

Proposed Combined Cycle Gas Turbine by Palm Paper Ltd

The Proposed Palm Paper CCGT 3 Order

**Palm Paper Mill, Saddlebow Industrial Estate,
King's Lynn**

**PINS Ref: EN010039
Document Ref: 11.6**



Rule 17 Submission

AQTAG Position Statement

April 2015

AQTAG position

In-combination guidance and assessment

March 2015

This a joint Air Quality Technical Advisory Group (AQTAG - Environment Agency, Natural England, Natural Resources Wales) position in response to questions raised by PINS regarding the status of EA guidance and the approach to in-combination assessments.

1. Request for clarification on the status of the EA guidance documents

PINS reported that the following documents have been quoted by applicants when applying the requirements of the Habitats Regulations to consideration of development consent for NSIP applications:

- Environment Agency (2007) The EU Habitats and Birds Directive Handbook - Appendix 7, Stage 1 and 2 Assessment of new PIR permissions under the Habitats Regulations (Environment Agency) ('the EA 2007 Handbook')
- Environment Agency (2010b) How to comply with your environmental permit: additional guidance for: Horizontal Guidance Note H1 - Annex (f) Air emissions (Environment Agency) ('the EA H1 Guidance 2010')
- Environment Agency (2011) How to comply with your environmental permit: additional guidance for: Horizontal Guidance Note H1 - Annex (f) Air emissions (Environment Agency) ('the EA H1 Guidance 2011')

Specifically, in relation to the above documents PINS asked:

We are seeking clarification as to the currency of the EA 2007 Handbook referred to above. Can you please confirm if this document is still extant, as the Planning Inspectorate has not been able to locate this document on the Environment Agency's website. If this document is not still extant, what (if any) guidance has been prepared to replace it?

With regard to the EA H1 Guidance 2010 can you please confirm if this guidance has been superseded by the EA H1 Guidance 2011? If it has been superseded, what relevance (if any) does the EA H1 Guidance 2010 have to current applications? E.g. is there a transition period that applies?

The EA 2007 Handbook is not extant. The Handbook was created to facilitate the Review of Consents. The Handbook was incorporated into function specific guidance, including Appendix 7, which has since been replaced by two operational instructions (OIs) 66_12: Simple assessment of impact of aerial emissions from new or expanding IPPC regulated industry for impacts on nature conservation, and 67_12: Detailed assessment of the impact of aerial emissions from new and expanding IPPC regulated industry for impacts on nature conservation. Copies of these OIs are provided with this response. There were no fundamental changes between the guidance in Appendix 7 and the OIs, including no changes to the likely significant effect screening or in-combination criteria.

There are no major differences in the general approach between the 2010 and 2011 versions of H1 Annex F (as such there is no transition period). The latest version is available on the gov.uk website and is the version we would expect people to be following and citing when applying for an environmental permit.

H1 Annex F deals with the general process for screening out insignificant emissions against a range of environmental standards but it is not specifically written with the Habitats Regulations in mind. The term 'insignificant' in H1 Annex F therefore does not have the same meaning as 'insignificant' in the Habitats Regulations. We are updating H1 Annex F and will add text to explain this and direct readers to the relevant Habitats Regulations guidance and our OIs.

2. Request for clarification on the interpretation of the EA guidance documents in relation to consideration of in-combination assessment.

PINS stated: *The Planning Inspectorate is of the opinion that the effects of plans and project which, individually, would not have significant effects on a site, may combine with the effects of other plans and projects to the point where in-combination the effects of all of these plans and projects, which would otherwise not be assessed, would be significant. However, in some NSIP examinations, applicants relying on the EA Guidance Documents identified above have not taken this approach and we would like to discuss this with you in more detail so that we might better understand how to interpret these guidance documents, when applying the requirements of the Habitats Regulations.*

The in-combination approach has been previously discussed by AQTAG. The text below is a summary of those discussions. Having discussed this issue with colleagues in Europe, we are assured that the principles described below are consistent with the approaches adopted in other member states transposing the Habitats Regulations via their domestic legislation.

Habitats Regulations Assessment and in-combination principles

Where a plan or project is likely to have a significant effect on a European site (either alone or in-combination with other plans and projects), Regulation 61 of the Habitats Regulations requires a competent authority to make an appropriate assessment of the implications for the European site, in view of its conservation objectives.

A 'likely significant effect' has been defined in case law as any effect that may reasonably be predicted as a consequence of a plan or project that may affect the achievement of conservation objectives of the features for which the site was designated, but excluding trivial or inconsequential effects. Decisions regarding the threshold between small scale impacts and inconsequential impacts, that is an impact so minimal that in practice it would not contribute to an in-combination assessment, should be justified and evidence based (and reviewed in light of any new information).

There is a difference between plans and projects considered to be inconsequential and never likely to have an in-combination effect (and so not included in any assessment of likely significant effect in-combination with a new plan or project) and those concluded (individually or collectively) to have 'no likely significant effect' (insignificant alone but which may need to be considered in the assessment of any other new plans or projects).

For installations other than intensive pig and poultry farms, AQTAG is confident that a process contribution (PC, as predicted by H1 or a detailed dispersion model) < 1% of the relevant critical level or load (CL) can be considered inconsequential and does not need to be included in an in-combination assessment.

When the PC > 1% the predicted environmental contribution (PEC = PC + background) is checked. Where the PC > 1% and the PEC < 70%, in-combination effects should be considered before a conclusion of no likely significant effect (alone or in-combination) is reached. For some cases the consideration of background is sufficient because there will not have been any new sources permitted since the date of the background data. Existing EA permits for all installations (except pig/poultry units) issued up to the date of the background data are considered to be in the background and are not considered in-combination. For some pollutants (nitrogen deposition in particular) background values are high over much of England and it is unlikely there will be many occasions where the PC > 1% and PEC < 70%. Where background values are high it is more likely that where the PC > 1%, the PEC > 70%. In these cases likely significant effect must be concluded and a detailed assessment (including in-combination effects) carried out.

Further guidance on the principles of the in-combination assessment is provided in an AQTAG technical document (AQTAG17). This document is available on request from the EA and a copy is provided with this response. AQTAG is currently writing a technical document (AQTAG21) to explain the agreed screening assessments thresholds used when assessing applications for environment permits under the Habitats Regulations. A draft copy is provided with this response.

AQTAG is also undertaking further work to consider if there are any circumstances where the current in-combination approach should be modified.