

## **DIRECTION BY THE SECRETARY OF STATE UNDER SECTION 35 OF THE PLANNING ACT 2008 RELATING TO THE WHEELABRATOR KEMSLEY NORTH GENERATING STATION**

By email to the Secretary of State received on 1 June 2018, Wheelabrator Technologies Inc formally requested that the Secretary of State exercise the power vested in him under section 35 of the Planning Act 2008 ("the Act") to direct that the proposed Wheelabrator Kemsley North Generating Station, an Energy from Waste plant of up to 42MW total generating capacity, as set out in the Direction request, be treated as development for which development consent is required.

The Secretary of State is satisfied that:

- The proposed development is in the field of energy and will be wholly within England when completed;
- The development does not currently fall within the definition of a "nationally significant infrastructure project" and therefore it is appropriate to consider use of the power in section 35 of the Act; and
- Wheelabrator Technologies Inc's request constitutes a "qualifying request" in accordance with section 35ZA(11) of the Act.

Having considered the details of Wheelabrator Technology Inc's proposals as set out in their letter of 1 June 2018, the Secretary of State is of the view that this development when considered with other projects in the same field, is nationally significant, for the reasons set out in the Annex below.

Accordingly, the Secretary of State is satisfied that the proposed Wheelabrator Kemsley North Generating Station is nationally significant.

The Secretary of State has taken the decision within the primary deadline, as required by sections 35A(2) and (5) of the Act, and issues this Direction accordingly under section 35(1) of the Act.

**THE SECRETARY OF STATE DIRECTS** that the development, together with any matters associated with it is to be treated as development for which development consent is required.

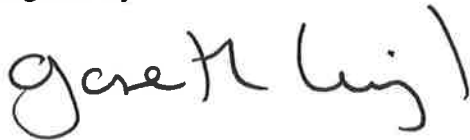
The Secretary of State further directs in accordance with s.35ZA(3)(b) and (5)(b) of the Act that:

- An application for a consent or authorisation mentioned in section 33(1) or (2) of the Act for development similar to that described in the Request to the Secretary of State for Business, Energy and Industrial Strategy for a Direction under Section 35 of the Planning Act 2008 made by Wheelabrator Technologies Inc in respect of the Wheelabrator Kemsley North Generating Station on 1 June 2018 is to be treated as a proposed application for which development consent is required; and
- To the extent that any consultation carried out by the applicant prior to the date of this direction complies with the requirements of Part 5 of the Act (or any

legislation made under that Part), those consultation requirements shall be treated as having been complied with notwithstanding that the consultation was carried out prior to the date of this direction.

This direction is given without prejudice to the Secretary of State's consideration of any application for development consent which is made in relation to the Wheelabrator Kemsley North Generating Station.

Signed by

A handwritten signature in black ink, appearing to read 'Gareth Leigh', written in a cursive style.

Gareth Leigh

Head of Energy Infrastructure Planning

For and on behalf of the Secretary of State for Business, Energy and Industrial Strategy

27 June 2018

## **ANNEX**

### **REASONS FOR THE DECISION TO ISSUE THE DIRECTION**

The Secretary of State is of the opinion that the Wheelabrator Kemsley North Generating Station ("WKN") is of national significance having taken into account in particular that:

- WKN sits on the same site as two other projects of national significance which are or will be the subject of applications for development consent namely Wheelabrator's K4 replacement Combined Heat and Power ("CHP") plant (accepted for examination by the Planning Inspectorate on 26 April 2018) and the proposed upgrade to Wheelabrator's K3 Energy from Waste ("EfW") plant to be submitted to the Planning Inspectorate early in 2019. K3 will be applied for at the same time as an application for consent will be sought for WKN. Cumulatively these developments located on the same site, will comprise a significant facility of national sustainable energy supply, with up to 174MW combined capacity when all plants are operational.
- In addition, the project will benefit from K3 and WKN being assessed comprehensively at the same time, through the same streamlined process and in a consistent manner by the same decision maker, avoiding duplication of work and reducing the burden on the local planning authority. It will also simplify the consideration of any likely significant environmental effects for both projects.
- It will remove the need to apply for separate consents from the Marine Management Organisation and local planning authorities.