Dear Ms Sherman

EN010090 – THE KEMSLEY MILL K4 COMBINED HEAT AND POWER GENERATING STATION DEVELOPMENT CONSENT ORDER

DOCUMENT 11.1 – APPLICANT’S SUBMISSIONS FOLLOWING DEADLINE 4

I write further to the submissions made by the applicant at Issue Specific Hearings 2 and 3 (ISH2 and ISH3), as documented in our post hearing submissions at Deadline 3 on Thursday 20th September, to provide an update regarding the boiler selection process undertaken for the K4 CHP facility and the status of other application documents.

This submission has been made after Deadline 4 but before Deadline 5 of the ExA’s Examination Timetable within the Rule 8 letter of the 24th July 2018 in order to assist and ensure the efficiency of the examination process.

This letter explains the documents submitted and provides an update on specific elements of the DCO application where relevant.

Documents Submitted
The following documents have been submitted by the applicant:

<table>
<thead>
<tr>
<th>Applicant’s Ref</th>
<th>Document</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.2</td>
<td>Application Guide</td>
<td>October 2018</td>
</tr>
<tr>
<td>2.1</td>
<td>Revised dDCO (pdf and word)</td>
<td>October 2018</td>
</tr>
<tr>
<td>2.3</td>
<td>dDCO Validation Report</td>
<td>October 2018</td>
</tr>
<tr>
<td>3.1 10.2</td>
<td>Habitats Regulations Assessment Report (including tracked changes version)</td>
<td>October 2018</td>
</tr>
<tr>
<td>7.4</td>
<td>Signed SoCG with NE (including MCZ Assessment)</td>
<td>October 2018</td>
</tr>
<tr>
<td>11.1</td>
<td>Post Deadline 4 Covering Letter</td>
<td>12th October 2018</td>
</tr>
</tbody>
</table>
Update on the HRSG Stack Height Determination

E.On have completed their tendering process; the selected bidder will be installing a vertical boiler configuration.

As a result the Application Guide [Document 1.2] has been updated to reflect the fact that all plans relating to the horizontal boiler configuration can now be removed from the application. For the avoidance of doubt the plans in question, which no longer form part of the application, are as follows:

<table>
<thead>
<tr>
<th>Document Reference</th>
<th>ExA Reference</th>
<th>Document Title</th>
<th>Author</th>
<th>Version</th>
<th>Status</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.6</td>
<td>APP-042</td>
<td>10392-0037-005 – Illustrative layout with horizontal tube boiler</td>
<td>RPS</td>
<td>1</td>
<td>Submis sion Version</td>
<td>Removed at Post Deadline 4 – Oct 2018</td>
</tr>
<tr>
<td>4.7</td>
<td>AS-005</td>
<td>10392-0042-004 – Illustrative Elevation cross sections – Horizontal Tube Boiler</td>
<td>RPS</td>
<td>2</td>
<td>S51 Advice Version</td>
<td>Removed at Post Deadline 4 - Oct 2018</td>
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<tr>
<td>4.8a</td>
<td>AS-006</td>
<td>10392-0043-004a – Site Context – 3d Visual - Horizontal Tube Boiler (view a)</td>
<td>RPS</td>
<td>2</td>
<td>S51 Advice Version</td>
<td>Removed at Post Deadline 4 – Oct 2018</td>
</tr>
<tr>
<td>4.8b</td>
<td>AS-007</td>
<td>10392-0043-004b – Site Context – 3d Visual - Horizontal Tube Boiler (view b)</td>
<td>RPS</td>
<td>2</td>
<td>S51 Advice Version</td>
<td>Removed at Post Deadline 4 - Oct 2018</td>
</tr>
</tbody>
</table>

Response by the Applicant to Submissions at Deadline 4

The applicant has noted the submissions made by Natural England and the Environment Agency at Deadline 4 of the examination process. The revised HRA Report provided by the applicant as part of this submission takes account of the Natural England Deadline 4 submission.

The applicant notes the comments made by the Environment Agency at Deadline 4 on elements of the draft DCO. A full response to those comments is appended to this letter and has been sent separately to the Environment Agency.
Application Guide (Document 1.2)
The Application Guide has been updated throughout to reflect the submissions made at Deadline 3. Volume 11 deals specifically with the post-Deadline 4 submissions which are the subject of this letter.

The Applicant’s Revised dDCO (Document 2.1)
A revised dDCO has been produced as part of this submission, which includes clean and tracked versions of the dDCO and the SI Validation Report. The changes are as follows:

- **Boiler configuration** - The revised dDCO reflects the selection of a vertical boiler configuration by removing those plans which no longer form part of the application from Part 4 (12).

- **Maximum Stack Height** - Table 1 of Requirement 5 has then also been amended to show a minimum HRSG stack (Work No1(e)) height of 70m AOD and a maximum height of 73m AOD. The applicant wishes to seek a degree of flexibility by seeking the ability to construct a 73m stack to allow for any minor variations in emissions that might occur pursuant to final design of the facility and required through the permitting process with the Environment Agency.

The ES has assessed a 70m stack and determined that this is sufficient to mitigate the air quality effects of the development. This has been undertaken using data from the chosen boiler supplier for the plant. Typically increasing stack height has beneficial effects on ambient air quality by benefit of increased atmospheric dispersion. The flexibility sought would not result in any materially new or different effects on air quality than those assessed in the submitted ES but would in any event be pursuant to meeting the tests of the permitting regulations.

With regard to visual impact an increase in the proposed stack height from 70m to 73m would represent a barely perceptible increase in the scale of the proposed development infrastructure. Any associated increase in the zone of theoretical visibility would be imperceptible and is highly unlikely to extend to include new areas of landscape or townscape, or locations of visual receptors that have not been assessed previously within the ES.

As the change in height of the stack would be very small, it is anticipated that any magnitude of change and level of effect identified within the ES for all landscape, townscape and visual receptors would remain the same. The conclusions within the Landscape and Visual Resources chapter of the ES would remain unchanged. Similarly, the increase in height would not result in any material new or different effects on the setting of heritage assets from that assessed in the submitted ES. The flexibility in stack sought is not material to the other ES assessments.
- **Requirement 13 (Archaeology)** - The revised dDCO includes amendments to Requirement 13 following discussions with KCC, who had suggested some changes to that Requirement. The applicant has reviewed those proposed changes and has accommodated a number of them. KCC have been provided with a revised draft of Requirement 13 together with an explanation regarding any elements which the applicant does not consider can be included and have confirmed by email (as appended to this letter) that they are content with the revised wording proposed by the applicant.

**Environmental Statement (Document 3.1) – Habitats Regulations Assessment Report (Appendix 10.2)**

Both a clean and tracked changes version of the HRA Report have been submitted which reflect the Examining Authority’s First Written Questions (ExAQ1), the People over Wind judgement together with discussions with Natural England, including on the avoidance of noise impacts by managing the timing of piling activities. The Screening Matrices submitted by the applicant at Deadline 1 (with some minor amendments to reflect the Natural England submission at Deadline 4) have been appended to the HRA Report, with the Application Guide updated to reflect the fact that the Deadline 1 Matrices have been superseded.

**Statements of Common Ground**

Signed Statements of Common Ground (SoCG’s) with Swale Borough Council and the Environment Agency were submitted at Deadline 1, together with draft SoCG’s with Kent County Council and Natural England. Following the selection of the boiler configuration the applicant has concluded discussions regarding the Statement of Common Ground with Natural England, which is included within this post-Deadline 4 submission.

The Kent County Council SoCG remains unsigned at present. As set out by the applicant at ISH2 and ISH3 clarification is still being sought regarding the position of KCC around Requirement 8 – Construction Traffic Management Plan.

I trust this summary is useful but would be pleased to discuss further should there be any queries at this stage.

Yours sincerely,

[Name]

Director

Direct email: david.harvey@dhaplanning.co.uk
Appendix A

Correspondence between the applicant and KCC regarding the SoCG/dDCO
Alex,

Apologies, I have been out and about the last few days,

Please see below the response to the revised requirement

“I can confirm that I am happy with the revised wording and numbering is fine. I wasn’t aware of the template constraints and the numbering before seemed confused. The present structure looks fine. With respect to the need for archaeology before a Written Scheme – we would expect all archaeology to be covered by a WSI to enable it to be undertaken in an agreed way. We have already separately explained the steps we would expect which initially is identifying impact areas as in 2 a). The scope of 2 b) and 2 c) would be informed by 2a)”

I hope this is a satisfactory response

Kind regards,

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Morning Fran,

Has there been any progress with getting this Requirement 13 wording reviewed by the Archaeologist? I am happy to contact the relevant archaeologist directly if that would be easier?

Kind Regards,

Alex Payne
Planner

Email: alexander.payne@dhaplanning.co.uk
Morning Fran,

Thanks – hopefully they can resolve the outstanding issue.

I also have the revised wording for Requirement 13 Archaeology:

13. —(1) No part of the authorised development may be commenced, and no archaeological investigations, investigations for the purpose of assessing ground conditions or remedial work in respect of contamination or other adverse ground conditions may take place, until for that part a written scheme for the investigation of areas of archaeological interest has been submitted to and approved by the relevant planning authority in consultation with Kent County Council.

(2) The scheme approved under sub-paragraph (1) must:

(a) include details of further assessment and survey work to be undertaken to identify areas of potential archaeological interest that may be impacted by development;

(b) identify the measures to be taken to investigate, protect, record or preserve any significant archaeological remains that may be found; and

(c) include a scheme of post investigation assessment, analysis and reporting of the results following completion of the archaeological works.

(3) Any archaeological works carried out under the approved scheme must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute.

(4) Any archaeological works must be carried out in accordance with the approved scheme.

This draft of the Requirement has been made in conjunction with comments made by the ExA and KCC where appropriate. The ExA has had a strong concern about archaeological investigations taking place before the pre-commencement requirements, including this one, have been discharged. We have stated to the ExA that archaeological investigations should be allowed to take place as part of the permitted preliminary works, including before the written scheme is submitted under this requirement, but the ExA has so far refused to accept this point and therefore text in blue was added at Deadline 3. The amended wording in (2)(a) therefore makes it clear that the written scheme will set out what further assessment and survey works are going to be undertaken, as opposed to presenting the results
of those works, which due to the blue text could not be carried out before the written scheme is approved.

If KCC’s position is that the further assessment and survey work needs to take place before the written scheme is submitted then you will need to make a representation to the ExA requesting that archaeological investigations are allowed to take place before this pre-commencement condition is discharged, in order for that work to inform the written scheme. If the ExA is persuaded then we would delete “archaeological investigations” from the blue text and revert to KCC’s proposed wording in (2)(a).

As mentioned, we are not able to change the paragraph numbering as that is strictly prescribed by the Statutory Instrument template that must be used to draft all DCOs. Changing the paragraph numbering as requested by KCC would cause the DCO to fail the validation check.

Please can you review and comment on the proposed wording?

If you have any questions please do not hesitate to contact me.

Kind Regards,

Alex Payne
Planner

Email: alexander.payne@dhaplanning.co.uk

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From: Francesca.Potter@kent.gov.uk <Francesca.Potter@kent.gov.uk>
Sent: 05 October 2018 11:32
To: Alexander Payne <Alexander.Payne@dhaplanning.co.uk>
Subject: RE: K4 - SoCG - update - Highways

Hi Alex,

I understand that Colin Finch is currently in discussions with Amy Waites at the RPS Group on highways matters which are currently not resolved.

Kind regards

From: Alexander Payne <Alexander.Payne@dhaplanning.co.uk>
Sent: 04 October 2018 10:40
To: Potter, Francesca - GT EPE <Francesca.Potter@kent.gov.uk>
Subject: RE: K4 - SoCG - update - Highways
Morning Fran,

Thank you for providing the revised wording for Archaeology. The point regarding the numbering of the lines will not be addressed as this is goes against the form and structure of writing a DCO.

More pressing is that fact we are still waiting for the highway issues to be resolved. We are aiming to submit some additional information to the Inspector ahead of Monday 22nd October when the ExQ may issue further Written Questions (ExQ2). As part of this information would be the final SoCG with KCC which would provide assurance to the ExA and prevent any further questions regarding outstanding issues with KCC.

Please can you chase Highways so there issues can be fully resolved. We would like to get all matters resolved that are outstanding in the SOCG by Friday 12th October.

If you have any questions please do not hesitate to contact me.

Kind Regards,

Alex Payne
Planner

Email: alexander.payne@dhaplanning.co.uk

Morning Fran,

Thank you for providing the revised wording for Archaeology. The point regarding the numbering of the lines will not be addressed as this is goes against the form and structure of writing a DCO.

More pressing is that fact we are still waiting for the highway issues to be resolved. We are aiming to submit some additional information to the Inspector ahead of Monday 22nd October when the ExQ may issue further Written Questions (ExQ2). As part of this information would be the final SoCG with KCC which would provide assurance to the ExA and prevent any further questions regarding outstanding issues with KCC.

Please can you chase Highways so there issues can be fully resolved. We would like to get all matters resolved that are outstanding in the SOCG by Friday 12th October.

If you have any questions please do not hesitate to contact me.

Kind Regards,

Alex Payne
Planner

Email: alexander.payne@dhaplanning.co.uk

Hi Alex,

Please see the heritage officer’s comments below regarding the requirement,

I will speak to our highways department regarding the commentary below and revert.

Kind regards,

KCC considers the changes below would help and reflect what is needed a little more accurately:

- In the first line should not be numbered (1)
- A new line numbered (1) should follow that includes within the written scheme of investigation measures needed to identify where the areas of archaeological interest are as per my previous advice.
• Remove reference to ‘watching brief’ in present (3) as this is a form of archaeological works.
• Allow for post excavation works and reporting.

KCC therefore proposes the following wording (My inserts highlighted):

1.13. (1) No part of the authorised development may be commenced until for that part a written scheme for the investigation of areas of archaeological interest has been submitted to and approved by the relevant planning authority in consultation with Kent County Council. The scheme approved under sub-paragraph (1) must

2.(1) Identify through further assessment and survey areas of potential archaeological interest that may be impacted by development.

3.(2) Identify any areas where a watching brief is required and the measures to be taken to investigate, protect, record or preserve any significant archaeological remains that may be found.

   (1) Any archaeological works or watching brief carried out under the approved scheme must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute.

   (2) Any archaeological works or watching brief must be carried out in accordance with the approved scheme.

   (3) On completion of archaeological works include a scheme of post investigation assessment, analysis and reporting of the results.

From: Alexander Payne <Alexander.Payne@dhaplanning.co.uk>
Sent: 19 September 2018 11:58
To: Potter, Francesca - GT EPE <Francesca.Potter@kent.gov.uk>
Subject: RE: K4 - SoCG - update - Requirement 13

Good morning Fran,

I hope you are well.

The KCC Statement of Common Ground is still outstanding as we are awaiting a response from KCC on two aspects relating to the submission of a final TA and the wording of Requirement 13 – Archaeology.

It should be noted that a final TA will not be submitted but the concerns raised by Highways and Transportation will be considered in the Construction Traffic Management Plan under Requirement 8, in which the Highway Authority will be consulted.

Please can you advise when a response on the two remaining points can be expected as we would like to resolve the outstanding issues as soon as we can?

If you have any questions please do not hesitate to contact me.

Kind Regards,

Alex Payne
Planner

Email: alexander.payne@dhaplanning.co.uk
Hi Alex,

Thank you for the update,

I will review the below and get back to you with a response

Kind regards,

Afternoon Fran,

I understand that the technical consultant is corresponding with Colin Finch regarding the outstanding transport issue that is in the SoCG.

With regard to the outstanding Requirement 13 - archaeology, this has now been revised as follows (new text in red, words with strikethrough to be removed):

**Archaeology**

1.—(1) No part of the authorised development may be commenced until for that part a written scheme for the investigation of areas of archaeological interest has been submitted to and approved by the relevant planning authority in consultation with Kent County Council.

(1) The scheme approved under sub-paragraph (1) must identify any areas where a watching brief is required and the measures to be taken to investigate, protect, record or preserve any significant archaeological remains that may be found.

(2) Any archaeological works or watching brief carried out under the approved scheme must be carried out by an organisation registered with the Chartered Institute for Archaeologists or by a member of that Institute.

(3) Any archaeological works or watching brief must be carried out in accordance with the approved scheme.

Please can you advise if this wording for Requirement 13 is now acceptable?

Kind Regards,
Morning Fran,

Thank you for confirming section 3.3 is agreed.

Attached are two versions of the current Draft SoCG. The first SoCG has all the comments so far including my response to your comments - where matters have now been agreed I have moved this text to the relevant section. The second SoCG is the same version just with the comments removed and this document is intended to be submitted to PINs.

Please note that we are still working on the matters to be agreed and hope to have these resolved by Deadline 2.

If you have any questions please do not hesitate to contact me.

Kind Regards,

Alex Payne
Planner

Office: 01622 776226
Email: alexander.payne@dhaplanning.co.uk
From: Francesca.Potter@kent.gov.uk <Francesca.Potter@kent.gov.uk>
Sent: 30 July 2018 11:22
To: Alexander Payne <Alexander.Payne@dhaplanning.co.uk>
Subject: RE: K4 - SoCG

Morning Alex,

The wording to section 3.3 regarding Ecology, Habitats and Nature Conservation Effects is agreed – it’s better if any mitigation is imbedded within the relevant documents submitted with the DCO.

Kind regards,

From: Alexander Payne <Alexander.Payne@dhaplanning.co.uk>
Sent: 26 July 2018 17:30
To: Potter, Francesca - GT EPE <Francesca.Potter@kent.gov.uk>
Subject: RE: K4 - SoCG

Thanks Fran,

I will provide an amended version before Deadline 1 and will endeavour to resolve the matters to be agreed.

Can you advise if section 3.3 regarding Ecology, Habitats and Nature Conservation Effects is agreed or are there matters still to be discussed?

Kind Regards,

Alex Payne
Planner

Office: 01622 776226
Email: alexander.payne@dhaplanning.co.uk

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From: Francesca.Potter@kent.gov.uk <Francesca.Potter@kent.gov.uk>
Sent: 26 July 2018 16:26
To: Alexander Payne <Alexander.Payne@dhaplanning.co.uk>
Subject: RE: K4 - SoCG

Good afternoon Alex,

Please find attached KCC’s comments on the draft SoCG,
Please be aware the comments raised and the SoCG are subject to director approval – this will be sought once the draft SoCG is nearing finalisation,

If you have any queries on the comments raised, please let me know

Are you proposing on issuing a revised draft back to us ahead of deadline 1?

Kind regards,

From: Alexander Payne <Alexander.Payne@dhaplanning.co.uk>
Sent: 25 July 2018 14:10
To: Potter, Francesca - GT EPE <Francesca.Potter@kent.gov.uk>
Subject: RE: K4 - SoCG

Afternoon Fran,

For confirmation, the SoCG has been amended slightly following ISH1. The amendments are as follows with the amended text highlighted in yellow:

Paragraph 1.4.1 has been revised as follows:
“Kent County Council are a Relevant Local Authority and the Local Highway Authority for the purposes of the examination by virtue of the fact that the proposed K4 plant lies within the Kent County area.”

Paragraph 3.2.2 relating to Article 9 (3) which has been rewritten as follows:
“The undertaker must not discharge any water into any watercourse, public sewer or drain except with the consent of the person to whom it belongs or the person or body otherwise having authority to give such consent; and such consent may be given subject to such terms and conditions as that person may reasonably impose but must not be unreasonably withheld.”

If you have any questions please do not hesitate to contact me.

Kind Regards,

Alex Payne
Planner

Office: 01622 776226
Email: alexander.payne@dhaplanning.co.uk
Appendix B

Response by the applicant to the EA Submission at Deadline 4
The table below sets out the Applicant’s response to the amendments to the Requirements suggested by the Environment Agency (‘EA’) in its written submission for Deadline 4.

<table>
<thead>
<tr>
<th>EA suggested amendment</th>
<th>Applicant’s response</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Land Contamination and groundwater</strong></td>
<td>There is no need to change the heading from “Contaminated land and groundwater”.</td>
</tr>
<tr>
<td>12.—(1) No part of the authorised development may be commenced, until investigations for the purpose of assessing ground conditions, have been undertaken and reported to the relevant planning authority.</td>
<td>The EA appears to have misunderstood the amendments made to requirement 12 at Deadline 3. The references to “investigations for the purpose of assessing ground conditions” and “archaeological investigations” were added to clarify that the ground gas protection measures requirement must be satisfied before those activities (being activities excluded from the definition of ‘commencement’) can take place. This was done specifically to address a concern raised by the ExA about the interaction between the excluded activities and a number of the pre-commencement requirements. It was not done to, and does not, combine subject matters. The Applicant does not agree that a requirement for general investigation of ground conditions is needed. Chapter 8 of the ES is clear in making specific recommendations for ground gas protection measures and a piling risk assessment and those recommendations have been carried forward into the dDCO as requirements 12 and 15. The Applicant notes that the EA confirmed in the signed Statement of Common Ground that it was satisfied with the terms of draft requirement 12 as it stood at that time. The Applicant does not consider that anything has changed in the application that justifies introducing this additional requirement to the dDCO at this stage. The EA has not explained the justification for these proposed amendments and they appear to be based on a misunderstanding of the amendments made by the Applicant at Deadline 3, which were carefully considered and are as discussed with the ExA during ISH3. This is already included in the dDCO as requirement 12(1). The suggested reference to the “local Environmental Health Officer” is not necessary as they will be employed by Swale Borough Council, which is the approving authority under the requirement.</td>
</tr>
<tr>
<td>(2) Any required remedial work in respect of contamination or other adverse ground conditions must be carried out in accordance with an approved remediation scheme</td>
<td></td>
</tr>
<tr>
<td>(3) No part of the authorised development may be commenced until details of any required ground gas protection measures for that part have been submitted to and approved by the relevant planning authority in consultation with the local Environmental Health Officer and/or Environment Agency.</td>
<td></td>
</tr>
</tbody>
</table>
4. If contamination not previously identified is found during the construction of the authorised development, no further works for the authorised development may be carried out in the affected area until an investigation and remediation scheme has been submitted to and approved by the relevant planning authority; and the scheme must include details of—

(a) how the contamination is to be identified and assessed;
(b) where remediation is required by the scheme, the remediation measures;
(c) timescales for carrying out the remediation measures; and
(d) any ongoing monitoring or mitigation requirements.

There are no substantive amendments to this paragraph and the Applicant does not therefore offer any comment other than that the existing wording is appropriate and does not need to be amended.

5. Construction works for the authorised development must be carried out in accordance with the approved ground gas protection measures.

This is already included in the dDCO as requirement 12(2).

6. Prior to any part of the permitted development being occupied a verification report demonstrating the completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to, and approved in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification strategy to demonstrate that the site remediation criteria have been met.

The Applicant does not agree that a requirement in these terms is necessary or appropriate.

[The ES does not identify any areas of contamination that require remediation, concluding that no significant sources of contamination have been identified on the site and that high levels of contaminants are not anticipated to be present (see Chapter 8 of the ES.) As noted above, ground gas protection measures and a piling risk assessment are recommended in the ES and appropriate requirements (12 and 15) have therefore been included to secure their delivery.
Requirement 12(3) sets out a clear procedure to be followed in the event that any unexpected contamination is encountered, including investigation and remediation.
Accordingly, the Applicant’s position is that the risk posed by contamination is appropriately addressed by the existing requirements in the dDCO, which reflect the conclusions of the ES, and that this additional requirement is therefore unnecessary.

In addition the Applicant considers that the wording proposed by the EA is unsuitable for inclusion in the DCO for the following reasons:

There is no prior reference to a “remediation strategy” so it is unclear which approved document is being referred to. Indeed the interaction between this paragraph and the rest of the requirement is unclear.
|   | There is then a reference to a “verification strategy” which again is not referred to anywhere else.  
|   | The development will not be ‘occupied’ in the usual sense which gives rise to considerable uncertainty about when this requirement would need to be complied with.  
|   | It is unclear what a requirement to demonstrate the effectiveness of remediation would involve and how it would be discharged. |
| **Piling** | The Applicant does not consider that the additional wording suggested by the EA is suitable for inclusion in the DCO. It is unclear what guidance is referred to, who is to see it, and at what stage.  
|   | It is reasonable to expect that all parties involved in discharging this requirement will have regard to any relevant guidance and given the EA’s role as a consultee on the submitted piling risk assessment and consequently its ability to identify if the submitted scheme does not accord with such guidance, the Applicant’s view is that this additional wording is unnecessary. |
| **15.**—(1) No part of the authorised development may be commenced until a piling risk assessment for that part has been submitted to and approved by the relevant planning authority in consultation with the Environment Agency. *(See relevant Environment Agency guidance)* | (2) Construction works for the authorised development must be carried out in accordance with the approved piling method and agreed risk management for that method.  
|   | The Applicant does not consider that the proposed changes to this requirement are appropriate or necessary. The existing wording refers to the same piling risk assessment that is referred to in sub-paragraph (1) of this requirement and amending sub-paragraph (2) to instead refer to “the approved piling method and agreed risk management for that method” would result in a requirement that does not clearly relate to the same piling risk assessment approved under sub-paragraph (1) and instead introduces new terms that are not referred to anywhere else. |
| **16.**—(1) No impact piling, if agreed and approved, associated with the authorised development shall take place in the months of January and February.  
|   | (2) No more than ten days of impact piling associated with the authorised development, whether consecutive or otherwise, shall take place in the months of November and December.  
|   | (3) This requirement does not restrict impact piling associated with the authorised development between the months of March and October inclusive. |
|   | The Applicant does not consider that the additional wording suggested by the EA is necessary. The purpose of this requirement is not to oblige the Applicant to seek some form of agreement and approval to the use of impact piling, but rather to restrict the times of year that impact piling can be carried out, in accordance with the Applicant's discussions with Natural England. Any other consent or approval that needs to be secured before impact piling can take place would be secured outside of the DCO process.  
|   | The wording suggested by the EA does not specify whose ‘agreement and approval’ is required, does not differentiate between ‘agreement’ and
“approval” and explain why both are required, and does not in any event operate to secure such agreement and approval. In the Applicant’s view it is therefore unsuitable for inclusion in the DCO.