association with the former oil refinery. This is now restored to grass and shrubs. Land to the southwest of the site is understood by the applicant to have been landfilled by BP British Gas with other closed landfills present in the surrounding area to the south (see Section 3.10 of the Scoping Report).
- 2.12 There are a number of ecological designated sites within the wider vicinity of the site as identified in Section 2.1 of the Scoping Report and illustrated in the Scoping Report (Drawing PF 5):
- Medway Estuary and Marshes Special Protection Area (SPA) and Ramsar site
  - Thames Estuary and Marshes SPA and Ramsar site
  - Medway Estuary Site of Special Scientific Interest (SSSI)
  - The South Thames Estuary and Marshes SSSI; and
  - The Grain Pit Local Wildlife Site (LWS).
- 2.13 The Scoping Report identifies a number of residential receptor locations within the wider vicinity of the site including:
- West Lane
  - Grain Road
  - Peat Way
  - Rose Court Farm; and
  - Perry's Farm (and two cottages on the farmstead).
- 2.14 The River Thames is located approximately 500m to the north of the development. Yanlet Creek is located to the north west of the site.
- 2.15 Whilst the application site is in Flood Zone 1, some of the surrounding areas are located in Flood Zone 3 (see Scoping Report

Drawing 3.1). There are existing flood defences in the wider vicinity of the site as identified on Drawing 3.1 in the Scoping Report.

- 2.16 Section 3.6 of the Scoping Report confirms that there are a number of statutory designated heritage assets including listed buildings, coastal defences, wreck sites within the surrounding area.
- 2.17 Section 3.8.2 of the Scoping Report identifies a number of public footpaths within the wider vicinity of the site including along the coastline to the east and within Allhallows Marshes to the west.
- 2.18 There is an area to the north of the site which is defined as a 'Danger Area' by the Ministry of Defence.

### **Description of the proposed development**

- 2.19 As identified in Section 2.3 of the Scoping Report the key components of the development include:
- extraction of remaining sand and gravel to be used either on or off the site
  - extraction of limited volumes of deposited inert waste from within the landfill footprint
  - extraction of approximately 400,000m<sup>3</sup> to 600,000m<sup>3</sup> of clay over 15 years (depending on final design)
  - use and storage of clay from screening bunds and landfill cell creation
  - export of clay for use off site
  - importation of hazardous wastes to site at approximately 150,000 tonnes per annum
  - construction and operation of a recycling and soil treatment centre and Air Pollution Control Residues (APCR) treatment facility with a capacity in excess of 30,000 tonnes per annum
  - disposal of non-recyclable/residual hazardous waste by landfill at a rate of up to 120,000 tonnes per annum
  - construction of new access point and access road
  - construction of ancillary facilities including surface water management lagoon, offices; and
  - the phased restoration of the site to a mixture of agriculture and woodland.
- 2.20 An outline layout of the proposed facility is illustrated in Drawing PF 4 in the Scoping Report.

### **Proposed access**

- 2.21 The site would be accessed from the B2001 (Grain Road) where a new access point is proposed. The B2001 connects to the A228 to the southwest of the site.

### **Construction**

- 2.22 An indicative programme of the application process is presented in Section 4 of the Scoping Report. This identifies the commencement of the construction period in late 2015, and the commencement of operation in 2016.

### **Operation and maintenance**

- 2.23 The Scoping Report identifies the types of machinery that would be used as part of the landfill operations, including dumptrucks, excavators and bulldozers (Scoping Report Section 3.3.2).
- 2.24 Additional information on the proposed operation and maintenance of the landfill and associated waste treatment facilities is not provided in the Scoping Report.

### **Restoration**

- 2.25 The indicative programme provided in Section 4 of the Scoping Report indicates that the maximum operational life of the facility extends to 2046.
- 2.26 Following the cessation of the treatment and landfilling of hazardous waste, the site would be restored to woodland and agriculture. It is noted that the restoration scheme would be defined as part of the assessment process (Scoping Report Section 2.3).

## **The Secretary of State's Comments**

### **Description of the application site and surrounding area**

- 2.27 No information is provided in the Scoping Report regarding the overall layout of the environmental statement (ES). In addition to detailed baseline information to be provided within topic specific chapters of the ES, the SoS would expect the ES to include a section that summarises the site and surroundings. This would identify the context of the proposed development, any relevant designations and sensitive receptors. This section should identify land that could be directly or indirectly affected by the proposed development and any associated auxiliary facilities, landscaping areas and potential off site mitigation or compensation schemes.
- 2.28 The Scoping Report provides written detail on sensitive receptors both on the site and within the surrounding area. The applicant

should ensure that written description also identifies the distance and direction from the site to each receptor. Within the ES it would be useful for all receptors to be illustrated on Drawings, for example the location of the closest residential receptors, Public Rights of Way, heritage assets etc. In addition, whilst proposed viewpoints for the landscape and visual impact assessment are listed in Section 3.8.5 of the Scoping Report, these should be accompanied by a Drawing illustrating their location.

- 2.29 Where Drawings are used to illustrate receptors, the applicant should ensure these are clear and legible, illustrating all features listed. On Drawing PF 5 for example which illustrates ecologically designated sites, it is unclear where all of the sites listed in Section 2.1 of the Scoping Report are in relation to the site.
- 2.30 The Scoping Report refers to a number of former/existing mineral extraction and landfilling operations that have/are being carried out on or near the site. It is unclear from the text and accompanying drawings where each of these are located in relation to the site. The applicant is advised to consider providing a summary section describing these sites which form part of the baseline, and any potential linkages to the proposed development. This should be accompanied by a Drawing illustrating the location of each of these.
- 2.31 The SoS notes that there are existing flood defences in the wider area surrounding the site. A detailed description of these should be provided in the ES.

### **Description of the proposed development**

- 2.32 The SoS notes that the proposed development is described interchangeably as a 'hazardous waste management facility' or a 'hazardous waste treatment facility'. The SoS advises that consistent terminology is used throughout the ES to ensure clarity.
- 2.33 The applicant should ensure that the description of the proposed development that is being applied for is as accurate and firm as possible as this will form the basis of the environmental impact assessment. It is understood that at this stage in the evolution of the scheme the description of the proposals including layout and building heights may not be confirmed. The applicant should be aware however, that the description of the development in the ES must be sufficiently certain to meet the requirements of paragraph 17 of Schedule 4 Part 1 of the EIA Regulations and it is expected there should be more certainty regarding the description of the development by the time the ES is submitted as part of the DCO application.
- 2.34 If a draft DCO is to be submitted, the applicant should clearly define what elements of the proposed development are integral to the NSIP and which is 'associated development' under the Planning

Act 2008 (PA 2008) or is an ancillary matter. It is unclear from the list of development components provided in Section 2.3 of the ES which are integral to the NSIP and which are deemed as associated development. This should be clarified within the ES and should match the description of the development provided in the draft DCO.

- 2.35 Any proposed works and/or infrastructure required as associated development, or as an ancillary matter, (whether on or off-site) should be considered as part of an integrated approach to environmental assessment.
- 2.36 There are a number of land uses listed in Section 2.3 of the Scoping Report that do not appear on the Outline Site Layout Drawing (PF 4), and vice versa, land uses identified on the Drawing which are not listed as components of the development in Section 2.3. The applicant should ensure that there is consistency between the description of the development and all features described and illustrated within the main text and accompanying drawings. The SoS would welcome detailed land use plans to show the layout of the proposed development and the relationship between each component.
- 2.37 The SoS recommends that the ES should include a clear description of all aspects of the proposed development, at the construction, operation and decommissioning stages, and include:
- land use requirements
  - site preparation
  - construction processes and methods
  - transport routes
  - operational requirements including the main characteristics of the production process and the nature and quantity of materials used, as well as waste arisings and their disposal
  - maintenance activities including any potential environmental or navigation impacts
  - emissions - water, air and soil pollution, noise, vibration, light, heat, radiation; and
  - decommissioning and the design of proposed site restoration.
- 2.38 The ES should assess the impacts from the types of hazardous waste that would be landfilled at the site. Types of waste which would be excluded should be clarified.
- 2.39 Aside from the hazardous waste importation, the environmental effects of all wastes to be processed and removed from the site during the construction, operation and decommissioning of the development should be assessed. The ES will need to identify and describe the control processes and mitigation procedures for

storing and transporting waste off site. All waste types should be quantified and classified.

- 2.40 The SoS welcomes the inclusion of an indicative programme to illustrate the potential timeline of the development (Scoping Report Section 4). The time period from acceptance to receipt of development consent is stated in the Scoping Report as being from November 2014 to early 2015. It should be noted that 6 months is the maximum period of time over which the examination may take place. Time for pre examination, recommendation and decision periods as set out in the Planning Act 2008 should also be taken into account. The period from submission to issue of a decision by the Secretary of State may be 16 months. The Applicant should ensure that realistic timescales are adopted in the indicative programme and that the baseline and future years used within the assessment are as accurate and realistic as possible.

### **Alternatives**

- 2.41 The applicant should provide 'An outline of the main alternatives studied by the applicant and an indication of the main *reasons for the applicant's choice, taking into account the environmental effects*' (EIA Regulations Schedule 4 Part 1 see Appendix 3 of this Opinion).
- 2.42 The Scoping Report provides no information on alternatives; although it is noted from the proposed 'assessments' listed for inclusion within the ES (Section 3.1), that a section on 'alternatives' will be included in the ES.

### **Proposed access**

- 2.43 It is noted that a new site entrance would be created as part of the development. It is unclear whether the old entrance/access point would be retained, and whether this old access would be used during the construction or operation of the development. The applicant is advised to clarify this within their ES.
- 2.44 Potential offsite mitigation measures may be required to improve capacity constraints at the A228/A229 roundabout junction (Scoping Report Section 3.2.2). If such offsite works are required, the applicant should consider how these works would be incorporated in the DCO and assessed within the ES.

### **Construction**

- 2.45 The Scoping Report provides limited description on the construction of the proposed development. The SoS will expect to see a clear description of how the existing site will be adapted/developed prior to its operation as a hazardous waste landfill.



2.46 The SoS considers that the following information on construction is required for inclusion in the ES:

- phasing programme, timescales and anticipated duration of works,
- site preparation works
- construction methods and activities associated with each phase of the development
- delivery of construction materials, including number, movements and parking of construction vehicles
- plant and equipment requirements
- siting of construction compounds
- lighting equipment/requirements
- staff requirements; and
- construction hours, including any requirement for overnight working

2.47 The SoS notes that an overview of the operational land use has been provided in Drawing PF 4. The SoS would expect to see a similar Drawing to illustrate the construction land uses, for example the size and location of construction compounds and material storage.

### **Operation and maintenance**

2.48 The Scoping Report provides limited description on the operational and maintenance requirements of the proposed development.

2.49 Information on the operation and maintenance of the proposed development should be included in the ES and should cover but not be limited to such matters as:

- phasing plan/programme (excavation and landfilling works), including likely timescale of each phase
- machinery requirements and activities associated with the operation and maintenance of the development
- staff requirements
- operational hours, including any requirement for overnight working; and
- delivery of construction materials, including number, movements and parking of construction vehicles

### **Decommissioning and Restoration**

2.50 Section 4 of the Scoping Report indicates that the operation of the development is likely to cease by 2046. The SoS recommends that

the EIA covers the life span of the proposed development, including construction, operation and decommissioning.

- 2.51 The Scoping Report confirms that the site would be restored to woodland and agriculture following the cessation of the landfilling operations. The restoration will form an important aspect of the overall project and should be fully assessed.
- 2.52 Section 2.3 of the Scoping Report states that the final restoration design would be devised as part of the assessment process, and that the final landform '*will be designed largely on the basis of landfill rather than landraise, in order to reduce the height of the final landform.*' The SoS also notes that section 3.5.2 of the Scoping Report refers to '*The creation of a low permeability domed landform following site restoration...*'. The ES should contain a clear assessment based upon the design of the proposed final landform, taking into account the amount of waste proposed to be deposited on the site in the DCO. Details to be provided should include proposed contouring, shown through Drawings and cross sections, proposed landscape treatment/s and drainage scheme and confirmation of proposed uses following restoration.
- 2.53 No indication is given in the Scoping Report as to how the physical structures on the site would be removed and this will be particularly important given the restoration of the site to woodland and agricultural use. In terms of decommissioning, the SoS acknowledges that the further into the future any assessment is made, the less reliance may be placed on the outcome. However, the purpose of such a long term assessment is to enable the decommissioning of the works to be taken into account in the design and use of materials such that structures can be taken down with the minimum of disruption and in a way that facilitates the proposed new uses on the site. The process and methods of decommissioning should be considered and presented in the ES.

## 3.0 EIA APPROACH AND TOPIC AREAS

### Introduction

- 3.1 This section contains the SoS's specific comments on the approach to the ES and topic areas as set out in the Scoping Report. General advice on the presentation of an ES is provided at Appendix 3 of this Opinion and should be read in conjunction with this Section.
- 3.2 Applicants are advised that the scope of the DCO application should be clearly addressed and assessed consistently within the ES.

### Environmental Statement (ES) - approach

- 3.3 The information provided in the Scoping Report sets out the proposed approach to the preparation of the ES. Whilst early engagement on the scope of the ES is to be welcomed, the SoS notes that the level of information provided at this stage is not always sufficient to allow for detailed comments from either the SoS or the consultees.
- 3.4 The SoS would suggest that the applicant ensures that appropriate consultation is undertaken with the relevant consultees in order to agree wherever possible the timing and relevance of survey work as well as the methodologies to be used. The SoS notes and welcomes the intention to finalise the scope of investigations in conjunction with ongoing stakeholder liaison and consultation with the relevant regulatory authorities and their advisors.
- 3.5 The SoS notes that much of the survey material relates to 2011, this is now 3 years old. Evidence should be provided to explain how this remains valid, if that is the case, and in addition it is recommended that agreement is reached with the relevant bodies regarding the appropriateness of using this material.
- 3.6 The SoS recommends that the physical scope of the study areas should be identified under all the environmental topics and should be sufficiently robust in order to undertake the assessment. The extent of the study areas should be on the basis of recognised professional guidance, whenever such guidance is available. The study areas should also be agreed with the relevant consultees and, where this is not possible, this should be stated clearly in the ES and a reasoned justification given. The scope should also cover the breadth of the topic area and the temporal scope, and these aspects should be described and justified.

### Matters to be scoped out

- 3.7 The applicant has identified in the relevant sections of the Scoping Report the matters proposed to be 'scoped out'. These include:

- construction and operational vibration
  - geological conservation; and
  - light pollution.
- 3.8 Matters are not scoped out unless specifically addressed and justified by the applicant, and confirmed as being scoped out by the SoS.
- 3.9 The applicant proposes to scope construction and operational vibration out of the ES because they do not consider that vibration will be noticeable (Scoping Report Section 3.3.2). The Scoping Report does not provide any evidence to demonstrate that vibration nuisance will be negligible (eg Drawing to show the location of nearest receptors sensitive to vibration, details of the plant involved in the construction and operation of the development, design details of the treatment facility). In addition, Section 3.3.2 of the Scoping Report indicates that some works will be carried out within 100m of a residential property. The SoS therefore does not agree to scope vibration out of the ES.
- 3.10 Section 3.7.1 of the Scoping Report confirms that the initial review of designated sites on or around the site has identified that there are no designated geological conservation sites within the site or the surrounding area therefore the consideration of effects on these should be scoped out of the ES. Natural England are satisfied that this aspect can be scoped out of the ES (see response in Appendix 2 of this Opinion). Given the lack of designated geological conservation sites of this nature, the SoS agrees that an assessment of impacts on designated geological conservation sites can be scoped out of the ES.
- 3.11 The applicant proposes to scope light pollution out of the ES because the site will only be operational during daytime hours and that the site would not be lit at night (Scoping Report Section 3.8.7). The SoS would anticipate that lighting may be required, for example during dawn and dusk periods, particularly during the reduced daylight hours in winter, and that security lighting would be required during the night-time to protect the site. The SoS cannot agree to scope light pollution impacts out of the ES on the basis of current information.
- 3.12 Whilst the SoS has not agreed to scope out certain topic or matters within the Opinion on the basis of the information available at this time, this does not preclude the applicant from subsequently scoping matters out of the ES. Where this occurs, evidence should be provided to justify this approach which should be explained fully in the ES.
- 3.13 In order to demonstrate that topics have not simply been overlooked, where topics are scoped out prior to submission of the

DCO application, the ES should still explain the reasoning and justify the approach taken.

## National Policy Statements (NPSs)

- 3.14 Sector specific NPSs are produced by the relevant Government Departments and set out national policy for nationally significant infrastructure projects (NSIPs). They provide the planning framework within which the Examining Authority will make their recommendations to the Secretary of State and include the Government's objectives for the development of NSIPs.
- 3.15 The Hazardous Waste NPS sets out assessment principles that should be considered in the EIA for the proposed development. When undertaking the EIA, the applicant must have regard to the Hazardous Waste NPS and identify how principles these have been assessed in the ES. The SoS notes that the Scoping Report sets out where the individual assessments will have regard to the relevant sections in the NPS.
- 3.16 The Secretary of State must have regard to any matter that the Secretary of State thinks is important and relevant to the Secretary of State's decision.

## Environmental Statement - Structure

- 3.17 Section 3.1 of the Scoping Report identifies that the EIA would cover a number of topics under the broad headings of:
- Transport and Access
  - Noise and Vibration
  - Air Quality, Dust and Odour
  - Ecology
  - Archaeology and Cultural Heritage
  - Hydrology/Hydrogeology and Flood Risk
  - Landscape and Visual Amenity
  - Land Quality
  - Soils and Agriculture
  - Human Health and combined effects
  - Socio Economic Effects
  - Planning Policy, Need and Alternatives
  - Climate Change
  - Cumulative Impacts
- 3.18 The order and topic headings listed in the Scoping Report vary between the contents page, the list provided in Section 3.1 and

the way they are then ordered within Section 3. The applicant should ensure that the ES is presented in a consistent and logical manner.

- 3.19 As stated in Section 2 of this Opinion, the applicant should also include detailed descriptions of the site and the surrounding area, and a detailed description of the proposal, including restoration and afteruse proposals. The SoS recommends that this includes the proposed construction methods and programme, including for the restoration programme.
- 3.20 The SoS recommends that the ES includes a Chapter setting out the general approach to the EIA. Methodologies used for the topic assessments within the ES should clearly set out the basis for and justification of the definitions of the significance criteria that are used. For example, these may be based on established guidelines or on professional judgement. The ES will need to explain clearly what impacts are significant and provide a detailed reasoning as to how this has been defined. It is recommended that, for clarity, this is provided for each of the specialist chapters.

## Topic Areas

### **Transport and Access** (see Scoping Report Section 3.2)

- 3.21 Section 3.2.1 of the Scoping Report 'Potential Impacts' is incomplete and therefore the SoS cannot comment on this.
- 3.22 The Highways Agency has confirmed that the proposal is unlikely to have an impact on the strategic road network (see HA response in Appendix 2 of this Opinion).
- 3.23 The SoS welcomes the assessment of transport impacts based upon the likely transport movements associated with the development working at its maximum capacity.
- 3.24 The SoS welcomes the development of the assessment of transport impacts in association with the local highways authority. The SoS would expect on-going discussions and agreement, where possible, with this body.
- 3.25 Section 3.2 of the Scoping Report identifies potential capacity constraints on the A228 and the junction with the A289. The SoS notes that an assessment of such impacts will be included within the ES and details of any mitigation measures provided where appropriate.
- 3.26 The applicant should consider whether an abnormal load assessment is required based on the anticipated vehicles needed to transport materials during construction, operation and decommissioning.

- 3.27 It is noted that a purpose built access point would be constructed to facilitate the development (paragraph 3.2), however this seems to contradict Section 3.2.2 of the Scoping Report which states that *"immediate site access arrangements will be assessed with regard to the suitability for usage by HGV's..."*. The ES should be clear as to what access arrangements will be in place and by when and also provide a clear description of the access and assess the impacts of its use.
- 3.28 The Scoping Report confirms that the number of trips generated will be calculated using a first principles approach. The Scoping Report explains that such an approach will provide an indication of the number of HGV trips that the development may generate. The SoS notes that confirmation will be needed of the size of the HGVs to be used, and whether it is assumed that all HGVs accessing and leaving the site will operate with a full payload. Confirmation will also be needed of the appropriate allowances to be made for 'bulking up' particularly with regards to the quantity of extracted minerals to be exported from the site. An assessment should also be provided, for the construction and operational period, of other vehicle trips that will be generated, including employees' vehicles and ancillary vehicle movements. A clear breakdown should be provided of the numbers of trips that will be generated by type / vehicle. The applicant should ensure that the assessment is based on a worst case scenario of the maximum number of vehicle movements and types of vehicle.
- 3.29 The ES should include route plans illustrating the roads used by HGVs for source material and for export of material.
- 3.30 The SoS recommends that the ES should take account of the location of footpaths and any public rights of way (PROW) including bridleways and byways. In addition, the SoS advises that the ES provides information on the use of public transport to access the site, if this is to be relied upon as a means of reducing vehicle trips, for example by employees.

### **Noise and Vibration** (see Scoping Report Section 3.3)

- 3.31 The SoS requests that the locations of noise receptors are clearly illustrated on a Drawing. In addition to residential and ecological receptors, the ES should also identify any other sensitive receptors where the users have the potential to be affected by noise.
- 3.32 The SoS is pleased to note that the applicant intends to consult with the Local Planning Authority to agree the noise monitoring locations for inclusion in the noise survey. Baseline monitoring should take account of the proximity of sensitive receptors to the proposals and to the access routes.
- 3.33 The SoS notes that the assessment of operational noise based on the background noise monitoring survey and will use the

predictions gained via the Cadna/A modelling software. The SoS advises that the assessment should follow the guidance contained in the Technical Guidance to the National Planning Policy Framework will be followed. Agreement regarding the noise survey methodology should be sought with the LPA.

- 3.34 It is unclear whether the applicant intends to carry out an assessment of construction noise as part of the EIA. Given the proposals to construct a new access road, on-site infrastructure and earthworks to facilitate the operation of the development, the SoS would expect to see a construction noise assessment within the ES. The ES should include a full description of noise generating works likely to occur during the construction of the development, hours of working and any potential activities carried out at night time. Noise impacts on people should be specifically addressed, and particularly any potential noise disturbance at night and other unsocial hours such as weekends and public holidays.
- 3.35 The Scoping Report states that the noise impacts on wildlife in the designated sites will be assessed against the ambient noise climate. The ES should detail how the ambient noise levels will be determined.
- 3.36 The SoS notes that the ES will describe any mitigation measures required to reduce noise impacts from the site. In addition, consideration should be given to monitoring noise complaints during construction and when the development is operational. The applicant may wish to consider the use of a construction environmental management plan (CEMP) as a means to deliver mitigation measures of this nature.
- 3.37 The noise and vibration assessment should utilise and be consistent with the data in the transport assessment.
- 3.38 Please refer to the 'Matters to be scoped out' section regarding the assessment of vibration impacts. The SoS does not agree to scope out vibration impacts, in particular, the potential impacts of vibration along access roads as a result of HGV traffic should be assessed.

**Air Quality, Dust and Odour** (see Scoping Report Section 3.4)

- 3.39 The Scoping Report confirms that there are AQMAs within the Medway District but these are of sufficient distance to not be affected by the proposed development. It would be useful for the ES to identify these on a Drawing and provide a summary to explain and justify this conclusion.
- 3.40 The ES should provide information on the source of the meteorological data used in the assessment.



- 3.41 The traffic emissions assessment methodology includes the assessment of heavy vehicles accessing/leaving the site. The applicant should ensure that the assessment also encompasses other vehicle movements associated with the development, and emissions from the operation of machinery on the site.
- 3.42 It is unclear whether there will be additional emissions caused by the recycling, soil treatment and waste treatment facility (ACPR) such as dust and odour as no details have been provided in the Scoping Report. The response from the Environment Agency lists a number of emissions anticipated from the development (see Appendix 2 of this Opinion). The applicant is advised to provide an assessment of the effects on air quality resulting from these emissions.
- 3.43 The ES should clearly describe the anticipated waste types and quantities expected at the landfill and explain how these have been factored into the landfill gas and odour assessments on a worst case basis.
- 3.44 Air quality and dust levels should be considered not only on site but also off site, including along access roads, local footpaths and other PROW.
- 3.45 An assessment of potential impacts of dust during the restoration of the site should also be provided within the ES, with particular reference to the soil handling activities.
- 3.46 Consideration should be given to appropriate mitigation measures and to monitoring dust complaints.
- 3.47 The air quality assessment of vehicle emissions should utilise and be consistent with the data used to inform the transport assessment. The qualitative dust assessment should also consider and reference the interrelationships with the relevant topic chapters where appropriate.

**Hydrogeology, Hydrology and Flood Risk** (see Scoping Report Section 3.5)

- 3.48 The extract from the Environment Agency Flood map identifies flood defences as part of the existing baseline. The ES should include an assessment of the potential impacts of the development on the existing flood defences.
- 3.49 The SoS notes that a Flood Risk Assessment would be submitted with the DCO application and would be included as an Appendix to this topic chapter.
- 3.50 The SoS notes that a hydro-geological model would be developed for the site. The SoS advises that this model is agreed in consultation with the Environment Agency. The ES would need to

address the potential for pollutants to have an impact on areas designated for their ecological interest, particularly including nearby Ramsar sites, either through surface water or ground water. The applicant's attention is drawn to the consultation response from Natural England at Appendix 2 in this respect.

- 3.51 Mitigation measures should be addressed and the SoS advises that reference should be made to other regimes (such as pollution prevention from the EA). Mitigation could include on-going monitoring and should also be agreed with the relevant authorities and demonstrate how any mitigation measures are effective.
- 3.52 The SoS notes that the treatment facility would include soil washing. The ES should include an assessment of the likely impacts on the water environment associated with the operation of the treatment facility.

### **Archaeology/Cultural Heritage** (see Scoping Report Section 3.6)

- 3.53 Section 3.6 of the Scoping Report states that consultation with English Heritage and Kent County Council will be carried out to identify the sites affected by the proposal and assess the potential for previously undiscovered archaeological finds. It is assumed that this relates to shared services between the Councils, however this should be clarified within the ES.
- 3.54 The SoS notes that a Zone of Theoretical Visibility (ZTV) will be used to develop an understanding of the impact of the development on the setting of cultural heritage assets. The applicant should include details of the ZTV model used, provide information on the area covered and the timing of any survey work and the methodology used. The applicant is advised to cross refer to the landscape and visual impact assessment chapter of the ES in the light of the potential inter-relationships between these chapters.
- 3.55 The assessment of impact should include an assessment of any long term impact of the proposed development, including for example the impact of any new landform/s on the settings of heritage assets.

### **Ecology and Biodiversity** (see Scoping Report Section 3.7)

- 3.56 The applicant's attention is drawn to the consultation response of Natural England at Appendix 2, who advise that a habitat survey (equivalent to Phase 2) is carried out on the site, together with ornithological, botanical and invertebrate surveys. The SoS notes that some of these surveys are complete / ongoing, but that the applicant does not intend to update Bat Activity, Reptile and Invertebrate surveys carried out in 2011. These surveys are now three years old, the species are mobile and circumstances on the site may be different. The applicant is advised to refer to Natural

England's standing advice on protected species surveys and suggests where there is an intention to deviate from the best practice approach, this must be agreed with the statutory nature conservation body (SNCB). The applicant's attention is also drawn to the comments in Section 4 of this Opinion with regard to European Protected Species licensing.

- 3.57 The assessment should take account of impacts resulting from noise and vibration and air quality (including dust), and cross reference should be made to these specialist reports. The assessment should consider potential impacts resulting from the leaching or run-off of contaminants. It should also consider emissions related to vehicular movements and on site equipment, as well as the potential for disturbance or loss of protected habitats and species which could be affected by the works during construction, operation or restoration. It should also consider the potential loss of land which may be functionally linked to the SPAs / Ramsar sites through its use for roosting / foraging by over-wintering bird species. Attention is drawn to the consultation response from Natural England at Appendix 2 in this respect.
- 3.58 The SoS is pleased to note that the applicant intends to consider the potential impacts of the landscape restoration strategy on ecology and biodiversity.
- 3.59 A summary of the applicants approach to Habitat Regulations Assessment is presented in Section 3.7.3 of the Scoping Report. The SoS would recommend that the applicant make use of pre-application discussions with PINS regarding their HRA Report and the applicant should ensure that the most up to date version of PINS Advice Note 10: Habitat Regulations Assessment as available on the National Infrastructure website is used and followed. The applicant's attention is drawn to Section 4 of this Opinion with regard to the Habitat Regulations Assessment process.
- 3.60 The SoS is pleased to note the intent to provide evidence in the form of correspondence and Statements of Common Ground regarding agreements made with the Statutory Nature Conservation Bodies (SNCBs).

### **Landscape and Visual Impact** (see Scoping Report Section 3.8)

- 3.61 The suggested viewpoints for the landscape and visual assessment (LVIA) are listed in Section 3.8.5 of the Scoping Report. The applicant is advised to seek agreement with the LPA on these viewpoints. There may also be value in consulting with English Heritage where viewpoints to and from cultural heritage assets are potentially affected. The SoS advises that viewpoint locations are illustrated on a Drawing.
- 3.62 The study area for the assessment is proposed as 1km (Section 3.8.5 of the Scoping Report). The Scoping Report provides no

detail as to the height of the structures proposed on the site or the final landform. Therefore it is not known if 1km would be sufficient to capture all potential landscape and visual impacts, although the SoS considers that this is unlikely as the SoS has noted that the cultural heritage assessment (See Scoping Report Section 3.6) intends to use a Zone of Theoretical Visibility (ZTV) model to inform the assessment and assist in developing the viewpoints to include in the assessment. The SoS advises that the same approach should be used to inform the LVIA. The SoS advises that the ES should describe the model used, provide information on the area covered and the timing of any survey work and the methodology used.

- 3.63 As stated above, the heights of the structures on the site are not included in the Scoping Report. Where tall structures (for example the ACPR building) or substantial landforms are proposed, the use of the ZTV will help to ensure views from the surrounding area are identified and assessed, including any from viewpoints to the north of the Thames Estuary.
- 3.64 The SoS anticipates that the restoration strategy will provide a detailed consideration of the landscaping proposals. The ES should also provide information on the aftercare proposals for the management of the restored landscape.
- 3.65 The applicant's attention is drawn to the consultation response from Natural England in respect of the design of the proposed development and landscape and visual impacts. The SoS would expect the assessment to include consideration of the character and distinctiveness of the area with respect to the siting and design of the building/s and consideration of alternative layouts with justification of the selected option.

### **Soils and Agriculture** (see Scoping Report Section 3.9)

- 3.66 The assessment should include consideration of potential impacts to the viability of farming businesses and possible restrictions on the future use of the land for agriculture. The ES should also identify and assess any mitigation measures proposed to return the land to agricultural use as part of the restoration proposals.
- 3.67 The SoS would expect to see the following included in the assessment of impacts to soil resources:
- whether soils would be disturbed/harmed and whether any 'best and most versatile' agricultural land would be affected
  - the method of assessing whether soils are in a suitable condition for handling and how soil handling, trafficking and cultivation during the wetter winter period would be avoided
  - a description of the proposed depths and soil types of the restored soil profiles and possible effects on land drainage,

agricultural access and water supplies, including other agricultural land in the vicinity

- a detailed Restoration Plan illustrating the restored landform and the proposed after uses, together with details of surface features, water bodies and the availability of outfalls to accommodate future drainage requirements; and
- an assessment of potential cumulative and 'in-combination' effects.

### **Land Quality** (see Scoping Report Section 3.10)

- 3.68 The baseline for the ES should explain in detail the extent of the study area and justify the reasons for this. The SoS notes that a desk based assessment will be carried out and will include consideration of records of publicly available information on licences and permits, and draws attention to information provided on other sites in the local area in consultation responses from the Environment Agency and St James Isle of Grain Parish Council (see Appendix 2).
- 3.69 The SoS notes that a desk based review will be undertaken to assess land quality on the site and the immediate surrounding area. It is understood that no intrusive survey details are proposed on the site. The SoS advises that agreement on the assessment methodology should be sought with the Environment Agency.
- 3.70 The ES should identify any soil remediation works that may be required and provide details of these in the ES.
- 3.71 The response from the Environment Agency lists a number of emissions anticipated from the development (see Appendix 2 of this Opinion). The applicant is advised to provide an assessment of the effects on land quality resulting from these emissions.

### **Human Health and Combined Effects** (see Scoping Report Section 3.12)

- 3.72 The SoS welcomes the applicant's intention to consider the impacts of the development on human health and draws their attention to Section 4 of this Opinion regarding health impact assessments.
- 3.73 The ES should make it clear where information has been extracted from other chapters of the ES and where new information and analysis has been provided in relation to effects on human health.
- 3.74 The SoS notes that this chapter will summarise the combined effects affecting sensitive receptors. Care should be taken with terminology and the applicant's attention is drawn to the information in Appendix 3 of this Opinion.

- 3.75 Considering combined effects within a chapter dealing with Human Health would seem an unusual approach and has the potential, if located there, to be overlooked. The SoS advises that each of the specialist chapters considers the inter-relationship between specialist reports (eg noise and vibration with ecology) and that these are reported within each of the chapters. Alternatively, a separate chapter dealing with inter-relationships could be provided within the ES. The SoS welcomes the inclusion of a summary table to provide an overview of the inter-relationships considered.

**Socio-Economic Impacts** (see Scoping Report Section 3.11)

- 3.76 The SoS notes that a desk based assessment of socio-economic impacts will be carried out based on existing data sources within the public domain. The applicant is advised to consult the local planning authority as they may be able to provide data sources which may be relevant to the assessment. The SoS recommends that the assessment criteria should be locationally specific and consider the potential significance of the impacts of the proposal within the local and regional context.
- 3.77 The SoS note and welcomes the approach that the assessment of socio-economic impacts will be carried out in accordance with the assessment criteria set out in paragraphs 5.12.1 to 5.12.3 of the Hazardous Waste NPS. The assessment criteria in the NPS is set out paragraphs 5.12.1 – 5.12.5 and the SoS would expect all of this criteria included within the assessment.
- 3.78 The SoS recommends that the types of jobs generated should be considered in the context of the available workforce in the area, this applies equally to the construction and operational stages. The EIA should assess whether the employment skills needed are available within the local area. The EIA should consider, as appropriate, potential impacts upon housing, healthcare and educational needs

**Planning Policy, Need and Alternatives** (see Scoping Report Section 3.13)

- 3.79 The SoS notes that the applicant has chosen to include information on relevant planning policy and need in ES which will be helpful in providing context for the ES. The SoS would recommend that this topic is set out in the introductory section of the ES.
- 3.80 The SoS notes that alternatives will be considered in the ES as required by the EIA Regulations 2009 (as amended). The SoS suggests that the assessment of alternatives is presented in a separate chapter within the ES to 'policy and need'. The SoS would recommend that this topic is set out in the introductory section of the ES.

**Climate Change** (see Scoping Report Section 3.14)

- 3.81 As required by the Hazardous Waste NPS, the SoS notes that the ES will include information on how the proposal has been designed to take climate change into account.

**Cumulative Impacts** (see Scoping Report Section 3.15)

- 3.82 The SoS expects that a complete list of proposed developments considered within the cumulative impact assessment is included within the ES. The applicant is advised to seek agreement with the relevant local planning authorities on the projects to include in the cumulative impact assessment.
- 3.83 The cumulative impact assessment should take into account all topic chapters within the ES.
- 3.84 The applicant's attention is drawn to Appendix 3 of this Opinion which provides information on the approach to cumulative assessment.

**Utilities** (not included in Scoping Report)

- 3.85 In addition to the list of assessments provided in Section 3.1 of the Scoping Report, the SoS would also expect to see an assessment of impacts on utility infrastructure.
- 3.86 UK Power Networks have confirmed they own an overhead power line which is likely to be affected by the development (see Appendix 2 of this Opinion). In this regard, the SoS draws attention to the information on Electrical Safety provided in the consultation response from the Health and Safety Executive at Appendix 2.
- 3.87 Southern Water have confirmed that a significant water main is located to the north of the proposed development. The applicant should include an assessment of the potential effects on the integrity of this water main.

## 4.0 OTHER INFORMATION

- 4.1 This section does not form part of the SoS's Opinion as to the information to be provided in the environmental statement. However, it does respond to other issues that the SoS has identified which may help to inform the preparation of the application for the DCO.

### Habitats Regulations Assessment (HRA)

- 4.2 The SoS notes that European sites are located close to the proposed development. It is the applicant's responsibility to provide sufficient information to the Competent Authority (CA) to enable them to carry out a HRA if required. The applicant should note that the CA is the SoS.
- 4.3 The applicant's attention is drawn to The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (The APFP Regulations) and the need to include information identifying European sites to which the Habitats Regulations applies or any Ramsar site or potential SPA which may be affected by a proposal. The submitted information should be sufficient for the competent authority to make an appropriate assessment (AA) of the implications for the site if required by Regulation 61(1) of the Habitats Regulations.
- 4.4 The report to be submitted under Regulation 5(2)(g) of the APFP Regulations with the application must deal with two issues: the first is to enable a formal assessment by the CA of whether there is a likely significant effect; and the second, should it be required, is to enable the carrying out of an AA by the CA.
- 4.5 When considering aspects of the environment likely to be affected by the proposed development; including flora, fauna, soil, water, air and the inter-relationship between these, consideration should be given to the designated sites in the vicinity of the proposed development.

### Evidence Plans

- 4.6 An evidence plan is a formal mechanism to agree upfront what information the applicant needs to supply to the Planning Inspectorate as part of a DCO application. An evidence plan will help to ensure compliance with the Habitats Regulations. It will be particularly relevant to NSIPs where impacts may be complex, large amounts of evidence may be needed or there are a number of uncertainties. It will also help applicants meet the requirement to provide sufficient information (as explained in Advice Note 10) in their application, so the Examining Authority can recommend to the Secretary of State whether or not to accept the application for examination and whether an appropriate assessment is required.



- 4.7 Any applicant of a proposed NSIP in England, or England and Wales, can request an evidence plan. A request for an evidence plan should be made at the start of pre-application (eg after notifying the Planning Inspectorate on an informal basis) by contacting the Major Infrastructure and Environment Unit (MIEU) in Defra (MIEU@defra.gsi.gov.uk).

## Sites of Special Scientific Interest (SSSIs)

- 4.8 The Secretary of State notes that a number of SSSIs are located close to the proposed development. Where there may be potential impacts on the SSSIs, the SoS has duties under sections 28(G) and 28(I) of the Wildlife and Countryside Act 1981 (as amended) (the W&C Act). These are set out below for information.
- 4.9 Under s28(G), the SoS has a general duty '... to take reasonable steps, consistent with the proper exercise of the authority's functions, to further the conservation and enhancement of the flora, fauna or geological or physiographical features by reason of which the site is of special scientific interest'.
- 4.10 Under s28(I), the SoS must notify the relevant nature conservation body (NCB), NE in this case, before authorising the carrying out of operations likely to damage the special interest features of a SSSI. Under these circumstances 28 days must elapse before deciding whether to grant consent, and the SoS must take account of any advice received from the NCB, including advice on attaching conditions to the consent. The NCB will be notified during the examination period.
- 4.11 If applicants consider it likely that notification may be necessary under s28(I), they are advised to resolve any issues with the NCB before the DCO application is submitted to the SoS. If, following assessment by applicants, it is considered that operations affecting the SSSI will not lead to damage of the special interest features, applicants should make this clear in the ES. The application documents submitted in accordance with Regulation 5(2)(I) could also provide this information. Applicants should seek to agree with the NCB the DCO requirements which will provide protection for the SSSI before the DCO application is submitted.

## European Protected Species (EPS)

- 4.12 Applicants should be aware that the decision maker under the Planning Act 2008 (PA 2008) has, as the CA, a duty to engage with the Habitats Directive. Where a potential risk to an EPS is identified, and before making a decision to grant development consent, the CA must, amongst other things, address the derogation tests<sup>2</sup> in Regulation 53 of the Habitats Regulations.

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<sup>2</sup> Key case law re need to consider Article 16 of the Habitats Directive: Woolley vs East Cheshire County Council 2009 and Morge v Hampshire County Council 2010.

Therefore the applicant may wish to provide information which will assist the decision maker to meet this duty.

- 4.13 If an applicant has concluded that an EPS licence is required the ExA will need to understand whether there is any impediment to the licence being granted. The decision to apply for a licence or not will rest with the applicant as the person responsible for commissioning the proposed activity by taking into account the advice of their consultant ecologist.
- 4.14 Applicants are encouraged to consult with NE and, where required, to agree appropriate requirements to secure necessary mitigation. It would assist the examination if applicants could provide, with the application documents, confirmation from NE whether any issues have been identified which would prevent the EPS licence being granted.
- 4.15 Generally, NE are unable to grant an EPS licence in respect of any development until all the necessary consents required have been secured in order to proceed. For NSIPs, NE will assess a draft licence application in order to ensure that all the relevant issues have been addressed. Within 30 working days of receipt, NE will either issue 'a letter of no impediment' stating that it is satisfied, insofar as it can make a judgement, that the proposals presented comply with the regulations or will issue a letter outlining why NE consider the proposals do not meet licensing requirements and what further information is required before a 'letter of no impediment' can be issued. The applicant is responsible for ensuring draft licence applications are satisfactory for the purposes of informing formal pre-application assessment by NE.
- 4.16 Ecological conditions on the site may change over time. It will be the applicant's responsibility to ensure information is satisfactory for the purposes of informing the assessment of no detriment to the maintenance of favourable conservation status (FCS) of the population of EPS affected by the proposals<sup>3</sup>. Applicants are advised that current conservation status of populations may or may not be favourable. Demonstration of no detriment to favourable populations may require further survey and/or submission of revised short or long term mitigation or compensation proposals. In England the focus concerns the provision of up to date survey information which is then made available to NE (along with any resulting amendments to the draft licence application). This approach will help to ensure no delay in issuing the licence should the DCO application be successful. Applicants with projects in England or English waters can find further information on Natural England's protected species

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<sup>3</sup> Key case law in respect of the application of the FCS test at a site level: Hafod Quarry Land Tribunal (Mersey Waste (Holdings) Limited v Wrexham County Borough Council) 2012, and Court of Appeal 2012.

licensing procedures in relation to NSIP's by clicking on the following link:

[http://www.naturalengland.org.uk/Images/wml-g36\\_tcm6-28566.pdf](http://www.naturalengland.org.uk/Images/wml-g36_tcm6-28566.pdf)

- 4.17 In England or English Waters, assistance may be obtained from the Consents Service Unit. The Unit works with applicants to coordinate key non-planning consents associated with nationally significant infrastructure projects. The Unit's remit includes EPS licences. The service is free of charge and entirely voluntary. Further information is available from the following link:
- 4.18 <http://infrastructure.planningportal.gov.uk/legislation-and-advice/consents-service-unit/>

## Health Impact Assessment

- 4.19 The SoS considers that it is a matter for the applicant to decide whether or not to submit a stand-alone Health Impact Assessment (HIA). However, the applicant should have regard to the responses received from the relevant consultees regarding health, and in particular to the comments from the Health and Safety Executive and Public Health England in relation to electrical safety issues and the scope of the assessment of potential impacts of the development on public health(see Appendix 2).
- 4.20 The methodology for the HIA, if prepared, should be agreed with the relevant statutory consultees and take into account mitigation measures for acute risks.

## Other regulatory regimes

- 4.21 The SoS recommends that the applicant should state clearly what regulatory areas are addressed in the ES and that the applicant should ensure that all relevant authorisations, licences, permits and consents that are necessary to enable operations to proceed are described in the ES. Also it should be clear that any likely significant effects of the proposed development which may be regulated by other statutory regimes have been properly taken into account in the ES.
- 4.22 It will not necessarily follow that the granting of consent under one regime will ensure consent under another regime. For those consents not capable of being included in an application for consent under the PA 2008, the SoS will require a level of assurance or comfort from the relevant regulatory authorities that the proposal is acceptable and likely to be approved, before they make a recommendation or decision on an application. The applicant is encouraged to make early contact with other regulators. Information from the applicant about progress in obtaining other permits, licences or consents, including any

confirmation that there is no obvious reason why these will not subsequently be granted, will be helpful in supporting an application for development consent to the SoS.

- 4.23 The applicant's attention is drawn to the consultation response from the Health and Safety Executive at Appendix 2, including comments made regarding a Major Hazard Site in the local area, and the possible need for Hazardous Substances Consent.

### Transboundary Impacts

- 4.24 The SoS has noted that the applicant has not indicated whether the proposed development is likely to have significant impacts on another European Economic Area (EEA) State.
- 4.25 Regulation 24 of the EIA Regulations, which *inter alia* require the SoS to publicise a DCO application if the SoS is of the view that the proposal is likely to have significant effects on the environment of another EEA state and where relevant to consult with the EEA state affected. The SoS considers that where Regulation 24 applies, this is likely to have implications for the examination of a DCO application.
- 4.26 The SoS recommends that the ES should identify whether the proposed development has the potential for significant transboundary impacts and if so, what these are and which EEA States would be affected.

## **APPENDIX 1**

### **List of Consultees**

Scoping Opinion for Perry's Farm  
Hazardous Waste Management Facility

## APPENDIX 1

### LIST OF BODIES FORMALLY CONSULTED DURING THE SCOPING EXERCISE

<b>CONSULTEE</b>	<b>ORGANISATION</b>
<b>SCHEDULE 1</b>	
The Health and Safety Executive	Health and Safety Executive
The National Health Service Commissioning Board The relevant clinical commissioning group	NHS England
	NHS Medway Clinical Commissioning Group
Natural England	Natural England
The Historic Buildings and Monuments Commission for England	English Heritage
The Relevant Fire and Rescue Authority	Kent Fire and Rescue Service
The Relevant Police and Crime Commissioner	Kent Police and Crime Commissioner
The Relevant Parish Council(s) or Relevant Community Council	Isle of Grain Parish Council
The Environment Agency	The Environment Agency
The Civil Aviation Authority	Civil Aviation Authority
The Highways Agency	The Highways Agency
The Relevant Highways Authority	Medway Council
The Coal Authority	The Coal Authority
The Relevant Internal Drainage Board	Upper Medway Internal Drainage Board
Public Health England, an executive agency to the Department of Health	Public Health England
The Crown Estate Commissioners	The Crown Estate
The Forestry Commission	Forestry Commission
The Secretary of State for Defence	Ministry of Defence
<b>RELEVANT STATUTORY UNDERTAKERS</b>	
<b>Health Bodies (s.16 of the Acquisition of Land Act (ALA) 1981)</b>	
The relevant clinical commissioning group	NHS Medway Clinical Commissioning Group
Local Area Team	Kent and Medway Area Team
Ambulance Trusts	South East Coast Ambulance Service NHS Foundation Trust
<b>Relevant Statutory Undertakers (s.8 ALA 1981)</b>	
Civil Aviation Authority	Civil Aviation Authority
Universal Service Provider	Royal Mail Group

Relevant Environment Agency	The Environment Agency
The relevant public gas transporters	British Gas Pipelines Limited Energetics Gas Limited ES Pipelines Ltd ESP Connections Ltd ESP Networks Ltd ESP Pipelines Ltd Fulcrum Pipelines Limited GTC Pipelines Limited Independent Pipelines Limited LNG Portable Pipeline Services Limited National Grid Gas Plc Quadrant Pipelines Limited SSE Pipelines Ltd The Gas Transportation Company Limited Utility Grid Installations Limited Southern Gas Networks Plc
The relevant electricity licence holder with CPO Powers (electricity distributors)	Energetics Electricity Limited ESP Electricity Limited Independent Power Networks Limited The Electricity Network Company Limited UK Power Networks Limited
The relevant electricity licence holder with CPO Powers (electricity transmitters)	National Grid Electricity Transmission Plc
The relevant electricity licence holder with CPO Powers (electricity interconnectors)	BritNed Development Limited
<b>LOCAL AUTHORITIES (SECTION 43)</b>	
A county council, or district council, in England	Medway Council
A county council, or district council, in England	Castle Point Borough Council
A county council, or district council, in England	Thurrock Council
A county council, or district council, in England	Gravesham Borough Council
A county council, or district council, in England	Tonbridge and Malling Borough Council
A county council, or district council, in England	Maidstone Borough Council
A county council, or district council, in England	Swale Borough Council
A county council, or district council, in England	Essex County Council
A county council, or district council, in England	Kent County Council



council, in England	
<b>NON-PRESCRIBED CONSULTATION BODIES</b>	
Non-prescribed consultation body	Southend-on-Sea Borough Council



## **APPENDIX 2**

# **Respondents to Consultation and Copies of Replies**



## APPENDIX 2

### LIST OF BODIES WHO REPLIED BY THE STATUTORY DEADLINE

Civil Aviation Authority
Energetics UK
Environment Agency
E S Pipelines Ltd, ESP Networks Ltd, ESP Pipelines Ltd, ESP Electricity Ltd and ESP Connections Ltd
Forestry Commission
Fulcrum Pipelines
Gravesham Borough Council
Health and Safety Executive
Highways Agency
Lower Medway Internal Drainage Board
Maidstone Borough Council
Medway Clinical Commissioning Group
Natural England
Public Health England
Southern Water
St James Parish Council
UK Power Networks



**Hannah Nelson**

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**From:** Smailes Baggy [REDACTED]  
**Sent:** 04 December 2013 14:05  
**To:** Environmental Services  
**Subject:** FW: WS010002 - Perrys Farm Hazardous Waste Management Facility  
**Attachments:** 131202\_WS010002\_Letter to stat cons\_Scoping AND Reg 9 Notification\_English.pdf

Dear Ms Nelson,

Thank you for your recent enquiry which sought Civil Aviation Authority comment related to the subject scoping report

As far as can be ascertained from the scoping report, given that there seems to be little suggestion that there will be significant above ground level development, the proposed hazardous waste management facility would not constitute an aviation en-route obstruction. I have therefore no associated observations beyond highlighting the need for the planning process to consider any lodged safeguarding maps or other aviation safeguarding agreements to identify any aerodrome specific safeguarding issues. Note that aerodrome safeguarding responsibility rest in all cases with the relevant aerodrome operator/license holder, not the CAA. To that end I note the relatively close proximity of the development site to Stoke Aerodrome, a micro-light focused facility on the Isle of Grain. It would seem reasonable for any related environmental assessment to establish whether there were any related issues.

I hope this limited input is useful. Please do not hesitate to get in touch should the Inspectorate require further comment of clarification of any point.

**Mark Smailes**

Airspace Regulator  
Safety and Airspace Regulation Group  
Civil Aviation Authority  
CAA House  
45-59 Kingsway  
London WC2B 6TE  
Tel: 0207 453 6545

---

**From:** Environmental Services [mailto:EnvironmentalServices@infrastructure.gsi.gov.uk]  
**Sent:** 02 December 2013 14:16  
**To:** NSIP.applications@hse.gsi.gov.uk  
**Subject:** WS010002 - Perrys Farm Hazardous Waste Management Facility

<<131202\_WS010002\_Letter to stat cons\_Scoping AND Reg 9 Notification\_English.pdf>>

Good afternoon,

Please see attached correspondence in relation to the EIA Scoping Request for the proposed Perrys Farm Hazardous Waste Management Facility.

Kind regards,

04/12/2013





**Hannah Nelson**

---

**From:** Karen Dickson [REDACTED]  
**Sent:** 03 December 2013 14:18  
**To:** Environmental Services  
**Subject:** Perrys Farm Hazardous Waste Management Facility Our Ref - WS010002  
**Follow Up Flag:** Follow up  
**Flag Status:** Red

Dear Hannah Nelson,

Thank you for submitting your recent plant enquiry.

Based on the information provided, I can confirm that Energetics **does not** have any plant within the area(s) specified in your request.

Please be advised that it may take around 10 working days to process enquiries. In the unlikely event that you have been waiting longer than 10 working days, or require further assistance with outstanding enquiries, please call 01698 404968.

Please ensure all plant enquiries are sent to [plantenquiries@energetics-uk.com](mailto:plantenquiries@energetics-uk.com)

Regards

**Karen Dickson**  
Technical Clerical Team

Energetics Design & Build  
International House  
Stanley Boulevard  
Hamilton International Technology Park  
Glasgow  
G72 0BN

t: 01698 404 968  
f: 01698 404 940

e: [REDACTED]  
w: [www.energetics-uk.com](http://www.energetics-uk.com)

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\*\*\*\*\*

Correspondents should note that all communications to Department for Communities and Local Government may be automatically logged, monitored and/or recorded for lawful purposes.

\*\*\*\*\*



Ms Hannah Nelson  
Planning Inspectorate  
3/20 Eagle Wing  
Temple Quay House (2 The Square)  
Temple Quay  
Bristol  
Avon  
BS1 6PN

**Our ref:** KT/2013/117506/01-L01  
**Your ref:** WS010002  
**Date:** 18 December 2013

Dear Ms Nelson

**Planning Act 2008 (As Amended) and the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (As Amended) – Regulations 8 and 9 application By Peel Environmental Limited for an order granting development consent for the Perrys Farm Hazardous Waste Management Facility scoping consultation and notification of the applicant's contact details and duty to make available information to the applicant if requested**

### **Perry's Farm Isle of Grain Rochester Kent**

Thank you for consulting us on the above scoping opinion. We have the following comments to make.

#### **Environmental Permitting**

We have reviewed the scoping document and would like to highlight the following:

*Site Description* – The scoping report does not mention that the landfilled area located directly to the north of the proposed development site was infilled with cement precipitator waste. This would need to be considered in the land quality assessment;

*Air Quality* - It is understood the development proposal will include bioremediation. Emissions such as volatile organic compounds, benzene, toluene, ethylbenzene, xylene, total petroleum hydrocarbons and polycyclic aromatic hydrocarbons to air and human health should be assessed.

*Hydrology, Hydrogeology* - The surface water runoff/drainage from the bioremediation facility should be considered as part of the hydrology/hydrogeology assessment.

*Nuisance* - Human Environment - The impact of mud on the road should be considered.

Environment Agency  
Orchard House (Endeavour Park) London Road, Addington, West Malling, ME19 5SH.  
Customer services line: 03708 506 506  
[www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)

Cont/d..

**Groundwater Protection**

The scope of documents to be provided to inform the EIA is adequate from the groundwater protection point of view.

**Flood Risk**

We are satisfied with the details and proposed scope regarding flood risk and surface water drainage.

We would expect a detailed Flood Risk Assessment to be submitted for the site, with details of the surface water drainage scheme for the site area.

**Biodiversity**

The scope of the EIA should include how management of the western part of the site (currently shown as arable) will be managed in order to mitigate for any impact risks on the adjacent ditches or designated sites nearby.

The scope should also consider how the aftercare of the site will contribute to biodiversity and also ensure the ecology of restored site positively effects local wildlife and designated sites.

We hope you find our comments useful. If you have any further queries, please do not hesitate to contact me.

Yours sincerely

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

Direct dial 01732 223272

Direct e-mail [jennifer.wilson@environment-agency.gov.uk](mailto:jennifer.wilson@environment-agency.gov.uk)

**Hannah Nelson**

---

**From:** Alan Slee [REDACTED]  
**Sent:** 03 December 2013 16:07  
**To:** Environmental Services  
**Subject:** RE: WS010002 - Perrys Farm Hazardous Waste Management Facility

Dear Hannah,

**Application by Peel Environmental Limited for an Order Granting Development Consent for the Perrys Farm Hazardous Waste Management Facility**

Your Ref:

WS010002

Our ref: PE124751

Further to your email communication to E S Pipelines Ltd, ESP Networks Ltd, ESP Pipelines Ltd, ESP Electricity Ltd and ESP Connections Ltd dated 2 December 2013 I can confirm that our businesses have no comments at this stage.

Regards,

**Alan Slee**  
Operations Manager

DD [REDACTED]  
Mobile [REDACTED]  
Fax [REDACTED]  
[www.esutilities.com](http://www.esutilities.com)

---

**From:** Environmental Services [mailto:EnvironmentalServices@infrastructure.gsi.gov.uk]  
**Sent:** 02 December 2013 14:16  
**To:** NSIP.applications@hse.gsi.gov.uk  
**Subject:** WS010002 - Perrys Farm Hazardous Waste Management Facility

<<131202\_WS010002\_Letter to stat cons\_Scoping AND Reg 9 Notification\_English.pdf>>  
Good afternoon,

Please see attached correspondence in relation to the EIA Scoping Request for the proposed Perrys Farm Hazardous Waste Management Facility.

Kind regards,

Hannah Nelson  
EIA and Land Rights Advisor  
Environmental Services Team  
Major Applications and Plans  
The Planning Inspectorate,  
Temple Quay House,  
Temple Quay,  
Bristol,



**South East & London**

Bucks Horn Oak  
Farnham  
Surrey  
GU10 4LS

The Planning Inspectorate  
Environmental Services  
For the attention of Hannah Nelson

Tel 01483 326200  
Fax 01420 22082  
southeast.fce@forestry.gsi.gov.uk

**Area Director**

Alison Field

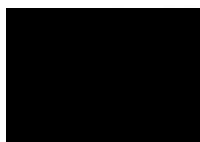
Date: 18/12/2013

Dear Ms Nelson,

**Ref: WS010002 - Perrys Farm Hazardous Waste Management Facility**

Thank you for consulting us on this proposal. I can confirm that we do not wish to make any comments.

Yours sincerely,



**Andrew Dall'Oglio**  
Woodland Officer

*South East England*





**Hannah Nelson**

---

**From:** [REDACTED] [REDACTED] on behalf of  
&box\_FPLplantprotection\_conx, [FPLplantprotection@fulcrum.co.uk]  
**Sent:** 05 December 2013 13:59  
**To:** Environmental Services  
**Subject:** RE: WS010002 - Perrys Farm Hazardous Waste Management Facility

Thank you for asking Fulcrum Pipelines Limited to examine your consultation document for the above project.

We can confirm that Fulcrum Pipelines Limited have no comments to make on this scoping report. Please note that we are constantly adding to our underground assets and would strongly advise that you consult us again prior to undertaking any excavations.

Please note that other gas transporters may have plant in this locality which could be affected.

We will always make every effort to help you where we can, but Fulcrum Pipelines Limited will not be held responsible for any incident or accident arising from the use of the information associated with this search. The details provided are given in good faith, but no liability whatsoever can be accepted in respect thereof.

If you need any help or information simply contact [REDACTED] directly on [REDACTED].

To save you time, any future requests for information about our plant, can be emailed to FPLplantprotection@fulcrum.co.uk

[REDACTED]  
Process Assistant



FULCRUM

Tel: 0845 641 3010 ext: 4175

Direct Dial:

Email: [REDACTED]

Web: [www.fulcrum.co.uk](http://www.fulcrum.co.uk)

**FULCRUM NEWS****FULCRUM IS A UTILITY WEEK ACHIEVEMENT AWARDS FINALIST**

We're very pleased to announce that we've been shortlisted for a Utility Week Achievement Award for the gas utility works we delivered at the 2012 Olympic Games. [Learn more.](#)

---

**From:** Environmental Services [mailto:EnvironmentalServices@infrastructure.gsi.gov.uk]  
**Sent:** 02 December 2013 14:16  
**To:** NSIP.applications@hse.gsi.gov.uk  
**Subject:** WS010002 - Perrys Farm Hazardous Waste Management Facility

<<131202\_WS010002\_Letter to stat cons\_Scoping AND Reg 9 Notification\_English.pdf>>

05/12/2013





Application: 20131121

**TOWN AND COUNTRY PLANNING ACTS**

**TOWN AND COUNTRY PLANNING GENERAL REGULATIONS 1992**

**NO OBJECTION TO GRANT OF PERMISSION TO DEVELOP LAND**

To: **Medway Council**  
**C/O The Planning Inspectorate**  
**3/18 Eagle Wing**  
**Temple Quay House**  
**2 The Square**  
**Bristol**  
**BS1 6PN**

**TAKE NOTICE** that the **GRAVESHAM BOROUGH COUNCIL**, the Local Planning Authority under the Town and Country Planning Acts, has **NO OBJECTION** for development of land situate

at **Perrys Farm**  
**Grain Road**  
**Isle Of Grain**  
**Rochester**  
**ME3 0AW**

and being **Adjoining Authority consultation for application for Peel Environmental Limited for an Order Granting Development Consent for the Perrys Farm Hazardous Waste Management Facility.**

Referred to in your application dated 3 December 2013.

**GRAVESHAM BOROUGH COUNCIL HOWEVER MAKES THE FOLLOWING COMMENTS**

- 1 The Borough Council has no observations to make on the scoping opinion.

Thank you for consulting the Borough Council.

Dated this 23rd day of December 2013

Address; Civic Centre  
Windmill Street  
Gravesend  
Kent  
DA12 1AU

  
Signed  
**Service Manager, Development Control**  
**Planning and Regeneration Services**



HID Policy - Land Use Planning  
NSIP Consultations  
Building 5.S.2, Redgrave Court  
Merton Road, Bootle  
Merseyside, L20 7HS

Your ref: 131202\_WS010002  
Our ref: 4.2.1.3887

HSE email: [NSIP.applications@hse.gsi.gov.uk](mailto:NSIP.applications@hse.gsi.gov.uk)

FAO Hannah Nelson  
The Planning Inspectorate  
3/18 Eagle Wing, Temple Quay House  
2 The Square, Bristol  
BS1 6PN

Dear Ms Nelson,

19<sup>th</sup> December 2013

**PROPOSED PERRY'S FARM HAZARDOUS WASTE MANAGEMENT FACILITY (the project)  
PROPOSAL BY PEEL ENVIRONMENTAL LTD (the applicant)  
INFRASTRUCTURE PLANNING (ENVIRONMENTAL IMPACT ASSESSMENT) REGULATIONS 2009 (as amended) – Regulations 8 and 9**

Thank you for your letter of 2nd December 2013 regarding the information to be provided in an environmental statement relating to the above project.

Major Hazard Installations

This application falls within the Consultation Distance of a Major Hazard Site. In line with PADHI+ guidance we would advise against features that are more than 3 occupied storeys or allowed occupation by 100 or more workers. Based on the information contained in the SLR document ref 402-02536-00005 dated November 2013, it seems likely that any occupied buildings forming part of the proposal would not meet the above criteria, so would not meet the criteria for HSE to advise against. Where there are more than 100 workers outdoors the HSE would need to carry out a site specific assessment before advice is given.

Hazardous Substances Consent

The presence on, over or above land of certain hazardous substances, at or above set threshold quantities (Controlled Quantities), may require Hazardous Substances Consent (HSC) under the Planning (Hazardous Substances) Act 1990 as amended. The substances, alone or when aggregated with others, for which HSC is required, and the associated Controlled Quantities, are set out in The Planning (Hazardous Substances) Regulations 1992 as amended particularly by The Planning (Hazardous Substances) (Amendment) (England) Regulations 2009 and 2010, as well as Planning (Control of Major Accident Hazards) Regulations 1999.

The regulations include a number of exemptions and further information on HSC should be sought from the relevant Hazardous Substances authority.

Hazardous Waste

The applicant should take account of and adhere to relevant health and safety legislative requirements when developing and then operating the facility. More details can be found on HSE's Website at: [www.hse.gov.uk/waste/hazardouswaste.htm](http://www.hse.gov.uk/waste/hazardouswaste.htm)

### Explosives sites

The proposed Perry's Farm Hazardous Waste Management Facility development does not impinge on the separation distances of any explosives site licensed by HSE.

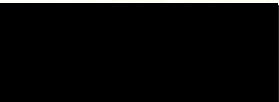
### Electrical Safety

This project may create or have an impact on existing generation, transmission and distribution assets. It needs to satisfy general UK health and safety legislation (i.e. Health and Safety at Work etc Act 1974 and supporting regulations), and the proposed design and future operations must comply with the Electricity at Work Regulations 1989 and Electrical Safety, Quality and Continuity Regulations 2002, as amended. Generators, distributors, their contractors and others have defined duties in order to protect members of the public from the dangers posed by the electrical equipment used. HSE enforces the safety aspects of these regulations. If you have any doubts about the particular application of these regulations in terms of either the operation or construction of substations, overhead lines or underground cables, please contact Mr J C Steed, Principal Specialist Inspector (Electrical Networks), either at [john.steed@hse.gsi.gov.uk](mailto:john.steed@hse.gsi.gov.uk) or Rose Court GSW, 2 Southwark Bridge Road, London SE1 9HS.

Please send any further electronic communication on this project directly to the HSE's designated e-mail account for NSIP applications. Alternatively any hard copy correspondence should be sent to:

Miss Laura Evans  
NSIP Consultations  
5.S.2 Redgrave Court  
Merton Road  
Bootle  
Merseyside  
L20 7HS

Yours sincerely,



Laura Evans  
HID Policy - Land Use Planning

## Hannah Nelson

---

**From:** Henderson, John [John.Henderson@highways.gsi.gov.uk]  
**Sent:** 09 December 2013 15:15  
**To:** Environmental Services  
**Subject:** Scoping documents for an application for a Development Consent Order for Perrys Farm Hazardous Waste Management Facility

For the attention of Hannah Nelson

Dear Hannah

Thank you for consulting with the Highways Agency on the scoping documents for a proposed application for a DCO for Perrys Farm Hazardous Waste Management Facility.

Having reviewed the documents we are content that the proposals will have no impact on the strategic road network and therefore have no other comments to make.

Regards

John

**John Henderson**

Highways Agency | Federated House | London Road | Dorking | RH4 1SZ

**Tel:** +44 (0) 1306 878486 | **Mobile:** + [REDACTED]

**Web:** <http://www.highways.gov.uk>

**GTN:** 3904 8486

Safe roads, reliable journeys, informed travellers  
Highways Agency, an executive agency of the Department for Transport.





**Hannah Nelson**

---

**From:** Pete Dowling [REDACTED]  
**Sent:** 18 December 2013 18:30  
**To:** Environmental Services  
**Cc:** Mike Watson  
**Subject:** WS010002 - Perrys Farm Hazardous Waste Management Facility, Grain (Scoping Consultation).

Dear Ms Nelson,

Thank you for your letter dated 2 December regarding the above planning application.

I can confirm that the site of the proposal is just outside of the Lower Medway Internal Drainage Board's district but does border it. However, as surface water runoff from the site is thought to drain to the north (away from the Board's district) the Board's interests are unlikely to be affected.

I note that the Environment Agency and Medway Council have already been consulted. The Board will be keen to see that drainage details and pollution prevention/control measures are agreed with both of these authorities at the earliest possible stage.

If and when a more detailed application is made, should drainage arrangements be likely to affect the Board's interests I will submit further comments.

Regards

Peter Dowling  
On behalf of the Lower Medway IDB

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The Planning Inspectorate  
3/18 Eagle Wing, Temple Quay House  
2, The Square  
Bristol  
BS1 6PN

Date: 12-Dec-2013  
My Ref: MA/13/2100  
Your Ref:

Dear Sir or Madam,

**Environmental Impact Assessment -Application for Scoping Opinion/  
Screening Opinion**

- a) Applicant: The Planning Inspectorate  
b) Address of Site: PERRYS FARM ISLE OF GRAIN ROCHESTER, CHATHAM ROAD, SANDLING, KENT  
c) Proposal: Consultation from The Planning Inspectorate for a Scoping Opinion for the Environmental Impact Assessment to relating to an application by Peel Environmental Limited for Perrys Farm Hazardous Waste Management Facility within Medway Council.

I acknowledge receipt of your application in relation to the above proposal. Your submission was registered on 04-Dec-2013. The reference number that has been allocated is MA/13/2100 and this should be quoted in any further correspondence or enquiry.

We will get back to you within the time period set out in the Environmental Impact Assessment Regulations (England and Wales) 1993.

If you have any queries in relation to this case, please contact us.

Yours faithfully,

*Annabel Hemmings*

**Contact: Annabel Hemmings**

t [REDACTED]

e [devman@maidstone.gov.uk](mailto:devman@maidstone.gov.uk)



**Hannah Nelson**

**From:** Stuart Lynne (NHS MEDWAY CCG) [REDACTED]  
**Sent:** 23 December 2013 08:09  
**To:** Environmental Services  
**Subject:** For the attention of Hannah Nelson  
**Follow Up Flag:** Follow up  
**Flag Status:** Red  
**Application by Peel Environmental Limited – 2161680**

I am writing to confirm that NHS Medway CCG does not wish to submit any comments in relation to the above application.

**Lynne Stuart FCIS**  
**Company Secretary**  
NHS Medway Clinical Commissioning Group  
Fifty Pembroke Court, Chatham Maritime, Kent ME4 4EL

Tel: [REDACTED]  
Mobile: [REDACTED]  
Email: [REDACTED]  
[www.medwayccg.nhs.uk](http://www.medwayccg.nhs.uk)

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*Please send all Freedom of Information (FOI) requests to [FOI@nhs.net](mailto:FOI@nhs.net) or by post to KMCS – FOI, 4<sup>th</sup> Floor, Kent House, 81 Station Road, Ashford TN23 1PP.*

*Please send all requests for copies of personal data (Subject Access Request/Data Protection Act) to [informationgovernance@nhs.net](mailto:informationgovernance@nhs.net) or by post to KMCS – Information Governance, Kent House, 81 Station Road, Ashford TN23 1PP.*

*Please send all complaints to [medway.ccg@nhs.net](mailto:medway.ccg@nhs.net) or by post to Complaints Manager, Fifty Pembroke Court, Chatham Maritime ME4 4EL.*

*This email is sent for and on behalf of NHS Medway Clinical Commissioning Group.*

\*\*\*\*\*

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Thank you for your co-operation.

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NHSmal provides an email address for your career in the NHS and can be accessed anywhere

\*\*\*\*\*

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.....



Date: 20 December 2013  
Our ref: 105970  
Your ref: WS010002



Hannah Nelson  
EIA and Land Rights Advisor  
The Planning Inspectorate

Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

**BY EMAIL ONLY**

T 0300 060 3900

Dear Hannah Nelson

**Environmental Impact Assessment Scoping consultation (Planning Act 2008 (as amended) and The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) – Regulations 8 and 9): Hazardous Waste Management Facility – Nationally Strategic Infrastructure Project (NSIP)**

**Location:** Perry's Farm, Isle of Grain, Medway, Kent.

Thank you for seeking our advice on the scope of the Environmental Statement (ES) in your consultation dated **02 December 2013** which we received on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Appendix A to this letter provides Natural England's advice on the scope of the Environmental Impact Assessment (EIA) for this development. We would also like to take this opportunity to confirm awareness of our duty under Regulation 9(3), if so requested by the applicant, to make available information in our possession which is considered relevant to the preparation of the environmental statement.

Should the proposal be amended in a way which significantly affects its impact on the natural environment then, in accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England should be consulted again.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us. For any queries relating to the specific advice in this letter only please contact Heather Twizell on 0300 060 1711 or [heather.twizell@naturalengland.org.uk](mailto:heather.twizell@naturalengland.org.uk). For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

**Heather Twizell**  
**Lead Adviser**  
**Land Use Operations**

## **Annex A – Advice related to EIA Scoping Requirements**

### **1. General Principles**

Schedule 4 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended), sets out the necessary information to assess impacts on the natural environment to be included in an Environmental Statement (ES), specifically:

- A description of the development – including physical characteristics and the full land use requirements of the site during construction and operational phases.
- Expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc.) resulting from the operation of the proposed development.
- An assessment of alternatives and clear reasoning as to why the preferred option has been chosen.
- A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.
- A description of the likely significant effects of the development on the environment – this should cover direct effects but also any indirect, secondary, cumulative, short, medium and long term, permanent and temporary, positive and negative effects. Effects should relate to the existence of the development, the use of natural resources and the emissions from pollutants. This should also include a description of the forecasting methods to predict the likely effects on the environment.
- A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.
- A non-technical summary of the information.
- An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information.

It will be important for any assessment to consider the potential cumulative effects of this proposal, including all supporting infrastructure, with other similar proposals and a thorough assessment of the ‘in combination’ effects of the proposed development with any existing developments and current applications. A full consideration of the implications of the whole scheme should be included in the ES. All supporting infrastructure should be included within the assessment.

### **2. Biodiversity and Geology**

#### **2.1 Ecological Aspects of an Environmental Statement**

Natural England advises that the potential impact of the proposal upon features of nature conservation interest and opportunities for habitat creation/enhancement should be included within this assessment in accordance with appropriate guidance on such matters. Guidelines for Ecological Impact Assessment (EclA) have been developed by the Institute of Ecology and Environmental Management (IEEM) and are available on their website.

EclA is the process of identifying, quantifying and evaluating the potential impacts of defined actions on ecosystems or their components. EclA may be carried out as part of the EIA process or to support other forms of environmental assessment or appraisal.

The National Planning Policy Framework sets out guidance in S.118 on how to take account of biodiversity interests in planning decisions and the framework that local authorities should provide to assist developers.

#### **2.2 Internationally and Nationally Designated Sites**

The ES should thoroughly assess the potential for the proposal to affect designated sites. European sites (e.g. designated Special Areas of Conservation SACs) and Special Protection Areas



(SPAs)) fall within the scope of the Conservation of Habitats and Species Regulations 2010 (as amended). In addition paragraph 118 of the National Planning Policy Framework requires that potential Special Protection Areas, possible Special Areas of Conservation, listed or proposed Ramsar sites, and any site identified as being necessary to compensate for adverse impacts on classified, potential or possible SPAs, SACs and Ramsar sites be treated in the same way as classified sites.

Under Regulation 61 of the Conservation of Habitats and Species Regulations 2010 an Appropriate Assessment (AA) needs to be undertaken in respect of any plan or project which is (a) likely to have a significant effect on a European site (either alone or in combination with other plans or projects) and (b) not directly connected with or necessary to the management of the site.

Should a Likely Significant Effect on a European/Internationally designated site be identified or be uncertain, the competent authority (in this case the Secretary of State) may need to undertake an AA, in addition to consideration of impacts through the EIA process.

### **Sites of Special Scientific Interest (SSSIs) and sites of European or international importance (Special Areas of Conservation, Special Protection Areas and Ramsar sites)**

The development site lies close to the following designated nature conservation sites:

- Thames Estuary & Marshes SPA
- Thames Estuary & Marshes Ramsar site
- South Thames Estuary & Marshes SSSI
- Medway Estuary & Marshes SPA
- Medway Estuary & Marshes Ramsar site
- Medway Estuary & Marshes SSSI

Further information on the SSSIs and their special interest features can be found at [www.natureonthemap.naturalengland.org.uk](http://www.natureonthemap.naturalengland.org.uk). The ES should include a full assessment of the direct and indirect effects of the development on the features of special interest within these sites and should identify such mitigation measures as may be required in order to avoid, minimise or reduce any adverse significant effects. Natural England agrees that there are no nationally designated geological sites close enough to be impacted by the proposals and we accept the applicant's proposal for these to be scoped out of the ES.

Conservation Objectives for European sites are available on our internet site [here](#).

In this case the proposal is not directly connected with, or necessary to, the management of a European site. Our advice is that it may have a significant effect on internationally designated sites and therefore will require assessment under the Habitats Regulations. We welcome the applicant's recognition of the need to work through the HRA process, at least to the screening stage and potentially on to AA if required. We recommend that there should be a separate section of the ES to address impacts upon European and Ramsar sites entitled 'Information for Habitats Regulations Assessment'. We are pleased to note that the EIA scoping document prepared by the applicant already identifies the key areas for consideration within the HRA which we have summarised below for clarity:

- Direct land take – possible loss of land (particularly agricultural) functionally linked to the SPAs / Ramsar sites through its use for roosting / foraging by over-wintering bird species.
- Disturbance to breeding, wintering or passage birds – particularly visual and noise. We support the applicant's intention to assess noise impacts on sensitive species against the ambient noise climate within the designated sites. The applicant should ensure that

particular consideration is given to maximum noise levels (LAmax) as occasional loud noises are generally more disturbing to birds than continuous ones which they can habituate to.

- Air quality – we are pleased to see that the applicant will be considering dust, landfill gas and traffic emissions. In Natural England's view the main air quality issue is likely to be the dust generated from the quarrying / landfill operations but we also support the applicant's intention to consider air quality impacts from traffic emissions on designated sites which fall within 200m of affected roads and agree the guidelines set out in the Design Manual for Roads and Bridges (DMRB) provide a useful initial screening tool.
- Hydrology – any changes to water quality and quantity – likely to be more of an issue for Ramsar site interest features – plants and invertebrates.

### **2.3 Regionally and Locally Important Sites**

The EIA will need to consider any impacts upon local wildlife and geological sites. Local Sites are identified by the local wildlife trust, geoconservation group or a local forum established for the purposes of identifying and selecting local sites. They are of county importance for wildlife or geodiversity. The ES should therefore include an assessment of the likely impacts on the wildlife and geodiversity interests of such sites. The assessment should include proposals for mitigation of any impacts and if appropriate, compensation measures. The applicant should contact the local wildlife trust, geoconservation group or local sites body in this area for further information.

### **2.4 Protected Species - Species protected by the Wildlife and Countryside Act 1981 (as amended) and by the Conservation of Habitats and Species Regulations 2010**

The ES should assess the impact of all phases of the proposal on protected species (including, for example, great crested newts, reptiles, birds, water voles, badgers and bats). Natural England does not hold comprehensive information regarding the locations of species protected by law, but advises on the procedures and legislation relevant to such species. Records of protected species should be sought from appropriate local biological record centres, nature conservation organisations, groups and individuals; and consideration should be given to the wider context of the site for example in terms of habitat linkages and protected species populations in the wider area, to assist in the impact assessment.

The conservation of species protected by law is explained in Part IV and Annex A of Government Circular 06/2005 *Biodiversity and Geological Conservation: Statutory Obligations and their Impact within the Planning System*. The area likely to be affected by the proposal should be thoroughly surveyed by competent ecologists at appropriate times of year for relevant species and the survey results, impact assessments and appropriate accompanying mitigation strategies included as part of the ES.

In order to provide this information there may be a requirement for a survey at a particular time of year. Surveys should always be carried out in optimal survey time periods and to current guidance by suitably qualified and where necessary, licensed, consultants. Natural England has adopted [standing advice](#) for protected species which includes links to guidance on survey and mitigation.

Natural England is pleased to see that the applicant has already undertaken a number of surveys for various species and would encourage the applicant to ensure that the timing, methodology and presentation of these is in line with our standing advice prior to making any formal submission to The Planning Inspectorate.

### **2.5 Habitats and Species of Principal Importance**

The ES should thoroughly assess the impact of the proposals on habitats and/or species listed as 'Habitats and Species of Principal Importance' within the England Biodiversity List, published under the requirements of S41 of the Natural Environment and Rural Communities (NERC) Act 2006. Section 40 of the NERC Act 2006 places a general duty on all public authorities, including local planning authorities, to conserve and enhance biodiversity. Further information on this duty is

available in the Defra publication '[Guidance for Local Authorities on Implementing the Biodiversity Duty](#)'.

Government Circular 06/2005 states that Biodiversity Action Plan (BAP) species and habitats, 'are capable of being a material consideration...in the making of planning decisions'. Natural England therefore advises that survey, impact assessment and mitigation proposals for Habitats and Species of Principal Importance should be included in the ES. Consideration should also be given to those species and habitats included in the relevant Local BAP.

Natural England advises that a habitat survey (equivalent to Phase 2) is carried out on the site, in order to identify any important habitats present. In addition, ornithological, botanical and invertebrate surveys should be carried out at appropriate times in the year, to establish whether any scarce or priority species are present. The ES should include details of:

- Any historical data for the site affected by the proposal (e.g. from previous surveys);
- Additional surveys carried out as part of this proposal;
- The habitats and species present;
- The status of these habitats and species (e.g. whether priority species or habitat);
- The direct and indirect effects of the development upon those habitats and species;
- Full details of any mitigation or compensation that might be required.

The development should seek if possible to avoid adverse impact on sensitive areas for wildlife within the site, and if possible provide opportunities for overall wildlife gain.

The record centre for the relevant Local Authorities should be able to provide the relevant information on the location and type of priority habitat for the area under consideration.

## **2.6 Contacts for Local Records**

Natural England does not hold local information on local sites, local landscape character and local or national biodiversity priority habitats and species. We recommend that the applicant seeks further information from the appropriate bodies (which may include the local records centre, the local wildlife trust or other recording society and a local landscape characterisation document). Details of the local records centre in Kent are as follows:

Kent & Medway Biological Records Centre (KMBRC), Brogdale Farm Office, Brogdale Farm, Brogdale Road, Faversham, Kent, ME13 8XZ.

Email: [info@kmbrc.org.uk](mailto:info@kmbrc.org.uk)

Telephone: (01795) 532385

## **3. Designated Landscapes and Landscape Character**

### **Landscape and visual impacts**

Natural England would wish to see details of local landscape character areas mapped at a scale appropriate to the development site as well as any relevant management plans or strategies pertaining to the area. The EIA should include assessments of visual effects on the surrounding area and landscape together with any physical effects of the development, such as changes in topography.

The EIA should include a full assessment of the potential impacts of the development on local landscape character using landscape assessment methodologies. We encourage the use of Landscape Character Assessment (LCA), based on the good practice guidelines produced jointly by the Landscape Institute and Institute of Environmental Assessment in 2013. LCA provides a sound basis for guiding, informing and understanding the ability of any location to accommodate change and to make positive proposals for conserving, enhancing or regenerating character, as detailed proposals are developed.

Natural England supports the publication *Guidelines for Landscape and Visual Impact Assessment*, produced by the Landscape Institute and the Institute of Environmental Assessment and Management in 2013 (3rd edition). The methodology set out is almost universally used for landscape and visual impact assessment. We note that the applicant's confirmation that they will be making use of this document.

In order to foster high quality development that respects, maintains, or enhances, local landscape character and distinctiveness, Natural England encourages all new development to consider the character and distinctiveness of the area, with the siting and design of the proposed development reflecting local design characteristics and, wherever possible, using local materials. The EIA process should detail the measures to be taken to ensure the building design will be of a high standard, as well as detail of layout alternatives together with justification of the selected option in terms of landscape impact and benefit.

The assessment should also include the cumulative effect of the development with other relevant existing or proposed developments in the area. In this context Natural England advises that the cumulative impact assessment should include other proposals currently at Scoping stage. Due to the overlapping timescale of their progress through the planning system, cumulative impact of the proposed development with those proposals currently at Scoping stage would be likely to be a material consideration at the time of determination of the planning application.

The assessment should refer to the relevant [National Character Areas](#) which can be found on our website. Links for Landscape Character Assessment at a local level are also available on the same page.

### **Heritage Landscapes**

You should consider whether there is land in the area affected by the development which qualifies for conditional exemption from capital taxes on the grounds of outstanding scenic, scientific or historic interest. An up-to-date list may be obtained at [www.hmrc.gov.uk/heritage/lbsearch.htm](http://www.hmrc.gov.uk/heritage/lbsearch.htm) and further information can be found on Natural England's landscape pages [here](#).

### **4. Access and Recreation**

Natural England encourages any proposal to incorporate measures to help encourage people to access the countryside for quiet enjoyment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways are to be encouraged. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be incorporated where appropriate.

### **Rights of Way, Access land and Coastal access**

The EIA should consider potential impacts on access land, public open land, rights of way and coastal access routes in the vicinity of the development. We also recommend reference to the relevant Right of Way Improvement Plans (ROWIP) to identify public rights of way within or adjacent to the proposed site that should be maintained or enhanced.

### **5. Soil and Agricultural Land Quality**

Impacts from the development should be considered in light of the Government's policy for the protection of the best and most versatile (BMV) agricultural land as set out in paragraph 112 of the NPPF. We also recommend that soils should be considered under a more general heading of sustainable use of land and the ecosystem services they provide as a natural resource in line with paragraph 109 of the NPPF.

Soil is a finite resource that fulfils many important functions and services (ecosystem services) for society, for example as a growing medium for food, timber and other crops, as a store for carbon

and water, as a reservoir of biodiversity and as a buffer against pollution. It is therefore important that the soil resources are protected and used sustainably.

The following issues should therefore be considered in detail as part of the ES (we are pleased to note the applicant has committed to many of these already in their scoping document):

1. The degree to which soils would be disturbed/harmed as part of this development and whether any 'best and most versatile' agricultural land would be affected.

If required, an agricultural land classification and soil survey of the land should be undertaken, normally at a detailed level (e.g. a minimum of one auger boring per hectare supported by pits dug in each main soil type), to confirm the soil physical characteristics of the full depth of soil resource i.e. 1.2 metres.

For further information on the availability of existing agricultural land classification (ALC) information see [www.magic.gov.uk](http://www.magic.gov.uk). Natural England Technical Information Note 049 - [Agricultural Land Classification: protecting the best and most versatile agricultural land](#) also contains useful explanatory information.

2. Proposals for handling different types of topsoil and subsoil and the storage of soils and their management whilst in store.

Reference could usefully be made to [MAFF's Good Practice Guide for Handling Soils](#) which comprises separate sections, describing the typical choice of machinery and method of their use for handling soils at various phases. The techniques described by Sheets 1-4 are recommended for the successful reinstatement of higher quality soils.

3. The method of assessing whether soils are in a suitably dry condition to be handled (i.e. dry and friable), and the avoidance of soil handling, trafficking and cultivation during the wetter winter period.
4. A description of the proposed depths and soil types of the restored soil profiles; normally to an overall depth of 1.2 m over an evenly graded overburden layer (or, in the case of waste reclamation, an evenly graded capping layer).
5. The effects on land drainage, agricultural access and water supplies, including other agricultural land in the vicinity.
6. The impacts of the development on farm structure and viability, and on other established rural land use and interests, both during the site working period and following its reclamation.
7. A detailed Restoration Plan illustrating the restored landform and the proposed afteruses, together with details of surface features, water bodies and the availability of outfalls to accommodate future drainage requirements.

Further relevant guidance is also contained in the [Defra Guidance for Successful Restoration of Mineral and Waste Sites](#).

## **6. Air Quality**

Air quality in the UK has improved over recent decades but air pollution remains a significant issue; for example over 97% of sensitive habitat area in England is predicted to exceed the critical loads for ecosystem protection from atmospheric nitrogen deposition ([England Biodiversity Strategy](#), Defra 2011). A priority action in the England Biodiversity Strategy is to reduce air pollution impacts on biodiversity. The planning system plays a key role in determining the location of developments which may give rise to pollution, either directly or from traffic generation, and hence planning

decisions can have a significant impact on the quality of air, water and land. The assessment should take account of the risks of air pollution and how these can be managed or reduced. Further information on air pollution impacts and the sensitivity of different habitats/designated sites can be found on the Air Pollution Information System ([www.apis.ac.uk](http://www.apis.ac.uk)). Further information on air pollution modelling and assessment can be found on the Environment Agency website.

## **7. Climate Change Adaptation**

The [England Biodiversity Strategy](#) published by Defra establishes principles for the consideration of biodiversity and the effects of climate change. The ES should reflect these principles and identify how the development's effects on the natural environment will be influenced by climate change, and how ecological networks will be maintained. The NPPF requires that the planning system should contribute to the enhancement of the natural environment 'by establishing coherent ecological networks that are more resilient to current and future pressures' ([NPPF](#) Para 109), which should be demonstrated through the ES.

## **8. Cumulative and in-combination effects**

A full consideration of the implications of the whole scheme should be included in the ES. All supporting infrastructure should be included within the assessment.

The ES should include an impact assessment to identify, describe and evaluate the effects that are likely to result from the project in combination with other projects and activities that are being, have been or will be carried out. The following types of projects should be included in such an assessment, (subject to available information):

- a. existing completed projects;
- b. approved but uncompleted projects;
- c. ongoing activities;
- d. plans or projects for which an application has been made and which are under consideration by the consenting authorities; and
- e. plans and projects which are reasonably foreseeable, i.e. projects for which an application has not yet been submitted, but which are likely to progress before completion of the development and for which sufficient information is available to assess the likelihood of cumulative and in-combination effects.



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The Planning Inspectorate  
3/18 Eagle Wing  
Temple Quay House  
2 The Square  
Bristol  
BS1 6PN  
F.A.O Hannah Nelson

Our Ref :NSIP 131203  
Your Ref : WS010002

29<sup>th</sup> December 2013

Dear Sir,

**Re: Scoping Consultation  
Application for an Order Granting Development Consent for the Perrys Farm  
Hazardous Waste Management Facility  
Peel Environmental Limited Name**

Thank you for including Public Health England (PHE) in the scoping consultation phase of the above application. Our response focuses on health protection issues relating to chemicals and radiation. Advice offered by PHE is impartial and independent.

In order to ensure that health is fully and comprehensively considered the Environmental Statement (ES) should provide sufficient information to allow the potential impact of the development on public health to be fully assessed. We understand that the promoter will wish to avoid unnecessary duplication and that many issues including air quality, emissions to water, waste, contaminated land etc. will be covered elsewhere in the ES. PHE however believes the summation of relevant issues into a specific section of the report provides a focus which ensures that public health is given adequate consideration. A dedicated section or appendix should contain a summary of the key information, risk assessments, proposed mitigation measures, conclusions and residual impacts, relating to human health. Compliance with the requirements of National Policy Statements and relevant guidance and standards should also be highlighted.

In terms of the level of detail to be included in an ES, PHE recognises that the differing nature of projects is such that their impacts will vary, therefore any assessments undertaken to inform the ES should be proportionate to the potential impacts of the proposal. In some circumstances particular assessments may not be relevant to an application, or that an assessment may be adequately completed using a qualitative rather than quantitative methodology. In cases where this decision is made the promoters should fully explain and justify their rationale in the submitted documentation.

The attached appendix outlines generic areas that should be addressed by all promoters when preparing ES for inclusion with an NSIP submission. We are always happy to assist the promoter and discuss their proposals further in the light of this advice.

Yours sincerely

Allister Gittins

Environmental Public Health Scientist

[crce.nsipconsultations@phe.gov.uk](mailto:crce.nsipconsultations@phe.gov.uk)

*Please mark any correspondence for the attention of National Infrastructure Planning Administration.*



## **Appendix: PHE recommendations regarding the scoping document**

### **General approach**

The EIA should give consideration to best practice guidance such as the Government's Good Practice Guide for EIA<sup>1</sup>. It is important that the EIA identifies and assesses the potential public health impacts of the activities at, and emissions from, the installation. Assessment should consider the development, operational, and decommissioning phases.

It is not PHE's role to undertake these assessments on behalf of promoters as this would conflict with PHE's role as an impartial and independent body.

Consideration of alternatives (including alternative sites, choice of process, and the phasing of construction) is widely regarded as good practice. Ideally, EIA should start at the stage of site and process selection, so that the environmental merits of practicable alternatives can be properly considered. Where this is undertaken, the main alternatives considered should be outlined in the ES<sup>2</sup>.

The following text covers a range of issues that PHE would expect to be addressed by the promoter. However this list is not exhaustive and the onus is on the promoter to ensure that the relevant public health issues are identified and addressed. PHE's advice and recommendations carry no statutory weight and constitute non-binding guidance.

### **Receptors**

The ES should clearly identify the development's location and the location and distance from the development of off-site human receptors that may be affected by emissions from, or activities at, the development. Off-site human receptors may include people living in residential premises; people working in commercial, and industrial premises and people using transport infrastructure (such as roads and railways), recreational areas, and publicly-accessible land. Consideration should also be given to environmental receptors such as the surrounding land, watercourses, surface and groundwater, and drinking water supplies such as wells, boreholes and water abstraction points.

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<sup>1</sup> Environmental Impact Assessment: A guide to good practice and procedures - A consultation paper; 2006; Department for Communities and Local Government. Available from:

<http://www.communities.gov.uk/archived/publications/planningandbuilding/environmentalimpactassessment>

<sup>2</sup> DCLG guidance, 1999 <http://www.communities.gov.uk/documents/planningandbuilding/pdf/155958.pdf>

## **Impacts arising from construction and decommissioning**

Any assessment of impacts arising from emissions due to construction and decommissioning should consider potential impacts on all receptors and describe monitoring and mitigation during these phases. Construction and decommissioning will be associated with vehicle movements and cumulative impacts should be accounted for.

We would expect the promoter to follow best practice guidance during all phases from construction to decommissioning to ensure appropriate measures are in place to mitigate any potential impact on health from emissions (point source, fugitive and traffic-related). An effective Construction Environmental Management Plan (CEMP) (and Decommissioning Environmental Management Plan (DEMP)) will help provide reassurance that activities are well managed. The promoter should ensure that there are robust mechanisms in place to respond to any complaints of traffic-related pollution, during construction, operation, and decommissioning of the facility.

## **Emissions to air and water**

Significant impacts are unlikely to arise from installations which employ Best Available Techniques (BAT) and which meet regulatory requirements concerning emission limits and design parameters. However, PHE has a number of comments regarding emissions in order that the EIA provides a comprehensive assessment of potential impacts.

When considering a baseline (of existing environmental quality) and in the assessment and future monitoring of impacts these:

- should include appropriate screening assessments and detailed dispersion modelling where this is screened as necessary
- should encompass all pollutants which may be emitted by the installation in combination with all pollutants arising from associated development and transport, ideally these should be considered in a single holistic assessment
- should consider the construction, operational, and decommissioning phases
- should consider the typical operational emissions and emissions from start-up, shut-down, abnormal operation and accidents when assessing potential impacts and include an assessment of worst-case impacts
- should fully account for fugitive emissions
- should include appropriate estimates of background levels
- should identify cumulative and incremental impacts (i.e. assess cumulative impacts from multiple sources), including those arising from associated

development, other existing and proposed development in the local area, and new vehicle movements associated with the proposed development; associated transport emissions should include consideration of non-road impacts (i.e. rail, sea, and air)

- should include consideration of local authority, Environment Agency, Defra national network, and any other local site-specific sources of monitoring data
- should compare predicted environmental concentrations to the applicable standard or guideline value for the affected medium (such as UK Air Quality Standards and Objectives and Environmental Assessment Levels)
  - If no standard or guideline value exists, the predicted exposure to humans should be estimated and compared to an appropriate health-based value (a Tolerable Daily Intake or equivalent). Further guidance is provided in Annex 1
  - This should consider all applicable routes of exposure e.g. include consideration of aspects such as the deposition of chemicals emitted to air and their uptake via ingestion
- should identify and consider impacts on residential areas and sensitive receptors (such as schools, nursing homes and healthcare facilities) in the area(s) which may be affected by emissions, this should include consideration of any new receptors arising from future development

Whilst screening of impacts using qualitative methodologies is common practice (e.g. for impacts arising from fugitive emissions such as dust), where it is possible to undertake a quantitative assessment of impacts then this should be undertaken.

PHE's view is that the EIA should appraise and describe the measures that will be used to control both point source and fugitive emissions and demonstrate that standards, guideline values or health-based values will not be exceeded due to emissions from the installation, as described above. This should include consideration of any emitted pollutants for which there are no set emission limits. When assessing the potential impact of a proposed installation on environmental quality, predicted environmental concentrations should be compared to the permitted concentrations in the affected media; this should include both standards for short and long-term exposure.

#### *Additional points specific to emissions to air*

When considering a baseline (of existing air quality) and in the assessment and future monitoring of impacts these:

- should include consideration of impacts on existing areas of poor air quality e.g. existing or proposed local authority Air Quality Management Areas (AQMAs)

- should include modelling using appropriate meteorological data (i.e. come from the nearest suitable meteorological station and include a range of years and worst case conditions)
- should include modelling taking into account local topography

*Additional points specific to emissions to water*

When considering a baseline (of existing water quality) and in the assessment and future monitoring of impacts these:

- should include assessment of potential impacts on human health and not focus solely on ecological impacts
- should identify and consider all routes by which emissions may lead to population exposure (e.g. surface watercourses; recreational waters; sewers; geological routes etc.)
- should assess the potential off-site effects of emissions to groundwater (e.g. on aquifers used for drinking water) and surface water (used for drinking water abstraction) in terms of the potential for population exposure
- should include consideration of potential impacts on recreational users (e.g. from fishing, canoeing etc) alongside assessment of potential exposure via drinking water

**Land quality**

We would expect the promoter to provide details of any hazardous contamination present on site (including ground gas) as part of the site condition report.

Emissions to and from the ground should be considered in terms of the previous history of the site and the potential of the site, once operational, to give rise to issues. Public health impacts associated with ground contamination and/or the migration of material off-site should be assessed<sup>3</sup> and the potential impact on nearby receptors and control and mitigation measures should be outlined.

Relevant areas outlined in the Government's Good Practice Guide for EIA include:

- effects associated with ground contamination that may already exist
- effects associated with the potential for polluting substances that are used (during construction / operation) to cause new ground contamination issues on a site, for example introducing / changing the source of contamination

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<sup>3</sup> Following the approach outlined in the section above dealing with emissions to air and water i.e. comparing predicted environmental concentrations to the applicable standard or guideline value for the affected medium (such as Soil Guideline Values)

- impacts associated with re-use of soils and waste soils, for example, re-use of site-sourced materials on-site or offsite, disposal of site-sourced materials offsite, importation of materials to the site, etc.

## **Waste**

The EIA should demonstrate compliance with the waste hierarchy (e.g. with respect to re-use, recycling or recovery and disposal).

For wastes delivered to the installation:

- the EIA should consider issues associated with waste delivery and acceptance procedures (including delivery of prohibited wastes) and should assess potential off-site impacts and describe their mitigation

For wastes arising from the installation the EIA should consider:

- the implications and wider environmental and public health impacts of different waste disposal options
- disposal route(s) and transport method(s) and how potential impacts on public health will be mitigated

## **Other aspects**

Within the EIA PHE would expect to see information about how the promoter would respond to accidents with potential off-site emissions e.g. flooding or fires, spills, leaks or releases off-site. Assessment of accidents should: identify all potential hazards in relation to construction, operation and decommissioning; include an assessment of the risks posed; and identify risk management measures and contingency actions that will be employed in the event of an accident in order to mitigate off-site effects.

The EIA should include consideration of the COMAH Regulations (Control of Major Accident Hazards) and the Major Accident Off-Site Emergency Plan (Management of Waste from Extractive Industries) (England and Wales) Regulations 2009: both in terms of their applicability to the installation itself, and the installation's potential to impact on, or be impacted by, any nearby installations themselves subject to the these Regulations.

There is evidence that, in some cases, perception of risk may have a greater impact on health than the hazard itself. A 2009 report<sup>4</sup>, jointly published by Liverpool John Moores University and the HPA, examined health risk perception and environmental problems using a number of case studies. As a point to consider, the report suggested: "Estimation of community anxiety and stress should be included as part of every risk or impact assessment of proposed plans that involve a potential environmental hazard. This is true even when the physical health risks may be

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<sup>4</sup> Available from: <http://www.cph.org.uk/showPublication.aspx?pubid=538>

negligible.” PHE supports the inclusion of this information within EIAs as good practice.

**Liaison with other stakeholders, comments should be sought from:**

- the local authority for matters relating to noise, odour, vermin and dust nuisance
- the local authority regarding any site investigation and subsequent construction (and remediation) proposals to ensure that the site could not be determined as ‘contaminated land’ under Part 2A of the Environmental Protection Act
- the local authority regarding any impacts on existing or proposed Air Quality Management Areas
- the Food Standards Agency for matters relating to the impact on human health of pollutants deposited on land used for growing food/ crops
- the Environment Agency for matters relating to flood risk and releases with the potential to impact on surface and groundwaters
- the Environment Agency for matters relating to waste characterisation and acceptance
- the Clinical Commissioning Groups, NHS commissioning Boards and Local Planning Authority for matters relating to wider public health

**Environmental Permitting**

Amongst other permits and consents, the development will require an environmental permit from the Environment Agency to operate (under the Environmental Permitting (England and Wales) Regulations 2010). Therefore the installation will need to comply with the requirements of best available techniques (BAT). PHE is a consultee for bespoke environmental permit applications and will respond separately to any such consultation.

## Annex 1

### Human health risk assessment (chemical pollutants)

The points below are cross-cutting and should be considered when undertaking a human health risk assessment:

- The promoter should consider including Chemical Abstract Service (CAS) numbers alongside chemical names, where referenced in the ES
- Where available, the most recent United Kingdom standards for the appropriate media (e.g. air, water, and/or soil) and health-based guideline values should be used when quantifying the risk to human health from chemical pollutants. Where UK standards or guideline values are not available, those recommended by the European Union or World Health Organisation can be used
- When assessing the human health risk of a chemical emitted from a facility or operation, the background exposure to the chemical from other sources should be taken into account
- When quantitatively assessing the health risk of genotoxic and carcinogenic chemical pollutants PHE does not favour the use of mathematical models to extrapolate from high dose levels used in animal carcinogenicity studies to well below the observed region of a dose-response relationship. When only animal data are available, we recommend that the 'Margin of Exposure' (MOE) approach<sup>5</sup> is used

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<sup>5</sup> Benford D et al. 2010. Application of the margin of exposure approach to substances in food that are genotoxic and carcinogenic. Food Chem Toxicol 48 Suppl 1: S2-24





Hannah Nelson

**From** Nuttall, David [REDACTED]  
**Sent** 16 December 2013 16:12  
**To** Environmental Services  
**Subject** FW: RE: Scoping Opinion - Perrys Farm Hazardous Waste Management

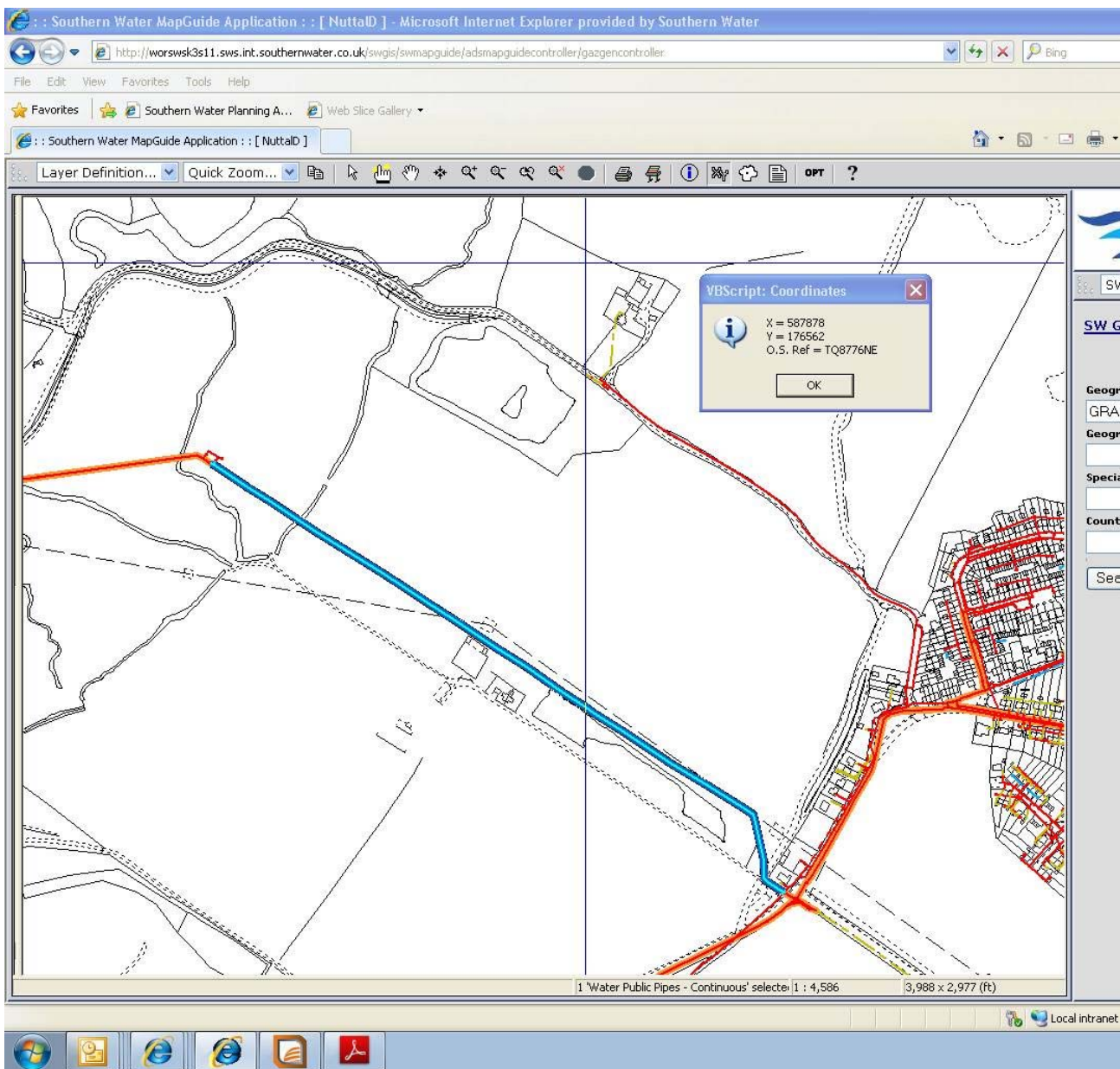
Thank you for your consultation regarding the Scoping Opinion for the above development.

The site is crossed by a significant water main, see extract from Southern Water's records below.

It is important that the proposal should protect the structural integrity of the water main, no works should be carried out less than 6 metres from the water main (the actual position of the main should be located on site) and the main must be protected from potential migration of contaminants, solid, dissolved or gaseous, in order to protect the quality of the public water supply.

Regards

David Nuttall  
Developer Services  
Southern Water  
Capstone  
Road  
Chatham  
ME5 7QA  
Tel [REDACTED]



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If you receive this e-mail by mistake, please delete it then advise the sender immediately by reply e-mail to "Nuttall, David" <David.Nuttall@southernwater.co.uk>



PINS RECEIVED

23 DEC 2013

# St James Isle of Grain Parish Council

Parish Clerk: Mrs Christine Gurr  
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E-mail: stjames@iog-pc.freeserve.co.uk

CG/235

19<sup>th</sup> December 2013

The Planning Inspectorate  
3/18 Eagle Wing  
Temple Quay House  
2 The Square  
BRISTOL BS1 6PN

For the attention of Hannah Nelson

Dear Ms Nelson

**RE: APPLICATION BY PEEL ENVIRONMENTAL FOR AN ORDER GRANTED DEVELOPMENT CONSENT FOR THE PERRYS FARM HAZARDOUS WASTE MANAGEMENT FACILITY**

The Parish Council considers that the following items should be given in depth consideration in the environment study:

SECTION 3 – SCOPE OF ENVIRONMENTAL INFORMATION	
3.1	<b>Introduction</b> <ul style="list-style-type: none"><li>No observations</li></ul>
3.2	<b>Transport &amp; Access</b> <ul style="list-style-type: none"><li>More lorries and exhaust emissions</li><li>Possible addition of the LNG Road Tanker Loading facility</li><li>Mud on the road making it hazardous for other road users</li><li>Routes into the area – have other parishes/authorities along the route be notified of the potential increase in traffic and hazardous nature of the loads being transported?</li><li>Existing road infrastructure is not adequate for the increase in traffic and hazardous nature of the loads being transported</li></ul>

Chairman: Cllr Mrs V E Cordier, 2 Doggetts Row, Isle of Grain, Rochester, Kent, ME3 0BH

Telephone [REDACTED]

E-mail: [REDACTED]

3.3	<p><b>Noise Assessment</b></p> <ul style="list-style-type: none"> <li>• Noise from the proposed site – closer to the village so any noise will be discernable by all residents in the village throughout the day and every day</li> <li>• Noise from site alarms will be heard by residents who may be confused as to the level of urgency or actions required</li> <li>• Scant regard has been paid to the close proximity of the six private dwellings along the boundary with the B2001</li> </ul>
3.4	<p><b>Air Quality Assessment</b></p> <ul style="list-style-type: none"> <li>• The existing site has caused nuisance by air borne dust and other pollutants being blown across the nearby village owing to the prevailing wind direction</li> </ul>
3.5	<p><b>Hydrogeology, Hydrology and Flood Risk Assessment (FRA)</b></p> <ul style="list-style-type: none"> <li>• The site is already prone to flooding – any study must include measures to address this issue</li> <li>• The study refers to a cut off drain being created to prevent groundwater ingress during site development – where will this be situated and where will the resultant water be directed or disposed of?</li> </ul>
3.6	<p><b>Archaeology/Cultural Heritage</b></p> <ul style="list-style-type: none"> <li>• Scant regard has been given to the older farm houses and other buildings that exist on the site – these must be assessed for archaeology or cultural value</li> </ul>
3.7	<p><b>Ecology &amp; Biodiversity</b></p> <ul style="list-style-type: none"> <li>• The site is already suspected of polluting the nearby fishing lake which the Environment Agency are monitoring closely – any study must include measures to address this issue</li> <li>• It is essential that a Habitat Regulations Assessment be provided owing to the close proximity of the village and the numerous environmental protection designations which already exist within the surrounding area</li> </ul>
3.8	<p><b>Landscape and Visual Impact</b></p> <ul style="list-style-type: none"> <li>• The perceived effect on the village has been distorted by reference to the existing industrial landscape as those facilities are a considerable distance from the village.</li> <li>• However scant regard has been given to the very close proximity of the proposed development to the adjacent village which it would dwarf</li> <li>• More attention needs to be given to the possible health impacts on the residents of the village</li> <li>• Consideration of light pollution should be included within the EIA as operations in the winter months would required lighting from dusk until site closure.</li> </ul>

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3.9	<b>Soils and Agriculture</b> <ul style="list-style-type: none"> <li>The land which has been returned to agricultural use should be maintained for that purpose as was originally intended at the end of the existing gravel extraction permission</li> </ul>
3.10	<b>Land Quality</b> <ul style="list-style-type: none"> <li>There is no knowledge of any permission ever granted to BP or British Gas to landfill the area to the south west of the Perry Farm site</li> <li>There is no knowledge of any hazardous waste disposal on the adjacent site which was a former oil refinery (as was incorrectly described in Section 2 – Site Description and Planning History)</li> </ul>
3.11	<b>Socio Economic Effects</b> <ul style="list-style-type: none"> <li>The potential socio-economic impact must be given closer inspection as the proposed developed would equal the size of the village and totally overshadow the life of the residents</li> </ul>
3.12	<b>Human Health &amp; Combined Effects</b> <ul style="list-style-type: none"> <li>The potential human health and combined effects must be given closer inspection as the proposed developed would equal the size of the village and totally overshadow the life of the residents</li> <li>The effect of the noise, smell and unknown hazardous substances on the residents must be assessed in depth particularly in relation to the additional warning sirens that will sound - residents are already confused and alarmed by those emanating from the existing industrial sites</li> </ul>
3.13	<b>Planning Policy, Need and Alternatives</b> <ul style="list-style-type: none"> <li>Consultation must be undertaken with Medway Council as the Emergency Plan for the area would need to be updated</li> </ul>
3.14	<b>Climate Change</b> <ul style="list-style-type: none"> <li>No observations</li> </ul>
3.15	<b>Cumulative Impacts</b> <ul style="list-style-type: none"> <li>The potential impact must be given closer inspection as the proposed development would equal the size of the village and totally overshadow the life of the residents</li> </ul>

The Parish of St James, Isle of Grain, already hosts considerable hazardous facilities:

- Grain Power Stations
- SSE Power Station
- Grain LNG
- BP Aviation Fuel Storage
- Thamesport Container Port

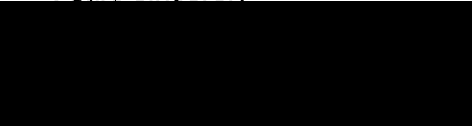
Chairman: Cllr Mrs V E Cordier, 2 Doggetts Row, Isle of Grain, Rochester, Kent, ME3 0BH

Telephone [REDACTED]

E-mail: [REDACTED]

The village is compact and has only 2000 residents – yet another hazardous facility within the parish is entirely unjustified as it was always intended that the land at Perry's Farm be returned to agricultural use once the gravel extraction process had been completed.

Yours sincerely



Christine Gurr  
Parish Clerk

Chairman: Cllr Mrs V E Cordier, 2 Doggetts Row, Isle of Grain, Rochester, Kent, ME3 0BH  
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Hannah Nelson

From: Hounsell, Chris [redacted]  
Sent: 12 December 2013 16:11  
To: Environmental Services  
Subject: RE: Perrys Farm Hazardous Waste Management  
Hi Hannah,

I have identified the site now and can confirm that UKPN 11 KV 0 5 copper overhead line network runs across it supplying electricity to The Marsh Pumping Station. Please inform your client that they will need to put in an application to UKPN Connections Business to have the route of the line altered if necessary to fit in with the development of the site.

With Thanks

Chris

From: Environmental Services [mailto:EnvironmentalServices@infrastructure.gsi.gov.uk]  
Sent: 12 December 2013 15:01  
To: Hounsell, Chris  
Subject: RE: Perrys Farm Hazardous Waste Management

Dear Chris,

Please find a copy of the report attached.

Many thanks,  
Hannah

From: Hounsell, Chris [mailto:redacted]  
Sent: Thursday, December 12, 2013 2:21 PM  
To: Environmental Services  
Subject: Perrys Farm Hazardous Waste Management

Your Ref: WSO10002  
FAO Hannah Nelson

Good Afternoon Hannah,

I received the enclosed notification from our head office but unfortunately I am unable to view the documents using the portal address provided. Could you please send me a PDF copy of the proposal so that I can see if it has an impact on our operations.

With Thanks

**Chris Hounsell** MCMi AMiLE Eng Tech  
Property & Consents Surveyor SPN  
UK Power Networks, Bircholt Road, Parkwood, Maidstone, Kent, ME15 9XH  
Telephone External: 01622 - 352187  
Internal: 735 - 2187  
Email [chris.hounsell@ukpowernetworks.co.uk](mailto:chris.hounsell@ukpowernetworks.co.uk)



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## **APPENDIX 3**

# **Presentation of the Environmental Statement**



## APPENDIX 3

### PRESENTATION OF THE ENVIRONMENTAL STATEMENT

The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (SI 2264) (as amended) sets out the information which must be provided for an application for a development consent order (DCO) for nationally significant infrastructure under the Planning Act 2008. Where required, this includes an environmental statement. Applicants may also provide any other documents considered necessary to support the application. Information which is not environmental information need not be replicated or included in the ES.

An environmental statement (ES) is described under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI 2263) (as amended) (the EIA Regulations) as a statement:

- a) 'that includes such of the information referred to in Part 1 of Schedule 4 as is reasonably required to assess the environmental effects of the development and of any associated development and which the applicant can, having regard in particular to current knowledge and methods of assessment, reasonably be required to compile; but
- b) that includes at least the information required in Part 2 of Schedule 4'.

*(EIA Regulations Regulation 2)*

The purpose of an ES is to ensure that the environmental effects of a proposed development are fully considered, together with the economic or social benefits of the development, before the development consent application under the Planning Act 2008 is determined. The ES should be an aid to decision making.

The SoS advises that the ES should be laid out clearly with a minimum amount of technical terms and should provide a clear objective and realistic description of the likely significant impacts of the proposed development. The information should be presented so as to be comprehensible to the specialist and non-specialist alike. The SoS recommends that the ES be concise with technical information placed in appendices.

### ES Indicative Contents

The SoS emphasises that the ES should be a 'stand alone' document in line with best practice and case law. The EIA Regulations Schedule 4, Parts 1 and 2, set out the information for inclusion in environmental statements.

Schedule 4 Part 1 of the EIA Regulations states this information includes:

- '17. *Description of the development, including in particular—*

- (a) *a description of the physical characteristics of the whole development and the land-use requirements during the construction and operational phases;*
  - (b) *a description of the main characteristics of the production processes, for instance, nature and quantity of the materials used;*
  - (c) *an estimate, by type and quantity, of expected residues and emissions (water, air and soil pollution, noise, vibration, light, heat, radiation, etc) resulting from the operation of the proposed development.*
18. *An outline of the main alternatives studied by the applicant and an indication of the main reasons for the applicant's choice, taking into account the environmental effects.*
19. *A description of the aspects of the environment likely to be significantly affected by the development, including, in particular, population, fauna, flora, soil, water, air, climatic factors, material assets, including the architectural and archaeological heritage, landscape and the interrelationship between the above factors.*
20. *A description of the likely significant effects of the development on the environment, which should cover the direct effects and any indirect, secondary, cumulative, short, medium and long-term, permanent and temporary, positive and negative effects of the development, resulting from:*
- (a) *the existence of the development;*
  - (b) *the use of natural resources;*
  - (c) *the emission of pollutants, the creation of nuisances and the elimination of waste,*
- and the description by the applicant of the forecasting methods used to assess the effects on the environment.*
21. *A description of the measures envisaged to prevent, reduce and where possible offset any significant adverse effects on the environment.*
22. *A non-technical summary of the information provided under paragraphs 1 to 5 of this Part.*
23. *An indication of any difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information'.*

*EIA Regulations Schedule 4 Part 1*

The content of the ES must include as a minimum those matters set out in Schedule 4 Part 2 of the EIA Regulations. This includes the consideration of 'the main alternatives studied by the applicant' which the SoS recommends could be addressed as a separate chapter in the ES. Part 2 is included below for reference:

## Schedule 4 Part 2

- A description of the development comprising information on the site, design and size of the development
- A description of the measures envisaged in order to avoid, reduce and, if possible, remedy significant adverse effects
- The data required to identify and assess the main effects which the development is likely to have on the environment
- An outline of the main alternatives studied by the applicant and an indication of the main reasons for the applicant's choice, taking into account the environmental effects, and
- A non-technical summary of the information provided [*under the four paragraphs above*].

Traffic and transport is not specified as a topic for assessment under Schedule 4; although in line with good practice the SoS considers it is an important consideration *per se*, as well as being the source of further impacts in terms of air quality and noise and vibration.

## Balance

The SoS recommends that the ES should be balanced, with matters which give rise to a greater number or more significant impacts being given greater prominence. Where few or no impacts are identified, the technical section may be much shorter, with greater use of information in appendices as appropriate.

The SoS considers that the ES should not be a series of disparate reports and stresses the importance of considering inter-relationships between factors and cumulative impacts.

## Scheme Proposals

The scheme parameters will need to be clearly defined in the draft DCO and therefore in the accompanying ES which should support the application as described. The SoS is not able to entertain material changes to a project once an application is submitted. The SoS draws the attention of the applicant to the DCLG and the Planning Inspectorate's published advice on the preparation of a draft DCO and accompanying application documents.

## Flexibility

The SoS acknowledges that the EIA process is iterative, and therefore the proposals may change and evolve. For example, there may be changes to the scheme design in response to consultation. Such changes should be addressed in the ES. However, at the time of the application for a DCO, any proposed scheme parameters should not be so wide ranging as to represent effectively different schemes.

It is a matter for the applicant, in preparing an ES, to consider whether it is possible to assess robustly a range of impacts resulting from a large number of undecided parameters. The description of the proposed development in the ES must not be so wide that it is insufficiently certain to comply with requirements of paragraph 17 of Schedule 4 Part 1 of the EIA Regulations.

The Rochdale Envelope principle (see *R v Rochdale MBC ex parte Tew (1999)* and *R v Rochdale MBC ex parte Milne (2000)*) is an accepted way of dealing with uncertainty in preparing development applications. The applicant's attention is drawn to the Planning Inspectorate's Advice Note 9 'Rochdale Envelope' which is available on the Advice Note's page of the National Infrastructure Planning website.

The applicant should make every attempt to narrow the range of options and explain clearly in the ES which elements of the scheme have yet to be finalised and provide the reasons. Where some flexibility is sought and the precise details are not known, the applicant should assess the maximum potential adverse impacts the project could have to ensure that the project as it may be constructed has been properly assessed.

The ES should be able to confirm that any changes to the development within any proposed parameters would not result in significant impacts not previously identified and assessed. The maximum and other dimensions of the proposed development should be clearly described in the ES, with appropriate justification. It will also be important to consider choice of materials, colour and the form of the structures and of any buildings. Lighting proposals should also be described.

## Scope

The SoS recommends that the physical scope of the study areas should be identified under all the environmental topics and should be sufficiently robust in order to undertake the assessment. The extent of the study areas should be on the basis of recognised professional guidance, whenever such guidance is available. The study areas should also be agreed with the relevant consultees and local authorities and, where this is not possible, this should be stated clearly in the ES and a reasoned justification given. The scope should also cover the breadth of the topic area and the temporal scope, and these aspects should be described and justified.

### *Physical Scope*

In general the SoS recommends that the physical scope for the EIA should be determined in the light of:

- the nature of the proposal being considered
- the relevance in terms of the specialist topic

- the breadth of the topic
- the physical extent of any surveys or the study area, and
- the potential significant impacts.

The SoS recommends that the physical scope of the study areas should be identified for each of the environmental topics and should be sufficiently robust in order to undertake the assessment. This should include at least the whole of the application site, and include all offsite works. For certain topics, such as landscape and transport, the study area will need to be wider. The extent of the study areas should be on the basis of recognised professional guidance and best practice, whenever this is available, and determined by establishing the physical extent of the likely impacts. The study areas should also be agreed with the relevant consultees and, where this is not possible, this should be stated clearly in the ES and a reasoned justification given.

#### *Breadth of the Topic Area*

The ES should explain the range of matters to be considered under each topic and this may respond partly to the type of project being considered. If the range considered is drawn narrowly then a justification for the approach should be provided.

#### *Temporal Scope*

The assessment should consider:

- environmental impacts during construction works
- environmental impacts on completion/operation of the proposed development
- where appropriate, environmental impacts a suitable number of years after completion of the proposed development (for example, in order to allow for traffic growth or maturing of any landscape proposals), and
- environmental impacts during decommissioning.

In terms of decommissioning, the SoS acknowledges that the further into the future any assessment is made, the less reliance may be placed on the outcome. However, the purpose of such a long term assessment, as well as to enable the decommissioning of the works to be taken into account, is to encourage early consideration as to how structures can be taken down. The purpose of this is to seek to minimise disruption, to re-use materials and to restore the site or put it to a suitable new use. The SoS encourages consideration of such matters in the ES.

The SoS recommends that these matters should be set out clearly in the ES and that the suitable time period for the assessment should be agreed with the relevant statutory consultees.

The SoS recommends that throughout the ES a standard terminology for time periods should be defined, such that for example, 'short term' always refers to the same period of time.

## Baseline

The SoS recommends that the baseline should describe the position from which the impacts of the proposed development are measured. The baseline should be chosen carefully and, whenever possible, be consistent between topics. The identification of a single baseline is to be welcomed in terms of the approach to the assessment, although it is recognised that this may not always be possible.

The SoS recommends that the baseline environment should be clearly explained in the ES, including any dates of surveys, and care should be taken to ensure that all the baseline data remains relevant and up to date.

For each of the environmental topics, the data source(s) for the baseline should be set out together with any survey work undertaken with the dates. The timing and scope of all surveys should be agreed with the relevant statutory bodies and appropriate consultees, wherever possible.

The baseline situation and the proposed development should be described within the context of the site and any other proposals in the vicinity.

## Identification of Impacts and Method Statement

### *Legislation and Guidelines*

In terms of the EIA methodology, the SoS recommends that reference should be made to best practice and any standards, guidelines and legislation that have been used to inform the assessment. This should include guidelines prepared by relevant professional bodies.

In terms of other regulatory regimes, the SoS recommends that relevant legislation and all permit and licences required should be listed in the ES where relevant to each topic. This information should also be submitted with the application in accordance with the APFP Regulations.

In terms of assessing the impacts, the ES should approach all relevant planning and environmental policy – local, regional and national (and where appropriate international) – in a consistent manner.

### *Assessment of Effects and Impact Significance*

The EIA Regulations require the identification of the 'likely significant effects of the development on the environment' (Schedule 4 Part 1 paragraph 20).

As a matter of principle, the SoS applies the precautionary approach to follow the Court's<sup>4</sup> reasoning in judging 'significant effects'. In other words

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<sup>4</sup> See Landelijke Vereniging tot Behoud van de Waddenzee and Nederlandse Vereniging tot Bescherming van Vogels v Staatssecretaris van Landbouw (Waddenzee Case No C 127/02/2004)



'likely to affect' will be taken as meaning that there is a probability or risk that the proposed development will have an effect, and not that a development will definitely have an effect.

The SoS considers it is imperative for the ES to define the meaning of 'significant' in the context of each of the specialist topics and for significant impacts to be clearly identified. The SoS recommends that the criteria should be set out fully and that the ES should set out clearly the interpretation of 'significant' in terms of each of the EIA topics. Quantitative criteria should be used where available. The SoS considers that this should also apply to the consideration of cumulative impacts and impact inter-relationships.

The SoS recognises that the way in which each element of the environment may be affected by the proposed development can be approached in a number of ways. However it considers that it would be helpful, in terms of ease of understanding and in terms of clarity of presentation, to consider the impact assessment in a similar manner for each of the specialist topic areas. The SoS recommends that a common format should be applied where possible.

#### *Inter-relationships between environmental factors*

The inter-relationship between aspects of the environments likely to be significantly affected is a requirement of the EIA Regulations (see Schedule 4 Part 1 of the EIA Regulations). These occur where a number of separate impacts, e.g. noise and air quality, affect a single receptor such as fauna.

The SoS considers that the inter-relationships between factors must be assessed in order to address the environmental impacts of the proposal as a whole. This will help to ensure that the ES is not a series of separate reports collated into one document, but rather a comprehensive assessment drawing together the environmental impacts of the proposed development. This is particularly important when considering impacts in terms of any permutations or parameters to the proposed development.

#### *Cumulative Impacts*

The potential cumulative impacts with other major developments will need to be identified, as required by the Directive. The significance of such impacts should be shown to have been assessed against the baseline position (which would include built and operational development). In assessing cumulative impacts, other major development should be identified through consultation with the local planning authorities and other relevant authorities on the basis of those that are:

- projects that are under construction
  - permitted application(s) not yet implemented
  - submitted application(s) not yet determined
  - all refusals subject to appeal procedures not yet determined
-

- projects on the National Infrastructure's programme of projects, and
- projects identified in the relevant development plan (and emerging development plans - with appropriate weight being given as they move closer to adoption) recognising that much information on any relevant proposals will be limited.

Details should be provided in the ES, including the types of development, location and key aspects that may affect the EIA and how these have been taken into account as part of the assessment.

The SoS recommends that offshore wind farms should also take account of any offshore licensed and consented activities in the area, for the purposes of assessing cumulative effects, through consultation with the relevant licensing/consenting bodies.

For the purposes of identifying any cumulative effects with other developments in the area, applicants should also consult consenting bodies in other EU states to assist in identifying those developments (see commentary on Transboundary Effects below).

#### *Related Development*

The ES should give equal prominence to any development which is related with the proposed development to ensure that all the impacts of the proposal are assessed.

The SoS recommends that the applicant should distinguish between the proposed development for which development consent will be sought and any other development. This distinction should be clear in the ES.

#### *Alternatives*

The ES must set out an outline of the main alternatives studied by the applicant and provide an indication of the main reasons for the applicant's choice, taking account of the environmental effect (Schedule 4 Part 1 paragraph 18).

Matters should be included, such as *inter alia* alternative design options and alternative mitigation measures. The justification for the final choice and evolution of the scheme development should be made clear. Where other sites have been considered, the reasons for the final choice should be addressed.

The SoS advises that the ES should give sufficient attention to the alternative forms and locations for the off-site proposals, where appropriate, and justify the needs and choices made in terms of the form of the development proposed and the sites chosen.

### *Mitigation Measures*

Mitigation measures may fall into certain categories namely: avoid; reduce; compensate or enhance (see Schedule 4 Part 1 paragraph 21); and should be identified as such in the specialist topics. Mitigation measures should not be developed in isolation as they may relate to more than one topic area. For each topic, the ES should set out any mitigation measures required to prevent, reduce and where possible offset any significant adverse effects, and to identify any residual effects with mitigation in place. Any proposed mitigation should be discussed and agreed with the relevant consultees.

The effectiveness of mitigation should be apparent. Only mitigation measures which are a firm commitment and can be shown to be deliverable should be taken into account as part of the assessment.

It would be helpful if the mitigation measures proposed could be cross referred to specific provisions and/or requirements proposed within the draft development consent order. This could be achieved by means of describing the mitigation measures proposed either in each of the specialist reports or collating these within a summary section on mitigation.

The SoS advises that it is considered best practice to outline in the ES, the structure of the environmental management and monitoring plan and safety procedures which will be adopted during construction and operation and may be adopted during decommissioning.

### *Cross References and Interactions*

The SoS recommends that all the specialist topics in the ES should cross reference their text to other relevant disciplines. Interactions between the specialist topics is essential to the production of a robust assessment, as the ES should not be a collection of separate specialist topics, but a comprehensive assessment of the environmental impacts of the proposal and how these impacts can be mitigated.

As set out in EIA Regulations Schedule 4 Part 1 paragraph 23, the ES should include an indication of any technical difficulties (technical deficiencies or lack of know-how) encountered by the applicant in compiling the required information.

### *Consultation*

The SoS recommends that any changes to the scheme design in response to consultation should be addressed in the ES.

It is recommended that the applicant provides preliminary environmental information (PEI) (this term is defined in the EIA Regulations under regulation 2 'Interpretation') to the local authorities.

Consultation with the local community should be carried out in accordance with the SoCC which will state how the applicant intends to consult on the

preliminary environmental information (PEI). This PEI could include results of detailed surveys and recommended mitigation actions. Where effective consultation is carried out in accordance with Section 47 of the Planning Act, this could usefully assist the applicant in the EIA process – for example the local community may be able to identify possible mitigation measures to address the impacts identified in the PEI. Attention is drawn to the duty upon applicants under Section 50 of the Planning Act to have regard to the guidance on pre-application consultation.

## Transboundary Effects

The SoS recommends that consideration should be given in the ES to any likely significant effects on the environment of another Member State of the European Economic Area. In particular, the SoS recommends consideration should be given to discharges to the air and water and to potential impacts on migratory species and to impacts on shipping and fishing areas.

The Applicant's attention is also drawn to the Planning Inspectorate's Advice Note 12 'Development with significant transboundary impacts consultation' which is available on the Advice Notes Page of the National Infrastructure Planning website

## Summary Tables

The SoS recommends that in order to assist the decision making process, the applicant may wish to consider the use of tables:

**Table X** to identify and collate the residual impacts after mitigation on the basis of specialist topics, inter-relationships and cumulative impacts.

**Table XX** to demonstrate how the assessment has taken account of this Opinion and other responses to consultation.

**Table XXX** to set out the mitigation measures proposed, as well as assisting the reader, the SoS considers that this would also enable the applicant to cross refer mitigation to specific provisions proposed to be included within the draft Development Consent Order.

**Table XXXX** to cross reference where details in the HRA (where one is provided) such as descriptions of sites and their locations, together with any mitigation or compensation measures, are to be found in the ES.

## Terminology and Glossary of Technical Terms

The SoS recommends that a common terminology should be adopted. This will help to ensure consistency and ease of understanding for the decision making process. For example, 'the site' should be defined and used only in

terms of this definition so as to avoid confusion with, for example, the wider site area or the surrounding site.

A glossary of technical terms should be included in the ES.

## Presentation

The ES should have all of its paragraphs numbered, as this makes referencing easier as well as accurate.

Appendices must be clearly referenced, again with all paragraphs numbered.

All figures and drawings, photographs and photomontages should be clearly referenced. Figures should clearly show the proposed site application boundary.

## Bibliography

A bibliography should be included in the ES. The author, date and publication title should be included for all references. All publications referred to within the technical reports should be included.

## Non Technical Summary

The EIA Regulations require a Non Technical Summary (EIA Regulations Schedule 4 Part 1 paragraph 22). This should be a summary of the assessment in simple language. It should be supported by appropriate figures, photographs and photomontages.