

The Planning Act 2008

Section 55 Acceptance of Applications*

(Appendix 3 of [advice note six: Preparation and submission of application documents](#))

(1) The following provisions of this section apply where the Secretary of State receives an application that purports to be an application for an order granting development consent.

(2) The Secretary of State must, by the end of the period of 28 days beginning with the day after the day on which the Secretary of State receives the application, decide whether or not to accept the application.

(3) The Secretary of State may accept the application only if the Secretary of State concludes -

- (a) that it is an application for an order granting development consent,
- (b) deleted
- (c) that development consent is required for any of the development to which the application relates,
- (d) deleted
- (e) that the applicant has, in relation to a proposed application that has become the application, complied with Chapter 2 of Part 5 (pre-application procedure), and
- (f) that the application (including accompaniments) is of a standard that the Secretary of State considers satisfactory.

(4) The Secretary of State, when deciding whether the Secretary of State may reach the conclusion in subsection (3)(e), must have regard to -

- (a) the consultation report received under section 37(3)(c),
- (b) any adequacy of consultation representation received by the Secretary of State from a local authority consultee, and
- (c) the extent to which the applicant has had regard to any guidance issued under section 50.

(5) In subsection (4) -

“local authority consultee” means -

- (a) a local authority consulted under section 42(1)(b) about a proposed application that has become the application, or
- (b) the Greater London Authority if consulted under section 42(1)(c) about that proposed application;

“adequacy of consultation representation” means a representation about whether the applicant complied, in relation to that proposed application, with the applicant’s duties under sections 42, 47 and 48.

- (5A) The Secretary of State when deciding whether the Secretary of State may reach the conclusion in subsection (3)(f) must have regard to the extent to which –
- a) the application complies with the requirements in section 37(3) (form and contents of application) and any standards set under section 37(5) and
 - b) any applicable guidance given under section 37(4) has been followed in relation to the application.

(6) If the Secretary of State accepts the application, the Secretary of State must notify the applicant of the acceptance.

(7) If the Secretary of State is of the view that the application cannot be accepted, the Secretary of State must –

- (a) notify that view to the applicant, and
- (b) notify the applicant of the Secretary of State’s reasons for that view.

(8) If in response the applicant modifies (or further modifies) the application, subsections (2) to (7) then apply in relation to the application as modified.

* Section 55 of the Planning Act 2008 as amended by the Localism Act 2011

DISCLAIMER - This is for information only and is not a formal application document. It is a non-statutory checklist for the Planning Inspectorate (National Infrastructure Directorate) to complete. Completion or self assessment by the applicant does not hold weight at the acceptance stage.

NB: See DCLG Application Form Guidance for guidance on how the application form should be completed and what should be included with it.

Section 55 Acceptance of Applications

Millbrook Power Section 55 Application Checklist¹

Section 55(2) Acceptance of Applications				
1	Within 28 days (starting day after receipt) the Secretary of State must decide whether or not to accept the application.	Date received	28 day due date	Date of decision
		23 October 2017	20 November 2017	20 November 2017
Section 55(3) – the Secretary of State may <u>only</u> accept an application if the Secretary of State concludes that:-		Planning Inspectorate Comments		
s55(3)(a) and s55(3)(c) It is an application for an order granting development consent				
2	<p>Is the development a nationally significant infrastructure project² (NSIP) (or does it form part of an NSIP); and does the application state on the face of it that it is an application for a development consent order³ (DCO) under the Planning Act 2008 (the PA2008), or equivalent words? Does the application specify the development to which it relates (i.e. which category or categories in ss14-30 does the application scheme fall)?</p> <p>If the development does not fall within the categories in ss14-30, has a direction been given by the Secretary of State under s35 of the PA2008 for the development to be treated as development for which development</p>	<p>Yes - the proposed development set out in Schedule 1 of the Draft DCO (Doc 3.1) is a gas powered electricity generating station, which is a development falling within the categories in section 14(1)(a) of the PA2008, with a gross rated electrical output of up to 299MWe, which is greater than the threshold of 50 MW in section 15(2) of the PA2008.</p> <p>This is consistent with the summary provided in the Application Form (Doc 1.2) at Section 4 which concludes that the application is for an NSIP:</p>		

¹ References in this document to the Secretary of State include references (where applicable) to the Planning Inspectorate Major Applications and Plans Directorate which carries out functions related to consenting nationally significant infrastructure projects on behalf of the Secretary of State

² NSIP is defined generally in s14 with the detailed thresholds for each of the specified categories being set out in ss15-30

³ Development consent is required for development to the extent that the development is or forms part of an NSIP (s31 of the PA2008)

	consent is required?	
3	Summary – s55(3)(a) and s55(3)(c)	Sufficient evidence has been provided that this is an application for a DCO for an NSIP pursuant to s14(1)(a) and s15(2) of PA2008.
s55(3)(e) The applicant in relation to the application made has complied with Chapter 2 of Part 5 (pre-application procedure)		
4	In accordance with the EIA Regulations ⁴ , did the applicant (prior to carrying out consultation in accordance with s42) either (a) request the Secretary of State to adopt a screening opinion in respect of the development to which the application relates, or (b) notify the Secretary of State in writing that it proposed to provide an environmental statement in respect of that development?	<p>The Applicant carried out the consultation in two phases. The process has been recorded in the Consultation Report (Doc 5.1). Phase 1 Consultation was between April 2014 and March 2015. However, in March 2015 it was decided by the previous owners of the Project to put it on hold (Consultation Report (Doc 5.1), Chapter 1). The Phase 2 Consultation was carried out between March 2017 and October 2017.</p> <p>(a) The Applicant did not request the Secretary of State to adopt a screening opinion in relation to the proposed development.</p> <p>(b) Yes.</p> <p><u>Phase 1 Consultation</u></p> <p>The Applicant requested a Scoping Opinion on 19 June 2014 and formally provided notification under Regulation 6(1)(b) of the EIA Regulations that it proposed to provide an Environmental Statement (ES) in respect of the proposed development. The letter is included in Appendix 3.1 to the Consultation Report (Doc 5.2), and the relevant information is in paragraph 6.3 of the Consultation Report (Doc 5.1).</p> <p>The request was made before the start of s42 consultation which commenced on 13 October 2014.</p> <p><u>Phase 2 Consultation</u></p> <p>In March 2017 at the Phase 2 of the EIA scoping it was agreed during discussions with the Planning Inspectorate that the previous Scoping Opinion was still applicable and that a further Scoping Request would not be necessary prior to submission of the DCO application. 'In accordance with the transitional arrangements at Regulation 37 of the EIA Regulations 2017, the Project has continued to be assessed under the regime of</p>

⁴ Regulation 8 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (2017 EIA Regulations), or Regulation 6 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (2009 EIA Regulations) (where Regulation 37 of the 2017 EIA Regulations applies).

		<p>the EIA Regulations 2009.’ paragraphs 1.4.32 and 8.4.1 to 8.4.2 of the Consultation Report (Doc 5.1).</p> <p>The Applicant stated that the Regulation 9 list provided by the Planning Inspectorate in 2014 during Phase 1 Consultation had been refreshed and updated (paragraph 8.3.3).</p>
5	<p>Have any adequacy of consultation representations⁵ been received from “A”, “B”, “C” and “D” authorities; and if so do they confirm that the applicant has complied with the duties under s42, s47 and s48?</p>	<p>Central Bedfordshire Council and Bedford Borough Council (the relevant local authorities) are both unitary authorities. Therefore, there are no ‘C’ or ‘D’ authorities (paragraph 4.1.11 of the Consultation Report (Doc 5.1)).</p> <p>There are 2 host and 14 neighbouring authorities, of which 9 provided adequacy of consultation representations confirming that the Applicant had complied with their duties under s42, s47 and s48 of the PA2008.</p> <p>Host authorities:</p> <ul style="list-style-type: none"> • Central Bedfordshire Council • Bedford Borough Council <p>Neighbouring authorities:</p> <ul style="list-style-type: none"> • Buckinghamshire County Council • Dacorum Borough Council • Milton Keynes Council • Borough Council of Wellingborough • St Albans City & District Council • Aylesbury Vale District Council • Luton Borough Council <p>Responses were invited but not received from the following authorities which are the neighbouring authorities:</p> <ul style="list-style-type: none"> • East Northamptonshire Council

⁵ S55(4) of the PA2008 provides that the Secretary of State must have regard to the consultation report, and any adequacy of consultation representations received

		<ul style="list-style-type: none"> • Northamptonshire County Council • Cambridgeshire County Council • South Cambridgeshire District Council • North Hertfordshire District Council • Hertfordshire County Council • Huntingdonshire District Council <p>The responses received have been carefully considered and demonstrate and confirm that the Applicant has complied with the duties under s42, s47 and s48 of the PA2008.</p>
s42: Duty to Consult		
	Did the applicant consult the applicable persons set out in s42 of the PA2008 about the proposed application?	
6	s42(1)(a) persons prescribed ⁶ ?	<p>Yes</p> <p><u>Phase 1 Consultation</u></p> <p>The Applicant carried out s42 consultation between 13 October and 16 November 2014, and provided a list of prescribed consultees to be consulted under s42(1)(a) in the Appendix 3.N of the Consultation Report (Doc 5.2).</p> <p>The summary of the process is provided in paragraphs 6.4.5 to 6.4.42 of the Consultation Report (Doc 5.1).</p> <p><u>Phase 2 Consultation</u></p> <p>Phase 2 – the updated list of prescribed consultees was much wider, and is provided in the Appendix 3.O of the Consultation Report (Doc 5.2).</p> <p>Further details are provided in Section 10 below.</p>
7	s42(1)(aa) the Marine Management Organisation ⁷ ?	<i>Not applicable</i>

⁶ Statutory consultees set out in Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

⁷ In any case where the proposed development would affect, or would be likely to affect, any of the areas specified in s42(2) of the PA2008

8	s42(1)(b) each local authority within s43 ⁸ ?	<p><u>Phase 1 Consultation</u></p> <p>The Applicant has consulted each local authority within s43, summary of the process is contained in paragraphs 6.4.15 to 6.4.18 of the Consultation Report (Doc 5.1). The consultation commenced on 13 October and ended on 16 November 2014.</p> <p><u>Phase 2 Consultation</u></p> <p>The Applicant has consulted each local authority within s43, summary of the process in paragraph 8.5.26 of the Consultation Report (Doc 5.1). The consultation commenced on 29 May and ended on 2 July 2017.</p> <p>B authorities:</p> <ul style="list-style-type: none"> • Bedford Borough Council • Central Bedfordshire Council <p>A authorities:</p> <ul style="list-style-type: none"> • East Northamptonshire Council • Milton Keynes Council • Aylesbury Vale District Council • Borough Council of Wellingborough • South Cambridgeshire District Council • Dacorum Borough Council • St. Albans City and District Council • North Hertfordshire District Council • Huntingdonshire District Council • Luton Borough Council
---	--	--

⁸ Definition of “local authority” in s43(3): The “B” authority where the application land is in the authority’s area; the “A” authority where any part of the boundary of A’s area is also a part of the boundary of B’s area; the “C” authority (upper tier) where the application land is in that authority’s area; the “D” authority where such an authority shares a boundary with a “C” authority

		<ul style="list-style-type: none"> • Buckinghamshire County Council • Hertfordshire County Council • Northamptonshire County Council • Cambridgeshire County Council.
9	s42(1)(c) the Greater London Authority (if in Greater London area)?	Not applicable
10	s42(1)(d) each person in one or more of s44 categories ⁹ ?	<p>Yes</p> <p><u>Phase 1 Consultation</u></p> <p>The Applicant identified land interests under s44, and Category 1, 2 and 3 persons. Paragraphs 6.4.19 to 6.4.25 of the Consultation Report (Doc 5.1) outline the process. A list of all persons is contained in Appendix 3.N of the Consultation Report (Doc 5.2).</p> <p>The consultation was carried out between 13 October and 16 November 2014.</p> <p><u>Phase 2 Consultation</u></p> <p>Paragraphs 8.5.27 to 8.5.30 of the Consultation Report (Doc 5.1) provide a summary of the process. Statutory consultation was undertaken between 29 May and 2 July 2017.</p> <p>Subsequent to the commencement of the consultation, a number of further consultees were identified (paragraphs 8.5.41 to 8.5.50) and the Applicant sought to remedy the situation by providing consultation material to all those parties.</p> <p>Appendix 3.0 of the Consultation Report (Doc 5.2) lists those persons consulted in accordance with s42; There are 19 consultees who do not appear to be included in parts 1 and 2 of the Book of Reference (Doc 4.3):</p> <p>Identified as s42(1)(d) consultees:</p> <ul style="list-style-type: none"> • London & Birmingham Railway Limited

⁹ Category 1: owner, lessee, tenant or occupier of land; Category 2: person interested in the land or has power to sell and convey the land or to release the land; Category 3: person entitled to make a relevant claim. There is no requirement to check the accuracy of the list(s) or whether the applicant has made diligent inquiry

- UK Power Networks Holdings Limited
- Owner/ Occupier of Pals Bungalow, Station Lane
- Telefonica UK Limited
- TeliaSonera
- British Agricultural Services Limited c/o Iain Macpherson, Hanson UK
- Rutland Partners LLP

Identified as s42(1)(a) and s42(1)(d) consultees:

- Network Rail Infrastructure Limited
- Independent Pipelines Limited
- Independent Power Networks
- Indigo Pipelines Limited
- Interoute Vtesse Limited c/o Interoute Communications Limited
- McNicholas [KPN Networks]
- McNicholas [TATA Networks]
- National Grid PLC
- Quadrant Pipelines Limited
- Southern Gas Networks Limited
- The Electricity Network Company Limited

Identified as a s42(1)(b) and s42(1)(d) consultee:

- Bedford Borough Council

British Agricultural Services Limited is included in both the **Appendix 3.0** of the **Consultation Report (Doc 5.2)** and the **Book of Reference (Doc 4.3)** but at a different address from the one given for Mr MacPherson.

Rutland Partners LLP is listed as being consulted in accordance with s42(1)(d) but do not appear in parts 1 and 2 of the **Book of Reference (Doc 4.3)**. An explanation of this is included in **paragraphs 8.5.47 to 8.5.48** of the **Consultation Report (Doc 5.1)** explaining that on 16 August 2017, following diligent inquiry they were added to the consultation list for robustness.

In relation to UK Power Networks Holdings Limited (listed above) the Applicant stated in

		<p>the footnote 3 to paragraph 6.4.89 and explained in paragraph 6.4.91 of the Consultation Report (Doc 5.1) that on 11 October 2017 MPL was informed that the assets were owned and operated by Eastern Power Networks plc (part of UK Power Networks Group). MPL therefore referred to Eastern Power Networks in the Book of Reference (Doc 4.3) and draft DCO (Doc 3.1).</p> <p>KPN Networks and TATA Networks haven't been included on a list of parties to receive a copy of s48 notice, but were included the s42(1)(a) list and sent the consultation packs on 7 October 2014, as explained in paragraph 6.4.89 of the Consultation Report (Doc 5.1).</p> <p>With regard to the above the Applicant should ensure that all parties that need to be in the Book of Reference are listed within it and also notify all that need to be notified of the accepted application under s56 of the PA2008 and ensuring they are able to fully participate in the examination.</p>
<p>s45: Timetable for s42 Consultation</p>		
<p>11</p>	<p>Did the applicant notify s42 consultees of the deadline for receipt of consultation responses; and if so was the deadline notified by the applicant 28 days or more starting with the day after receipt of the consultation documents?</p>	<p>Yes</p> <p><u>Phase 1 Consultation</u></p> <p>The s42 consultees were notified of the deadline to provide responses in the letters sent with the consultation material in 2014.</p> <p>Paragraph 6.4.7 of the Consultation Report (Doc 5.1) states that the statutory consultation commenced on 13 October and concluded on 16 November 2014, allowing a period of 35 days, which is longer than the minimum of 28 days from the day after the consultee receives the consultation documents. Copy of the letter dated 7 October 2014 is included in the Appendix 3.Q of the Consultation Report (Doc 5.2).</p> <p>Deadline for receipt of consultation responses was also stated in the following documents:</p> <ul style="list-style-type: none"> • SoCC Notice published in a newspaper (Appendix 3.U). • SoCC published on the applicant's website on 23 September 2014 (Appendix

2.D).

- S48 Notice published between 2 and 12 October 2014 (**Appendix 4.E**).

The Applicant identified a small number of additional land interests on 15 October 2014 (**paragraph 6.4.24** of the **Consultation Report (Doc 5.1)**). Those landowners were sent the consultation material and were not prejudiced as allowed a minimum consultation period of 28 days (**paragraph 6.4.38**).

One further land interest relating to a shooting licence was identified on 21 January 2015 (**paragraph 6.4.25**). This party was provided with consultation materials and given 28 days to respond (26 January to 24 February 2015) as explained in **paragraphs 6.4.25** and **6.4.39**.

Phase 2 Consultation

The s42 consultees were notified of the deadline to provide responses in the letters sent with the consultation material in 2017.

A copy of the undated letter sent to the s42 consultees is provided in the **Appendix 3.R(i)** of the **Consultation Report (Doc 5.2)**. The consultation period for the project was between 29 May and 2 July 2017, allowing a period of 35 days (**paragraphs 1.4.35** and **8.5.21** of the **Consultation Report (Doc 5.1)**).

Deadline for receipt of consultation responses was also stated in the following documents:

- SoCC Notice published in the newspapers between 18 and 28 May 2017 (**Appendix 3.V**).
- SoCC published on the Applicant's website on 8 May 2017 (**Appendix 2.E**)
- S48 Notice published between 18 and 28 May 2017 (**Appendix 4.F**).

Proof of delivery to each of the consultees was received by 31 May 2017. As the deadline for replies was 2 July 2017, the time period exceeded the minimum 28-day consultation period (**paragraph 8.5.42** of the **Consultation Report (Doc 5.1)**).

In **paragraphs 8.5.43 – 8.5.48** of the **Consultation Report (Doc 5.1)** the Applicant summarised actions taken following the identification of further s42(1)(d) persons. As a result of an ongoing diligent inquiry HSBC Bank plc was given its own consultation

		<p>period between 7 June and 4 July 2017 (paragraph 8.5.43).</p> <p>Letters to HSBC Bank plc, Public Health England, Northern Gas Networks, Rutland Partners LLP and consultee s42-162 are included in the Appendix 3.R of the Consultation Report (Doc 5.2).</p> <p>Natural England and Anglian Water Services Ltd. requested and were allowed additional time to prepare full responses (paragraphs 8.5.51 and 8.5.52).</p>
s46: Duty to notify Secretary of State of proposed application		
12	<p>Did the applicant supply information to notify the Secretary of State of the proposed application; and if so was the information supplied to the Secretary of State on or before the date it was sent to the s42 consultees? Was this done on or before commencing consultation under s42?</p>	<p>Yes</p> <p><u>Phase 1 Consultation</u></p> <p>Yes, the Applicant gave notice under s46 on 6 October 2014. Copy of the letter is provided in the Appendix 3.L(i) of the Consultation Report (Doc 5.2), which was before the beginning of s42 consultation on 13 October 2014.</p> <p>The consultation commenced on 13 October and ended on 16 November 2014 (paragraph 1.4.15 of the Consultation Report (Doc 5.1)).</p> <p><u>Phase 2 Consultation</u></p> <p>The Applicant gave notice under s46 on 22 May 2017. Copy of the letter is provided in the Appendix 3.M(i). S42 consultation commenced on 29 May 2017. The Planning Inspectorate noted that the covering page 345 for the Appendix 3.M(i) states 6 October 2014, rather than 22 May 2017.</p> <p>The consultation commenced on 29 May and concluded on 2 July 2017 (paragraph 8.5.21 of the Consultation Report (Doc 5.1)).</p>
s47: Duty to consult local community		
13	<p>Did the applicant prepare a Statement of Community Consultation (SoCC) on how it intended to consult people living in the vicinity of the land?</p>	<p>Yes</p> <p><u>Phase 1 Consultation</u></p> <p>The Applicant provided a copy of the Statement of Community Consultation (SoCC) which was published on Millbrook Power website on 23 September 2014 in the</p>

		<p>Appendix 2.D of the Consultation Report (Doc 5.2).</p> <p>Paragraphs 6.4.43 to 6.4.65 of the Consultation Report (Doc 5.1) outline the approach taken to the SoCC and details of its publication.</p> <p><u>Phase 2 Consultation</u></p> <p>The Applicant provided a copy of the SoCC which was published on Millbrook Power website on 8 May 2017 in the Appendix 2.E of the Consultation Report (Doc 5.2).</p> <p>Paragraphs 8.5.4 to 8.5.11 of the Consultation Report (Doc 5.1) provide information on how the Applicant approached the publication of the document.</p>
14	<p>Were “B” and (where relevant) “C” authorities consulted about the content of the SoCC; and if so was the deadline for receipt of responses 28 days beginning with the day after the day that “B” and (where applicable) “C” authorities received the consultation documents?</p>	<p>Yes</p> <p>Central Bedfordshire Council (CBC) and Bedford Borough Council (BBC) are the ‘B’ local authorities consulted for the purpose of the SoCC. There are no relevant ‘C’ or ‘D’ authorities.</p> <p><u>Phase 1 Consultation</u></p> <p>The Appendices 2.B(iv) and 2.B(v) of the Consultation Report (Doc 5.2) provide cover letters sent on 30 July 2014 to CBC and BBC respectively. The letters state: ‘The deadline for the receipt by Millbrook Power Limited of each Council’s response is the end of a period of 28 days that begins with the day after the day on which the Council receives the enclosed documents’.</p> <p><u>Phase 2 Consultation</u></p> <p>The Appendices 2.C(i) and 2.C(ii) of the Consultation Report (Doc 5.2) provide cover letters sent on 6 April 2017 to CBC and BBC respectively. The letters state: ‘The deadline for the receipt by Millbrook Power Limited of each Council’s response is the end of a period of 28 days that begins with the day after the day on which the Council receives the enclosed documents’.</p>
15	<p>Has the applicant had regard to any responses received when preparing the SoCC?</p>	<p>Yes</p> <p><u>Phase 1 Consultation</u></p> <p>CBC provided comments on 26 August 2014 (Appendix 2.B(vii) of the Consultation Report (Doc 5.2)) and BBC provided comments on 2 September 2014 (Appendix</p>

		<p>2.B(viii)). The response from BBC (Appendix 2.B(ix)) acknowledges that MPL had taken into consideration and acted upon earlier advice given in regards to 'hard to reach' groups. Also, this is referred to in paragraphs 6.4.55 to 6.4.59 of the Consultation Report (Doc 5.1).</p> <p><u>Phase 2 Consultation</u></p> <p>CBC provided comments on 3 May 2017 (Appendix 2.C(iv)) of the Consultation Report (Doc 5.2)) and BBC provided comments on 2 May 2017 (Appendix 2.C(v)). CBC stated in the letter: 'the submitted document appears to outline a thorough consultation process to be undertaken prior to the DCO being submitted' (paragraph 8.5.8 of the Consultation Report (Doc 5.1)).</p> <p>BBC said the following: 'draft plan is comprehensive and demonstrates the intention for a significant level of public consultation and involvement to a least the level specified in the council's Statement of Community involvement' (paragraph 8.5.10).</p>
16	<p>Has the SoCC been made available for inspection in a way that is reasonably convenient for people living in the vicinity of the land; and has a notice been published in a newspaper circulating in the vicinity of the land which states where and when the SoCC can be inspected?</p>	<p>Yes</p> <p><u>Phase 1 Consultation</u></p> <p>The SoCC was made available at places, which are reasonably convenient having regard to the location of the scheme. The notices stating when and where it could be inspected were published in:</p> <ul style="list-style-type: none"> • Bedford Times and Citizen on 2 and 9 October 2014, • Bedfordshire on Sunday on 5 and 12 October 2014. <p>Table 6.3 of the Consultation Report (Doc 5.1).</p> <p>The copies of the notices are provided in the Appendix 3.U of the Consultation Report (Doc 5.2).</p> <p>Paragraph 6.4.63 states that the SoCC was published on the MPL website on 23 September 2014, and made available to the public at the following locations; Bedford Library, Ampthill Library, Wootton Library, BBC Customer Service Centre, CBC offices and Marston Vale Forest Centre.</p> <p><u>Phase 2 Consultation</u></p> <p>The SoCC was made available at places, which are reasonably convenient having</p>

		<p>regard to the location of the scheme. The notices stating when and where it could be inspected were published in:</p> <ul style="list-style-type: none"> • Bedford Times and Citizen on 18 and 25 May 2017, • Bedfordshire on Sunday on 21 and 28 May 2017. <p>Table 8.2 of the Consultation Report (Doc 5.1).</p> <p>Copies of the notices are provided in the Appendix 3.V of the Consultation Report (Doc 5.2).</p> <p>Table 8.3 and paragraph 8.5.17 provide information that the SoCC was made available on the MPL website (published on 8 May 2017) and at the following venues: Bedford Library, Ampthill Library, Wootton Library, BBC Customer Service Centre, CBC offices and Marston Vale Forest Centre.</p>
17	<p>Does the SoCC set out whether the development is EIA development¹⁰; and does it set out how the applicant intends to publicise and consult on the preliminary environmental information?</p>	<p>Yes</p> <p><u>Phase 1 Consultation</u></p> <p>The SoCC published on 23 September 2014 (provided in the Appendix 2.D of the Consultation Report (Doc 5.2)) states the following: 'Because of the nature and size of the Project, MPL is undertaking an EIA pursuant to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009. Therefore, the Project is classes as an EIA development. The EIA considers the likely significant effects of the Project including those on air and water quality, noise, visual and cumulative impact, traffic, local ecology, archaeology and heritage and socio-economics'.</p> <p>The SoCC sets out how the applicant proposes to consult on the preliminary environmental information.</p> <p><u>Phase 2 Consultation</u></p> <p>The SoCC published on 8 May 2017 (provided in the Appendix 2.E of the Consultation Report (Doc 5.2)) states the following: 'Because of the nature and size of the Project, MPL is undertaking an EIA pursuant to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009. The Project falls under the EIA Regulations 2009 regime and not the Infrastructure Planning (Environmental</p>

¹⁰ Regulation 12 of the 2017 EIA Regulations, or Regulation 10 of the 2009 EIA Regulations (where Regulation 37 of the 2017 EIA Regulations applies).

		<p>Assessment) Regulations 2017 (EIA 2017) regime. This is because a scoping opinion was requested from the Secretary of State under the EIA Regulations before the commencement of the EIA Regulations 2017. This means that, in accordance with the transitional arrangements at Regulation 37 of the EIA Regulations 2017, the EIA Regulations 2009 will continue to apply to the Project'. This is also referred to in paragraphs 3.4.1 and 8.4.2 of the Consultation Report (Doc 5.1).</p>
18	<p>Has the applicant carried out the consultation in accordance with the SoCC?</p>	<p>Yes</p> <p><u>Phase 1 Consultation</u></p> <p>The Applicant provided SoCC Compliance Checklist in the Appendix 4.C of the Consultation Report (Doc 5.2). In paragraph 6.4.79 of the Consultation Report (Doc 5.1) the Applicant states that there were no inconsistencies between the Phase 1 SoCC and the consultation undertaken.</p> <p><u>Phase 2 Consultation</u></p> <p>The Applicant provided SoCC Compliance Checklist in the Appendix 4.D of the Consultation Report (Doc 5.2). Paragraphs 8.5.55 and 8.5.75 of the Consultation Report (Doc 5.1) refer to the checklist, and state: 'There were no inconsistencies between the Phase 2 SoCC and the consultation undertaken'.</p> <p>The approach to undertaking consultation with the local community was influenced by early discussions with CBC and BBC as part of the Phase 1 non-statutory consultation, as stated in paragraph 11.2.1 of the Consultation Report (Doc 5.1). For example the size of CCZ was increased from a proposed 3km to 5km (Figure 6.1). This change was reflected in the final Phase 1 SoCC and then in the final Phase 2 SoCC.</p> <p>During Phase 2 the Applicant adopted the same approach to s47 consultation (Appendix 2.E of the Consultation Report (Doc 5.2)).</p> <p>The Applicant summarises activities in paragraph 1.4.40 of the Consultation Report (Doc 5.1).</p>
<p>s48: Duty to publicise the proposed application</p>		

19	Did the applicant publicise the proposed application, under s48, in the prescribed manner set out in Regulation 4(2) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009?	<p>Yes</p> <p>The Applicant has described the newspapers and dates of s48 publicity in paragraph 8.5.77 and Table 8.6 (The Newspapers and publication dates where the s48 notice was publicised (Phase 2 Consultation)) of the Consultation Report (Doc 5.1) and as set out below:</p>		
		Newspaper(s)	Date	
	for at least two successive weeks in one or more local newspapers circulating in the vicinity in which the proposed development would be situated;	Bedford Times & Citizen Bedfordshire on Sunday	18 May 2017 & 25 May 2017 21 May 2017 & 28 May 2017	
	once in a national newspaper;	The Times	25 May 2017	
	once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and	London Gazette	25 May 2017	
	where the proposed application relates to offshore development – (i) once in Lloyds List; and (ii) once in an appropriate fishing trade journal?	N/A	N/A	
20	Did the s48 notice include the required information set out in Regulation 4(3) of APFP Regulations?	<p>Yes - Copies of s48 notice are supplied in the Appendix 4.F of the Consultation Report (Doc 5.2). Phase 2 Section 48 – Statutory publicity and contains the required information as set out below:</p>		
	Information	Paragraph	Information	Paragraph
a)	The name and address of the Applicant.	Paragraph 1	b) A statement that the Applicant intends to make an application for development consent to the Secretary of State	Paragraph 1

c)	a statement as to whether the application is EIA development	Paragraph 7	d)	a summary of the main proposals, specifying the location or route of the proposed development	Paragraphs 5 & 6		
	e)	a statement that the documents, plans and maps showing the nature and location of the proposed development are available for inspection free of charge at the places (including at least one address in the vicinity of the proposed development) and times set out in the notice		Paragraphs 9, 10, 11, 12 & 13	f)	the latest date on which those documents, plans and maps will be available for inspection	Paragraphs 9, 10, 11, 12 & 13
	a deadline for receipt of those responses by the applicant, being not less than 28 days following the date when the notice is last published	Paragraph 18					
21	Are there any observations in respect of the s48 notice provided above?						
	None						
22	Has a copy of the s48 notice been sent to the EIA consultation bodies and to any person notified to the applicant in accordance with the EIA Regulations ¹¹ ?	<p>Yes - the notice was sent to the EIA consultation bodies between 16 May and 22 May 2017 except for PHE and NGN as confirmed in Section 8.5.80 of the Consultation Report (Doc 5.1). The notice was then sent to PHE and NGN on 9 August 2017 (further explanation in Section 8.5.44).</p> <p>A sample letter sent to s42 consultees including the s48 notice can be found in Appendix 4.H of the Consultation Report (Doc 5.2).</p>					
s49: Duty to take account of responses to consultation and publicity							

¹¹ Regulation 13 of the 2017 EIA Regulations, or Regulation 11 of the 2009 EIA Regulations (where Regulation 37 of the 2017 EIA Regulations applies).

23	Has the applicant had regard to any relevant responses to the s42, s47 and s48 consultation?	<p>Yes</p> <p>The Applicant has set out at Chapter 11 of the Consultation Report (Doc 5.1) the actions that have been taken having regard to the consultation responses received.</p> <p>A summary of changes made in response to consultation received is provided in paragraph 11.1.3 and Table 12.1 of the Consultation Report (Doc 5.1).</p> <p>This includes changes such as, the undergrounding of electrical connection resulting in no additional pylons; confirmation of the preferred Gas Connection route; changing the AGI location to address a landowner's concerns. More detailed explanation of how consultation feedback has influenced the project in terms of consultation feedback, project design and mitigation is provided throughout the remainder of Chapter 11 of the Consultation Report (Doc 5.1).</p> <p>The Applicant has also described in paragraph 11.4 of the Consultation Report (Doc 5.1) the consideration given to responses that did not lead to a change. For example,</p> <p>A number of s47 responses asked whether a gas supply could be provided to Stewartby. The Applicant explained that it was not in the project's remit and provided local council members with information about the local gas supplier.</p> <p>Summaries of the received consultation responses both non-statutory and statutory can be found in Appendices 5.D – 5.G of the Consultation Report (Doc 5.1). The tables illustrate responses received and how the Applicant has taken them into account.</p> <p>The actions appear to be reflected in the final form of the application submitted, and where a response has not led to a change in the application, it is sufficiently clear that regard was had to it.</p>
----	--	--

Guidance about pre-application procedure

24	To what extent has the applicant had regard to DCLG guidance 'The Planning Act 2008: Guidance on the pre-application process' ¹² ?	<p>Yes</p> <p>Paragraphs 3.7, 3.71 and 3.72 of the Consultation Report (Doc 5.1) refer to the DCLG's guidance 'The Planning Act 2008: Guidance on the pre-application process'.</p>
----	---	---

¹² The Secretary of State must have regard to the extent to which the applicant has had regard to guidance issued under s50

		<p>The Applicant provided further information in the Appendix 2.A of the Consultation Report (Doc 5.2). A table has been produced which outlines where recommendations on the consultation process made in the PA 2008 DCLG pre-application guidance have been complied with through the consultation process and identifies where this is addressed in their Consultation Report.</p> <p>For example, Paragraph 23 of DCLG’s guidance ‘The Planning Act 2008: Guidance on the pre-application process’ talks about local authorities being able to provide advice to applicants on the makeup of the community and on how consultation might best be undertaken. The Applicant describes liaison with local authorities on the Phase 1 SoCC in paragraphs 6.4.43 to 6.4.65 of the Consultation Report (Doc 5.1) for Phase 1 and on the Phase 2 SoCC is described in paragraphs 8.5.4 to 8.5.19 of the Consultation Report (Doc 5.1)</p>
25	Summary - s55(3)(e)	The application as made by the Applicant has complied with Chapter 2 of Part 5 (pre-application procedure). All relevant duties have been complied with.
<p>s55(3)(f) and s55(5A) The application (including accompaniments) achieves a satisfactory standard having regard to the extent to which it complies with section 37(3) (form and contents of application) and with any standards set under section 37(5) and follows any applicable guidance under section 37(4)</p>		
26	<p>Is it made in the prescribed form as set out in Schedule 2 of the APFP Regulations, and does it include:</p> <ul style="list-style-type: none"> • a brief statement which explains why it falls within the remit of the Secretary of State; and • a brief statement that clearly identifies the location of the application site, or the route if it is a linear scheme? 	<p>Yes</p> <p>Box 4 of the Application Form (Doc 1.2) gives a statement explaining why the development falls within the remit of the Secretary of State.</p> <p>Box 5 of the Application Form (Doc 1.2) provides a brief non-technical description of the site, whilst Box 6 of the Application Form provides the location of the proposal.</p> <p>‘The authorised development comprises of an electricity generating station with a capacity of more than 50 MW and therefore it constitutes a nationally significant infrastructure project (“NSIP”) under section 15 of the Planning Act 2008. Accordingly, it requires development consent under section 31 of the Planning Act 2008. Development consent may only be granted by order (a “DCO”) following an application to the Secretary of State pursuant to section 37 of the Planning Act 2008’,</p> <p>The site description is provided at Section 6 of the Application Form (Doc 1.2):</p>

		<p>'The Project Site is located in an area known as 'the Marston Vale' between Milton Keynes and Bedford with the approximate centre of the Project Site at grid reference 501373, 240734. The location of the Project Site is shown in the Site Location Plan (Doc 2.1).</p> <p>The location of the Power Generation Plant is at Rookery South Pit, a former clay extraction pit, near Stewartby, Bedfordshire. The location of the Power Generation Plant is shown on the Works Plan (Sheet 1 of 3, Doc 2.6).</p> <p>A new substation which is part of the Electrical Connection would be located adjacent to the Generating Equipment within Rookery South Pit. The substation would connect via underground cables in to the existing National Grid 400 kV overhead power line which runs from Sundon to Grendon. The 400 kV line is located approximately 320m southwest of the Generating Equipment Site.</p> <p>The location of the Electrical Connection is shown on the Works Plans (Sheet 2 of 3, Doc 2.6).</p> <p>The Gas Connection is located in agricultural land to the south of the Rookery South Pit, the location of the Gas Connection is shown on the Works Plans (Sheet 3 of 3, Doc 2.6)'.</p>		
27	Is it accompanied by a consultation report?	Yes, a Consultation Report (Doc 5.1) , including five volumes of the Consultation Report Appendices (Doc 5.2) , accompanies the Application Form (Doc 1.2) .		
28	Where a plan comprises three or more separate sheets has a key plan been provided showing the relationship between the different sheets? ¹³	Yes		
29	Is it accompanied by the documents and information set out in APFP Regulation 5(2)?	As named below Yes, the documents and information required by APFP regulation 5(2) are set out in the documents and locations within the application as listed below:		
Information		Document	Information	Document

¹³ Regulation 5(4) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

a)	Where applicable, the environmental statement required under the EIA Regulations ¹⁴ and any scoping or screening opinions or directions	Environmental Statement (ES) (Docs 6.1 – 6.4)	b)	The draft proposed order	Development Consent Order (Doc 3.1)
	Is this of a satisfactory standard?	Yes		Is this of a satisfactory standard?	Yes
c)	An explanatory memorandum explaining the purpose and effect of provisions in the draft order	Explanatory Memorandum (Doc 3.2)	d)	Where applicable, a book of reference (where the application involves any compulsory acquisition) The applicant submitted a Book of Reference (Doc 4.3) .	Doc 4.3
	Is this of a satisfactory standard?	Yes		Is this of a satisfactory standard?	Yes and see comments in Box 30
e)	A copy of any flood risk assessment	Flood Risk Assessment (Doc 5.4)	f)	A statement whether the proposal engages one or more of the matters set out in section 79(1) of the Environmental Protection Act 1990 (statutory nuisances) and if so how the applicant proposes to mitigate or limit them	Statement of Engagement (Doc 5.5)
	Is this of a satisfactory standard?	Yes		Is this of a satisfactory standard?	Yes
h)	A statement of reasons and a funding statement (where the application involves any	Doc 4.1 and Doc 4.2	i)	A land plan identifying:- (i) the land required for, or affected by, the proposed	Doc 2.5 and also see

¹⁴ The 2017 EIA Regulations, or the 2009 EIA Regulations (where Regulation 37 of the 2017 EIA Regulations applies)

	compulsory acquisition)			development; (ii) where applicable, any land over which it is proposed to exercise powers of compulsory acquisition or any rights to use land; (iii) any land in relation to which it is proposed to extinguish easements, servitudes and other private rights; and (iv) any special category land and replacement land	comments in Box 30 below
	Is this of a satisfactory standard?	Yes		Is this of a satisfactory standard?	Yes
j)	A works plan showing, in relation to existing features:- (i) the proposed location or (for a linear scheme) the proposed route and alignment of the development and works; and (ii) the limits within which the development and works may be carried out and any limits of deviation provided for in the draft order	Doc 2.6	k)	Where applicable, a plan identifying any new or altered means of access, stopping up of streets or roads or any diversions, extinguishments or creation of rights of way or public rights of navigation	Doc 2.7
	Is this of a satisfactory standard?	Yes		Is this of a satisfactory standard?	Yes
l)	Where applicable, a plan with accompanying information identifying:- (i) any statutory/non-statutory sites or features of nature conservation e.g. sites	(i) Figure 8.1 (Doc 6.3) Figure 1a: Statutory	m)	Where applicable, a plan with accompanying information identifying any statutory/non-statutory sites or features of the historic environment, (e.g. scheduled monuments, World Heritage sites, listed buildings, archaeological sites	This is set out in: Environmental

<p>of geological/ landscape importance;</p> <p>(ii) habitats of protected species, important habitats or other diversity features; and</p> <p>(iii) water bodies in a river basin management plan,</p> <p>together with an assessment of any effects on such sites, features, habitats or bodies likely to be caused by the proposed development</p>	<p>Designated Sites (Doc 6.2)</p> <p>Figure 1b: Non –statutory designated sites within 5km of site (Doc 6.2)</p> <p>Figure 1: Location of European Sites (Doc 5.7)</p> <p>(ii) Figure 2: Phase 1 Habitat Survey Map (Doc 6.2)</p> <p>(iii) Figure 9.1 (Doc 6.3)</p> <p>An assessment of effects is set out in Chapter 8.12 of Doc 6.1.</p>	<p>and registered battlefields) together with an assessment of any effects on such sites, features or structures likely to be caused by the proposed development</p>	<p>Statement Appendices – Volume M Appendices 13.1 – 13.2 Historic Environment (Doc 6.3)</p> <p>Figure 13.1: Designated Assets Mapping (Doc 6.3)</p> <p>Figure 13.2: Non designated Assets Mapping (Doc 6.3)</p> <p>An assessment of effects is set out in Chapter 13 of Doc 6.1</p>
<p>Is this of a satisfactory standard?</p>	<p>Yes</p>	<p>Is this of a satisfactory standard?</p>	<p>Yes</p>

n)	Where applicable, a plan with any accompanying information identifying any Crown land	N/A	o)	Any other plans, drawings and sections necessary to describe the development consent proposal showing details of design, external appearance, and the preferred layout of buildings/structures, drainage, surface water management, means of vehicular and pedestrian access, any car parking and landscaping.
	Is this of a satisfactory standard?	Yes		Are they of a satisfactory standard?
p)	Any of the documents prescribed by Regulation 6 of the APFP Regulations:	Grid Connection Statement (Doc 9.1) Gas Connection Statement (Doc 9.2)	q)	Any other documents considered necessary to support the application.
	Are they of a satisfactory standard?	Yes		Are they of a satisfactory standard?
30	Are there any observations in respect of the documents provided above?			
	<p>Other documents considered necessary to support the application</p> <p>The Applicant submitted the following additional documents: Introduction to the Application and Guide to the Application (Doc 1.1), Project Glossary (Doc 1.4), Details of other Consents and Licenses (Doc 5.6), Photographs and Photomontages (Doc 7.1), Plan Identifying Locations of Photographs (Doc 7.2), Index of Photographs (Doc 7.3), Planning Statement (Doc 10.1), Design and Access Statement (Doc 10.2) and Statement of Proposed Heads of Terms for an Agreement Pursuant to s106 of the TCPA 1990 (Doc 10.3).</p>			

Plans

The order land on the land plans (**Doc 2.5**) has been highlighted in pink, blue and yellow colour with the order limits boarded with red outlines. There are 4 plots which have been bordered in red but not given any colour/ or plot number. There is 1 on the Sheet 1 of 3 and 3 on the Sheet 3 of 3. The descriptions for plots 10_EC and 11_EC doesn't completely match the Book of Reference (BoR). The description in the BoR says both are situated to the east of South Pilling Farm but it should be south east of the South Pilling Farm. Similarly, plot 12A_GC should say south east of Lower farm.

Book of Reference (see comments in section 10 of this checklist)

31	Is the application accompanied by a report identifying any European site(s) to which regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 applies; or any Ramsar site(s), which may be affected by the proposed development, together with sufficient information that will enable the Secretary of State to make an appropriate assessment of the implications for the site if required by regulation 48(1)? ¹⁵	Yes A Habitat Regulations Assessment Report is provided in (Doc 5.7). The report identifies relevant European sites and the likely effects on those sites. It is considered that the information provided in the report is adequate for acceptance. Note: the Examining Authority will be able to ask questions during the examination. This may result in additional information being required to inform the HRA report and the competent authority. Depending upon the type and availability of information required, it may not be possible to obtain this during the statutory timetable of the examination.
32	If requested by the Secretary of State, two paper copies of the application form and other supporting documents and plans ¹⁶	Yes
33	Has the applicant had regard to DCLG guidance 'Planning Act 2008: Application form guidance', and has this regard led to the application being prepared to a standard that the Secretary of State considers satisfactory?	Yes The application appears to be in general conformity with the Guidance and the Planning Inspectorate is satisfied that the applicant has had regard to the Guidance. There are minor discrepancies in the Book of Reference but none of a nature that would suggest that the application cannot be accepted.

¹⁵ Regulation 5(2)(g) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

¹⁶ Regulation 5(2)(r) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

34 Summary - s55(3)(f) and s55(5A)	<p>In consideration of its observations made above, the Planning Inspectorate considers that the submitted application generally accords with the requirements of s55(3)(f) having regard to s55(5A) of the PA2008.</p> <p>None of the issues identified in the checklist are likely to prejudice any persons wishing to take part in the examination, or to prevent an appointed Examining Authority from examining the application within the statutory 6 month period. The overall conclusion therefore is that the application is of a satisfactory standard and can be accepted.</p>
---	---

The Infrastructure Planning (Fees) Regulations 2010 (SI106)

Fees to accompany an application

35	Was the fee paid at the same time that the application was made ¹⁷ ?	The application fee of £6,750.00 was paid on 17 October 2017 before the submission of the application.
----	---	--

Electronic Signature	Name	Date
Case Leader	<i>Tracey Williams</i>	20 November 2017
Acceptance Inspector	<i>Jonathan Green</i>	20 November 2017

¹⁷ The Secretary of State must charge the applicant a fee in respect of the decision by the Secretary of State under section 55. If the applicant fails to pay the fee, the Secretary of State need not consider the application until payment is received by the Secretary of State. The fee must be paid at the same time that the application is made.

