



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Section 55

Acceptance of Applications Checklist

Appendix 3 of [Advice Note Six: Preparation and submission of application documents](#)

October 2019

Wheelabrator Kemsley (K3) Generating Station and Wheelabrator Kemsley North (WKN) Waste-To-Energy Facility

Section 55 Acceptance of Applications Checklist

Section 55 of the Planning Act 2008 can be viewed at legislation.gov.uk, here:
<http://www.legislation.gov.uk/ukpga/2008/29/section/55>

DISCLAIMER: This Checklist is for information only and is not a formal application document. It is a non-statutory checklist for the Planning Inspectorate to complete. Completion or self-assessment by the Applicant does not hold weight at the Acceptance stage. Unless specified, **all references to the Planning Inspectorate are made in relation to functions being carried out on behalf of the Secretary of State for Housing, Communities and Local Government.**

Section 55(2) Acceptance of Applications				
1	Within 28 days (starting day after receipt) the Planning Inspectorate must decide whether or not to accept the application for Examination.	Date received	28 day due date	Date of decision
		11 September 2019	9 October 2019	8 October 2019
Section 55(3) – the Planning Inspectorate may only accept an application if it concludes that:		Planning Inspectorate comments		
Section 55(3)(a) and s55(3)(c): It is an application for an order granting development consent				
2	Is the development a Nationally Significant Infrastructure Project ¹ (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 Order ² (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 to 30 does the Proposed Development fall)? If the development does not fall within the categories in ss14 to 30, has a direction been given by the Secretary	<p>Yes</p> <p>The Proposed Development set out in Schedule 1 of the Draft DCO (Doc 2.1) includes development falling within the categories in section (s)14 of the Planning Act 2008 (PA2008). The development is for the construction of a Generating Station and satisfies s15(1) and 15(2) of the PA2008.</p> <p>This is consistent with the summary provided in section 4 of the Application Form (Doc 1.3) which states that the application is for an NSIP.</p> <p>Section 4 of the Application Form (Doc 1.3) also states that the:</p> <p><i>“Wheelabrator Kemsley North (WKN) is a proposed waste-to-energy generating station</i></p>		

¹ NSIP is defined generally in s14 with the detailed thresholds for each of the specified categories being set out in ss15 to 30

² Development consent is required for development to the extent that the development is or forms part of an NSIP (s31 of the PA2008)

	of State under s35 of the PA2008 for the development to be treated as development for which development consent is required?	<p><i>with a generating capacity of up to 42MW and an annual throughput of up to 390,000 tonnes of waste. WKN is therefore not a nationally significant infrastructure project under Sections 14(1)(a) and 15(1) and (2) of the Planning Act 2008. However on the 27th June 2018 the Secretary of State for Business, Energy and Industrial Strategy exercised his power under Section 35 of the Planning Act 2008 to direct that WKN is nationally significant and is therefore to be treated as a development for which development consent is required.”</i></p> <p>A copy of the s35 Direction is available to view on the National Infrastructure Planning website:</p> <p>https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN010083/EN010083-000232-Letter%20and%20s35.pdf</p> <p>The letter confirms the Secretary of State’s decision that the Proposed Development, should be treated as development for which development consent is required under the PA2008.</p>
3	Summary: Section 55(3)(a) and s55(3)(c)	The Planning Inspectorate is satisfied that the Draft DCO (Doc 2.1) includes development for which development consent is required.
Section 55(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 ³ , did the Applicant (prior to carrying out consultation in accordance with s42) either (a) request the Planning Inspectorate adopt a Screening Opinion in respect of the development to which the application relates, or (b) notify the Planning Inspectorate in writing that it proposed to provide an Environmental Statement in respect of that development?	<p>Yes</p> <p>On 23 July 2019 the Applicant notified the Planning Inspectorate in accordance with Regulation 8(1)(b) of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 of its intention to provide an Environmental Statement (ES) in respect of the Proposed Development. The notification was received before the start of statutory consultation on 1 August 2019.</p> <p>A copy of the notification letter is provided at Appendix 15 of the Consultation Report (Doc 4.1).</p>
5	Have any Adequacy of Consultation Representations ⁴ been received from ‘A’, ‘B’, ‘C’ and ‘D’ local	Yes

³ Regulation 8 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (2017 EIA Regulations), or where Regulation 37 of the 2017 EIA Regulations applies, Regulation 6 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (2009 EIA Regulations)

⁴ Section 55(4) of the PA2008 provides that the Planning Inspectorate must have regard to the Consultation Report, and any Adequacy of Consultation Representations received

	<p>authorities; and if so, do they confirm that the Applicant has complied with the duties under s42, s47 and s48?</p>	<p>There are two host authorities, both of which responded to the Planning Inspectorate's invitation to make an Adequacy of Consultation Representation (AoCR) by the deadline of 26 September 2019.</p> <p>Both authorities confirmed in their AoCR that either the Applicant had complied with its duties under s42, s47 and s48 of the PA2008 and/ or that their authority had no comments/ objections to make. These local authorities were:</p> <ul style="list-style-type: none"> • Swale Borough Council ('B' authority) • Kent County Council ('C' authority) <p>All AoCRs received have been carefully considered and are available to view on the National Infrastructure Planning website: https://infrastructure.planninginspectorate.gov.uk/projects/south-east/wheelabrator-kemsley-generating-station-k3-and-wheelabrator-kemsley-north-wkn-waste-to-energy-facility/?ipcsection=overview</p>
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Section 42: Duty to consult

Did the Applicant consult the applicable persons set out in s42 of the PA2008 about the proposed application?

6	<p>Section 42(1)(a) persons prescribed⁵?</p>	<p>Yes</p> <p>The Applicant has provided a list of persons consulted under s42(1)(a) at Appendix 2.2 of the Consultation Report (Doc 4.1 - Part 1).</p> <p>A sample of the letter sent to s42(1)(a) consultees is provided at Appendix 15 of the Consultation Report (Doc 4.1 – Part 2).</p> <p>The Planning Inspectorate has identified the following parties based on a precautionary interpretation of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations) that were not consulted by the Applicant under s42:</p> <ul style="list-style-type: none"> • Harlaxton Gas Networks Limited • Murphy Gas Networks Limited <p>The Applicant's Consultation Report (Doc 4.1) does not explain why the bodies identified above have not been consulted. However, it is noted that the licences held by these bodies cover Great Britain or various smaller areas and the operational areas of</p>
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⁵ Statutory consultees set out in Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations)

		<p>each are not clear from information in the public domain.</p> <p>Neither of these bodies have been identified by the Applicant as having an interest in the Order lands and are not listed in the Book of Reference (Doc 2.4).</p> <p>Section 51 advice has been issued to the Applicant in respect of the above matter: http://infrastructure.planninginspectorate.gov.uk/document/EN010085-000454</p>
7	Section 42(1)(aa) the Marine Management Organisation ⁶ ?	N/A
8	Section 42(1)(b) each local authority within s43 ⁷ ?	<p>Yes</p> <p>Paragraph 17.3.1 of the Consultation Report (Doc 4.1) states:</p> <p><i>“Section 11.3 identified the relevant Local Authorities under s43 of the Act (as amended by s133 of the Localism Act 2011) as listed in Figure 11.1 and Table 11.1. The Categories for the purposes of Table 11.1 are those set out within the Act, in terms ‘A’, ‘B’, ‘C’ or ‘D’ authorities. There were no changes to the Local Authorities between [the] 2018 consultation and the 2019 consultation”</i></p> <p>Section 11.3 of the Consultation Report provides Figure 11.1 and Table 11.1, which describes and provides a list of the relevant local authorities that were identified and consulted under s43 and s42(1)(b) for the consultation undertaken in July 2019.</p> <p>The host ‘B’ authority was consulted:</p> <ul style="list-style-type: none"> • Swale Borough Council <p>The host ‘C’ authority was consulted:</p> <ul style="list-style-type: none"> • Kent County Council <p>The boundary ‘A’ authorities were consulted:</p> <ul style="list-style-type: none"> • Canterbury City Council • Ashford Borough Council • Maidstone Borough Council <p>The boundary ‘D’ authorities were consulted:</p>

⁶ 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

⁷ Definition of ‘local authority’ in s43(3) of the PA2008: 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 (upper tier) where such an authority shares a boundary with a ‘C’ authority

		<ul style="list-style-type: none"> • Medway Council • Thurrock Council • London Borough of Bexley • London Borough of Bromley • Surrey County Council • East Sussex County Council <p>A sample of the letter sent to s42(1)(b) relevant authorities is provided at Appendix 15 of the Consultation Report (Doc 4.1 – Part 2).</p>
9	Section 42(1)(c) the Greater London Authority (if in Greater London area)?	N/A
10	Section 42(1)(d) each person in one or more of s44 categories ⁸ ?	<p>Yes</p> <p>Section 11.4 of the Consultation Report (Doc 4.1) describes those s44 category persons required to be consulted under s42(d) and details the Category 1 persons within Table 11.2. Paragraph 11.4.5 and 11.4.6 of the Consultation Report confirms that no parties fell within Category 1 or 4.</p> <p>Paragraphs 11.4.1 to 11.4.6 of the Consultation Report (Doc 4.1) summarise how the Applicant made diligent inquiry to seek to identify and consult persons with an interest in lands. The persons consulted under s42(1)(d) are listed at Appendix 2.2 of the Consultation Report (Doc 4.1 – Part 1).</p> <p>Appendix 2.2. provides all s42 persons consulted in 2018. Section 17.1 of the Consultation Report outlines the Applicant’s approach to s42 consultation undertaken in 2019, where paragraph of 17.1.1 confirms that <i>“The S42 consultation was undertaken in the same manner as the 2018 S42 consultation. Prior to the consultation, the contact details of all S42 consultees were checked and there had been no changes to the list of the prescribed bodies. There were also no changes to the persons within category S44.”</i></p> <p>Appendix 2.2. of the Consultation Report reflects all s42 persons consulted in both 2018 and 2019.</p>

⁸ 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: persons who would or might be entitled to make a relevant claim. There is no requirement on the Planning Inspectorate to check the accuracy of the list(s) provided or whether the Applicant has made diligent inquiry

A sample of the letter sent to s42(1)(b) relevant authorities is provided at **Appendix 15** of the **Consultation Report (Doc 4.1 – Part 2)**.

Section 45: Timetable for s42 consultation

11	<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>A sample of the letter sent to s42 consultees is provided at Appendix 15 of the Consultation Report (Doc 4.1 – Part 2).</p> <p>Section 17.5 of the Consultation Report (Doc 4.1) provides an outline of the Applicants s42 consultation process. Paragraph 17.5.1 states:</p> <p><i>“The letter provided a deadline for responses of 5pm on the Wednesday 28th August 2019, by email or by post. That deadline provided a 28 day deadline from Thursday 1st August 2019, starting with the day after the day on which S42 consultees received their packs. The deadline set ensured that the minimum 28 day consultation period was provided.”</i></p> <p>The sample letter provided at Appendix 15 (Doc 4.1 – Part 2) doesn't confirm the date the letter was issued to s42 consultees, however following a request for all responses from the Applicant under Regulation 5 (5) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, it was noted that s42 consultees confirmed that this letter was dated 29 July 2019, which was before the date consultation began on 1 August 2019 and closed on 28 August 2019, providing the required minimum time for receipt of responses.</p>
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Section 46: Duty to notify the Planning Inspectorate of proposed application

12	<p>Did the Applicant supply information to notify the Planning Inspectorate of the proposed application; and if so was the information supplied to the Planning Inspectorate 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>The Applicant gave notice under s46 on 3 December 2018, which was before 4 December 2018 when s42 consultation commenced.</p> <p>A copy of this s46 notification is provided at Appendix 4 of the Consultation Report (Doc 4.1 - Part 1).</p> <p>A further s46 notice was supplied to the Planning Inspectorate on 31 July 2019, which was received on the day s42 consultation commenced.</p> <p>A copy of this s46 notification is provided at Appendix 17 of the Consultation Report (Doc 4.1 - Part 2).</p>
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Section 47: Duty to consult local community

13	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>Yes</p> <p>A copy of the final SoCC as prepared for the statutory consultation undertaken between December 2018 and January 2019 is provided at Appendix 7 of the Consultation Report (Doc 4.1 - Part 1).</p> <p>Section 19 of the Consultation Report (Doc 4.1) provides an outline of the Applicant's approach to s47 consultation undertaken in 2019 and how they intended to consult people living in the vicinity of the land as per the SoCC.</p> <p>Paragraph 19.1.1 of the Consultation Report states:</p> <p><i>The 2018 consultation was undertaken in accordance with the Statement of Community Consultation. However, given the low attendance at the three public exhibitions and the low interest shown by the public, as demonstrated by the small number of responses to the questionnaire and comments overall, a proportionate re-consultation was undertaken in 2019 alongside the 2019 S42 consultation and S48 publicity. That proportionate response was discussed with both Kent County Council and Swale Borough Council.</i></p> <p>Under Regulation 5(5) of the APFP, the Planning Inspectorate received all responses from the Applicant regarding their Consultation. Evidence has been provided via these responses to reflect the correspondence and agreement between the Applicant, Swale Borough Council (SBC) and Kent County Council (KCC) on this "proportionate re-consultation" approach.</p> <p>It should also be noted that Box 5 above confirms that SBC and KCC considered the Applicant's consultation to be adequate. This is reflected in their Adequacy of Consultation Responses, which are available to view on the National Infrastructure Planning website.</p>
14	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>Yes</p> <p>The Applicant sent the draft SoCC to Swale Borough Council ('B Authority') and Kent County Council ('C' Authority) on 12 September 2018 and set a deadline of 10 October 2018 for responses; providing the required minimum time for responses to be received. Responses to the Draft SoCC can be found at Appendix 6 of the Consultation Report (Doc 4.1)</p>
15	Has the Applicant had regard to any responses	<p>Yes</p>

	received when preparing the SoCC?	<p>Appendix 6 of the Consultation Report (Doc 4.1 – Part 1) provides the consultation correspondence from Kent County Council (KCC) and Swale Borough Council (SBC) in respect of the draft SoCC, and also demonstrates how the Applicant had regard to SBC's and KCC's responses.</p> <p>Section 13.4 of the Consultation Report (Doc 4.1) provides an outline of regard had by the Applicant to responses received when preparing the SoCC.</p> <p>Paragraph 13.4.4 of the Consultation Report provides a summary of responses received from KCC and how the Applicant had regard thereto when finalising the SoCC.</p> <p>The Planning Inspectorate is satisfied that the Applicant had regard to the responses received when preparing the SoCC.</p> <p>It should be noted as per Box 13 above, that under Regulation 5(5) of the APFP, the Planning Inspectorate received all responses from the Applicant regarding their Consultation, which included responses received from SBC and KCC on the Applicant's SoCC. Evidence has been provided via these responses to reflect the correspondence and agreement between the Applicant, SBC and KCC on the SoCC.</p> <p>Box 5 above confirms that SBC and KCC considered the Applicant's consultation to be adequate. This is reflected in their Adequacy of Consultation Responses.</p>
16	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>Yes</p> <p>The final SoCC was made available at the following locations, which is reasonably convenient having regard to the location of the Proposed Development:</p> <ul style="list-style-type: none"> • Swale Borough Council Office • Kent County Council Office • Sittingbourne Library <p>A notice stating when and where the final SoCC could be inspected was published in:</p> <ul style="list-style-type: none"> • Sittingbourne News Extra • Sheerness Times and Guardian • Medway Messenger <p>The published SoCC notice, provided at Appendix 7 of the Consultation Report (Doc 4.1 – Part 1) states where and when the final SoCC was available to inspect.</p> <p>Clippings of the published advertisements are provided at Appendix 10 of the</p>

		Consultation Report (Doc 4.1 – Part 2).
17	Does the SoCC set out whether the development is EIA development ⁹ ; and does it set out how the Applicant intends to publicise and consult on the Preliminary Environmental Information?	<p>Yes</p> <p>Paragraphs 2.1.4 - 2.1.7 of the final SoCC at Appendix 7 of the Consultation Report (Doc 4.1 – Part 1) sets out that the development is EIA development and sets out how the Applicant intended to publicise and consult on the Preliminary Environmental Information.</p>
18	Has the Applicant carried out the consultation in accordance with the SoCC?	<p>Yes</p> <p>Section 13.6 and Table 13.1 of the Consultation Report (Doc 4.1) sets out how the Applicant complied with various aspects of the final SoCC.</p> <p>Section 14 of the Consultation Report set out how the community consultation for 2018 was carried out in line with the final SoCC.</p> <p>The Planning Inspectorate is satisfied that the Applicant has carried out the consultation in line with the final SoCC and that the proportionate approach to re-consultation was agreed between the relevant Local Authorities, this has been noted in Box 13 and 15 above, following receipt of responses received from the Applicant under Regulation 5(5) of the APFP.</p> <p>Evidence has been provided via these responses to reflect the agreement between the Applicant, SBC and KCC on the SoCC, whilst Section 19 of the Consultation Report explains the approach taken to consultation under s47.</p>
Section 48: Duty to publicise the proposed application		
19	Did the Applicant publicise the proposed application in the prescribed manner set out in Regulation 4(2) of the APFP Regulations?	<p>Yes</p> <p>Paragraph 20.2.2 of the Consultation Report (Doc 4.1) reflects the published notices as prescribed under Regulation 4(2) of the APFP Regulations.</p> <p>Table 1.1 of the Consultation Report (Doc 4.1) provides a summary timeline of the key stages and outcomes within the 2018 and 2019 consultation process. This table displays the newspapers and dates of s48 publicity as set out below.</p> <p>A copy of the published s48 notices is provided at Appendix 20 of the Consultation Report (Doc 4.1 - Part 2).</p>

⁹ Regulation 12 of the 2017 EIA Regulations, or where Regulation 37 of the 2017 EIA Regulations applies, Regulation 10 of the 2009 EIA Regulations

		Newspaper(s)	Date
a)	for at least two successive weeks in one or more local newspapers circulating in the vicinity in which the Proposed Development would be situated;	Medway Messenger	29 July, 5 and 12 August 2019
		Sittingbourne News Extra	24 and 31 July 2019
		Sheerness Times Guardian	
b)	once in a national newspaper;	Telegraph	31 July 2019
c)	once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and	London Gazette	30 July (online) & 31 July 2019
d)	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?	Yes The published s48 notice, supplied at Appendix 20 of the Consultation Report (Doc 4.1 – Part 2) , contains the required information as set out below:	

Information		Paragraph	Information		Paragraph
a)	the name and address of the Applicant.	1	b)	a statement that the Applicant intends to make an application for development consent to the Secretary of State	1
c)	a statement as to whether the application is EIA development	14	d)	a summary of the main proposals, specifying the location or route of the Proposed Development	4-8 and 11-12
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	15 and 16	f)	the latest date on which those documents, plans and maps will be available for inspection	16

	out in the notice			
g)	whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge	17 and 18	h)	details of how to respond to the publicity
i)	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	21		
21	<p>Are there any observations in respect of the s48 notice provided above?</p> <p>Yes</p> <p>Paragraph 20.2.6 of the Consultation Report (Doc 4.1) states:</p> <p><i>“...that the notice published in the Medway Messenger on the 5th August 2019 did not provide the minimum of 28 days from the date of the last notice published in which responses to the proposed application could be received by the application, as set out in Regulation 4(2)(i) of the Prescribed Forms and Procedure Regulations 2009, as it stated the same date of the 28th August 2019 as stated in the other S48 notices.”</i></p> <p>Paragraph 20.2.7 of the Consultation Report (Doc 4.1) states:</p> <p><i>“Therefore, the applicant published an additional S48 notice (included in Appendix 20) in the Medway Messenger on Monday 12th August 2019 with a deadline to submit responses of Monday 9th September 2019. Therefore, those that saw the notice in Medway Messenger had the minimum of 28 days in which to provide comments as part of the section 48 notice.”</i></p> <p>Furthermore Paragraph 20.2.8 of the Consultation Report (Doc 4.1) states:</p> <p><i>“The applicant updated the project website to reflect the fact that any comments could be made until the later S48 notice deadline of the 9th September and agreed extensions with a number of S42 parties as necessary to provide them with sufficient flexibility to provide a response”</i></p> <p>Regardless of this oversight it is noted that the minimum of 28 days to provide comments to this consultation was provided.</p>			
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 ¹⁰ ?	<p>Yes</p> <p>A copy of the s48 notice was sent to the EIA consultation bodies as part of the s42 consultation, as confirmed in paragraph 17.4.1 of the Consultation Report (Doc 4.1).</p> <p>A sample of the s42 consultation letter provided at Appendix 15 of the Consultation Report (Doc 4.1 – Part 2) confirms a copy of the s48 notice was enclosed.</p>		

¹⁰ Regulation 13 of the 2017 EIA Regulations, or where Regulation 37 of the 2017 EIA Regulations applies, Regulation 11 of the 2009 EIA Regulations

s49: Duty to take account of responses to consultation and publicity

23 Has the Applicant had regard to any relevant responses to the s42, s47 and s48 consultation?

Yes

S42 responses to Consultation undertaken in 2018

Section 11.7 to 11.11 of the **Consultation Report (Doc 4.1)** sets out the responses received from s42 consultees during consultation undertaken in 2018 and where necessary/appropriate whether the Applicant had regard thereof.

S42 responses to Consultation undertaken July 2019

Section 17.6 to 17.10 of the **Consultation Report** sets out how the Applicant had regard to the consultation responses received.

Tables 17.1, 17.2 and 17.3 of the Consultation Report summarises responses and where necessary/appropriate resulted in changes to the scheme.

Section 47 responses to Consultation undertaken in 2018

Chapter 15 of the **Consultation Report (Doc 4.1)** provides a summary of the responses received from s42 consultees during consultation undertaken in 2018 and sets out the Applicant's response thereto.

Paragraph 15.19.3 of the Consultation Report illustrates that the Applicant had regard to s47 responses, as it states:

"The key environmental concerns raised by those comments which were received addressed traffic, air quality/emissions, noise and vibration and climate change. It was clear that respondents wanted to ensure there was sufficient monitoring and management of these impacts and the proposed mitigation. Those matters are being addressed within the application through the Environmental Statement."

S47 responses to Consultation undertaken July 2019

Paragraph 19.2.1 of the Consultation Report illustrates that the Applicant had regard to s47 responses, as it states:

"In response to the applicant writing to those member of the local community who had engaged previously in the 2018 consultation, one email response was received. The nature of the comments related to highways issues and the capacity of the Grovehurst Roundabout and emissions. The applicant provided a comprehensive response addressing the issues raised and where the relevant information could be found."

Section 48 responses to Consultation undertaken in 2018

		<p>Paragraph 16.3.1 of the Consultation Report states:</p> <p><i>“The S48 publicity was undertaken over a similar period to that of the S47 and S42 consultation. All responses received were in reference to either the S47 publication or consultation events or the S42 consultation. No other responses were received from any other parties as a direct result of S48 publicity.”</i></p> <p><u>S48 responses to Consultation undertaken July 2019</u></p> <p>Paragraph 20.3.1 of the Consultation Report states:</p> <p><i>“Only one response was received as a result of the S48 publicity. The nature of the comments related to access to the documents, inclusion in the list for future correspondence and confirmation of the application process. The applicant provided a comprehensive response by addressing the issues raised, adding the respondent to the contact list and advising where the relevant information could be found.”</i></p> <p>The actions informed by the consultation responses appear to be reflected in the final form of the application as submitted. Where a particular 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 statutory guidance ‘Planning Act 2008: Guidance on the pre-application process’ ¹¹ ?	<p>Section 8 (Consultation Guidance) of the Consultation Report (Doc 4.1) depicts how the Applicant has considered guidance on the pre-application process, when undertaking their preapplication duties.</p> <p>Paragraph 8.1.1 of the Consultation Report states:</p> <p><i>“The applicant has had regard to the MHCLG ‘Planning Act 2008: Guidance on the pre-application process’ [‘The Guidance’] when formulating their consultation strategy”.</i></p> <p>Having reviewed the application, the Planning Inspectorate is satisfied that the Applicant has identified and had regard to the relevant statutory guidance.</p>
25	Summary: Section 55(3)(e)	<p>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> <p>In respect of the minor consultation discrepancies identified, s51 advice has been provided to the Applicant to this regard and available here: http://infrastructure.planninginspectorate.gov.uk/document/EN010085-000454</p>

¹¹ The Planning Inspectorate must have regard to the extent to which the Applicant has had regard to guidance issued under s50

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)

26	Is it made in the prescribed form as set out in Schedule 2 of the APFP Regulations, and does it include: <ul style="list-style-type: none"> a brief statement which explains why it falls within the remit of the Planning Inspectorate; 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>Section 4 of the Application Form (Doc 1.3) explains why the development falls within the remit of the Planning Inspectorate.</p> <p>Section 5 of the Application Form provides a brief non-technical description of the site and Section 6 provides the location of the Proposed Development.</p> <p>A Location Plan (Doc 5.1) has been provided.</p>									
27	Is it accompanied by a Consultation Report?	<p>Yes</p> <p>The application is accompanied by a Consultation Report (Doc 4.1) and Appendices, included as Consultation Report - Appendices 1-7 (Doc 4.1 – Part 1) and Consultation Report – Appendices 8-20 (Doc 4.1 – Part 2).</p>									
28	Where a plan comprises three or more separate sheets, has a key plan been provided showing the relationship between the different sheets? ¹²	N/A									
29	Is it accompanied by the documents and information set out in APFP Regulation 5(2)?										
<table border="1"> <thead> <tr> <th>Information</th> <th>Document</th> </tr> </thead> <tbody> <tr> <td>a) Where applicable, the Environmental Statement required under the EIA Regulations¹³ and any scoping or screening opinions or directions</td> <td>An Environmental Statement (ES) has been provided: 2019 ES (Doc 3.1) 2019 ES Non-Technical Summary (Doc 3.2)</td> </tr> </tbody> </table>		Information	Document	a) Where applicable, the Environmental Statement required under the EIA Regulations ¹³ and any scoping or screening opinions or directions	An Environmental Statement (ES) has been provided: 2019 ES (Doc 3.1) 2019 ES Non-Technical Summary (Doc 3.2)	<table border="1"> <thead> <tr> <th>Information</th> <th>Document</th> </tr> </thead> <tbody> <tr> <td>b) The draft Development Consent Order (DCO)</td> <td>draft Development Consent Order (Doc 2.1)</td> </tr> </tbody> </table>		Information	Document	b) The draft Development Consent Order (DCO)	draft Development Consent Order (Doc 2.1)
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Information	Document										
b) The draft Development Consent Order (DCO)	draft Development Consent Order (Doc 2.1)										

¹² Regulation 5(4) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

¹³ The 2017 EIA Regulations, or where Regulation 37 of the 2017 EIA Regulations applies, the 2009 EIA Regulations

		<p>2010 ES (Doc 3.3)</p> <p>2010 ES (Non-Technical Summary) (Doc 3.4)</p> <p>A copy of the Secretary of State's Scoping Opinion issued in October 2018 is provided at ES Appendix 3.2 (Doc 3.1).</p>		
	Is this of a satisfactory standard?	Yes		Is this of a satisfactory standard? Yes (with minor discrepancies as noted in Box 30)
c)	An Explanatory Memorandum explaining the purpose and effect of provisions in the draft DCO	Explanatory Memorandum (Doc 2.2)	d)	Where applicable, a Book of Reference (where the application involves any Compulsory Acquisition) Book of Reference (Doc 2.4)
	Is this of a satisfactory standard?	Yes		Is this of a satisfactory standard? Yes (with minor discrepancies as noted in Box 30)
e)	A copy of any Flood Risk Assessment	<p>A Flood Risk Assessment for K3 is provided in Appendix 10.1 of the 2019 ES (Doc 3.1).</p> <p>A Flood Risk Assessment for WKN is provided in Appendix 10.2 of the 2010 ES (Doc 3.3).</p>	f)	<p>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</p> <p>A Statement of Statutory Nuisance (September 2019 – Submission Version) has been provided (Doc 4.4).</p> <p>It identifies likely statutory nuisances to which the Proposed Development could give rise, where these have been assessed in the ES, and the mitigation measures included in the dDCO to avoid or reduce this effect.</p>
	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 Compulsory Acquisition)	N/A	i)	<p>A Land Plan identifying: -</p> <p>(i) the land required for, or affected by, the Proposed Development;</p> <p>Land Plan (Doc 5.4)</p>

			<ul style="list-style-type: none"> (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 		
	Is this of a satisfactory standard?	N/A	Is this of a satisfactory standard?	Yes (with minor discrepancies as noted in Box 30)	
j)	<p>A Works Plan showing, in relation to existing features:-</p> <ul style="list-style-type: none"> (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 DCO 	<p>K3 Works Plans (Doc 5.5a) WKN Works Plans (Doc 5.5b) WKN Parameter Plan (Doc 5.6) Various – K3 Approved Plan set</p>	k)	<p>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</p>	N/A
	Is this of a satisfactory	Yes (with minor discrepancies as	Is this of a satisfactory	N/A	

standard?	noted in Box 30)	standard?	
<p>l) Where applicable, a plan with accompanying information identifying: -</p> <ul style="list-style-type: none"> (i) any statutory/ non-statutory sites or features of nature conservation eg sites of geological/ landscape importance; (ii) habitats of protected species, important habitats or other diversity features; and (iii) water bodies in a river basin management plan, <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>Plans and accompanying information where applicable are provided as follows:</p> <ul style="list-style-type: none"> (i) Statutory Designations – Ecological Assets: 2019 ES Chapter 2 Figure 2.2b (Doc 3.1) Designated Sites Location Plan: 2019 ES Chapter 11 Figure 11.1 (Doc 3.1) Landscape and relevant designations and National Landscape Character: 2019 ES Chapter 12 Figure 12.3 (Doc 3.1) Nature Conservation Designations Plan 9812-0053-006 (Doc 5.11) (ii) Location of Schedule 1 breeding bird territories in 2018: 2019 ES Chapter 11 Appendix 11.1 Figure 3.1 (Doc 3.1) Protected species distribution: 2019 ES Chapter 11 Figure 11.2 (Doc 3.1) Phase I habitat survey map: 2019 ES Chapter 11 Figure 11.3 (Doc 3.1) Habitats Plan 9812-0054-010 (Doc 5.12) (iii) Water Bodies Plan 9812-0055-005 (Doc 5.13) 	<p>m) Where applicable, a plan with accompanying information identifying any statutory/ non-statutory sites or features of the historic environment, (eg scheduled monuments, World Heritage sites, listed buildings, archaeological sites 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>Plans identifying statutory/non statutory sites or features of the historic environment are provided as follows:</p> <p>Statutory Designations Heritage Assets: 2019 ES Chapter 2 Figure 2.2a (Doc 3.1)</p> <p>Site Location Plan: 2019 ES Chapter 13 Figure 13.1 (Doc 3.1)</p> <p>HER Data Plot: 2019 ES Chapter 13 Figure 13.2 (Doc 3.1)</p> <p>HEA Data Plot: 2019 ES Chapter 13 Figure 13.3 (Doc 3.1)</p> <p>Designated Heritage Assets: 2019 ES Chapter 13 Appendix 13.1 Figure 2 (Doc 3.1)</p> <p>An assessment of effects on such sites, features, habitats and bodies is provided in 2019 ES Chapter 13 and accompanying appendix (Doc 3.1); and 2010 ES Chapter 13 and accompanying appendices (Doc 3.3)</p>

		(iv) An assessment of effects on such sites, features, habitats and bodies is provided in 2019 ES Chapters 10, 11 and 12 and accompanying appendices (Doc 3.1) ; and 2010 ES Chapters 8, 9 and 10 and accompanying appendices, and Chapter 10 Addendum (Doc 3.3)		
	Is this of a satisfactory standard?	Yes		Yes
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?	N/A		Application Guide (Doc 1.2) Planning Statement (Doc 4.2) Project K3 Approved Plan
	Is this of a satisfactory standard?	N/A		Yes (with minor discrepancies as noted in Box 30)
p)	Any of the documents prescribed by Regulation 6 of the APFP Regulations:	Regulation 6 Grid Connection Statement (Doc 4.5)	q)	Any other documents considered necessary to support the application
				Application Guide (Doc 1.2) Planning Statement (Doc 4.2) Design and Access Statement (Doc 4.3) Fuel Availability and Waste Hierarchy Study (Doc 4.6) CHP Assessment (Doc 4.7)

				K3 Rail and Water Transportation Strategy (Doc 4.8) WKN Rail and Water Transportation Strategy (Doc 4.9)
	Are they of a satisfactory standard?	Yes		Are they of a satisfactory standard?
				Yes
30	Are there any observations in respect of the documents provided above?			
	<p>Draft Development Consent Order (Doc 2.1)</p> <p>Part 1, Article 2(2) states: <i>References in this Order to rights over land include references to rights to do or restrain or to place and maintain, anything in, on or under land or in the air-space above its surface.</i></p> <p>The Applicant's Application Guide (Doc 1.1) and Application Form (Doc 1.3), both confirm that there are no rights over land required for this proposed development, which is reflected within the Land Plan. The Planning Inspectorate is of the view that there are no rights over land required as confirmed in Box 13 of the Application form and therefore consideration regarding this matter should either be reflected by updating the draft DCO or Land Plan (if required).</p> <p>Upon review of the draft DCO, Article 16, Certification of Plans, outlines all plans to be certified by the relevant Secretary of State. It is noted that all documents and/or plans have blank references/dates associated thereto and therefore it is unclear by way of example to conclude what Works Plans are to be certified e.g. WKN Works Plan (Doc 5.5b) dated September 2019 [Document Reference 9812-0060-006].</p> <p>Book of Reference (Doc 2.4)</p> <p>The Book of Reference (BoR) as submitted provides description of Land which must be read in conjunction with the submitted Land Plan (Doc 5.4), however as noted below, the Land Plan does not depict any landmarks, or those descriptions provided within the BoR. The Land Plan and BoR should be consistent and accurate in its description of Land.</p> <p>Annex D, paragraph 7 of Guidance related to procedures for the compulsory acquisition of land states:</p> <p><i>The descriptions of each plot of land included in parts 1-5 of the book of reference where it is intended that all or part of the proposed development and works shall be carried out, should include the area in square metres of each plot.</i></p> <p>Upon review of the Applicants BoR it is noted that Part 1 provides detailed description of Land parcels, whilst Part 2-5 of the BoR cross-refers to those Land parcels reflected in Part 1. The Applicant should consider guidance issued on these matters.</p> <p>Annex D, paragraph 9 of Guidance related to procedures for the compulsory acquisition of land states:</p> <p><i>'Dashes' or other ambiguous descriptions should be avoided.</i></p> <p>Upon review of the Applicant's BoR it is noted that many columns throughout Parts 1-5 have 'dashes', the Applicant should consider guidance issued on this matter.</p>			

Land Plan (Doc 5.4)

Upon review of the Land Plan we have identified no 'Key' visible within the Legend to illustrate and confirm that the numbers reflected on the Plan are land parcels/plots. This is particularly unclear as these assumed "plots" are associated to the Applicant's BoR, which makes specific reference to the description of individual land parcels/plots. The descriptions as detailed within the BoR e.g. Plot 1 is described as "...Approximately 45 square metres of land...situated south east of Barge Way..." this particular land mark is not reflected on the Land Plan as submitted. The Land Plan and BoR should be consistent and accurate in its description of Land.

Works Plans (Doc 5.5a, 5.5b and 5.6) and K3 Approved Plan set

The Applicant has set out within their **Application Form** at **Box 12** those plans which qualify as the Works Plans. Schedule 3 of the draft DCO illustrates K3 Generating Station approved plans and documents, however it is unclear what the "K3 Approved Plan set" is, as the list detailed within Schedule 3 references numerous documents and plans, which include the 'Proposed Level Site Plan', which PINS is of the view is not a Works Plan.

Furthermore, **K3 Works Plan (Doc 5.5a)** refers to Works 1C and 1E, whilst **WKN Works Plans (Doc 5.5b)** refers to Works 4 and 7, these particular Works appear to reflect the same Works and therefore the Planning Inspectorate is of the view that these Works should be reflected as a single Works rather than duplications.

Any other Plans under Reg 5(2)(o)

The Applicant has referenced **Project K3 Approved Plan** within the **Application Form**, however for consistency and accuracy it would be beneficial if the Applicant could confirm exactly which "approved plans" the Applicant is referencing as per those documents listed under Schedule 3 of the **draft DCO**.

Section 51 advice has been issued to the Applicant in respect of the above matters:

<http://infrastructure.planninginspectorate.gov.uk/document/EN010085-000454>

Note:

APFP Regulation 5(2)(a) - Accompanying the Environmental Statement dated 2019 (the 2019 ES) (**Doc 3.1**) is an Environmental Statement dated March 2010 (the 2010 ES) (**Doc 3.3**) which was submitted previously in support of another planning application on the same development site. Although this is provided as a separate document to the Applicant's 2019 ES rather than as an Appendix, it is referred to in the 2019 ES and is relevant to the assessment of likely significant effects. Accordingly, the 2019 ES and 2010 ES together comprise the ES for this DCO application. The other planning application to which the 2010 ES relates was made under the Town and Country Planning Act for the K3 generating station with an operating capacity of 49.9 megawatts (MW) and being capable of processing 550,000 tonnes of waste per annum.

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	Yes A Habitats Regulations Assessment (HRA) Report has been provided at Appendix 11.2 of the Environmental Statement (Doc 3.1) . The HRA 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.
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	implications for the site if required by Regulation 48(1)? ¹⁴	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 Planning Inspectorate, two paper copies of the application form and other supporting documents and plans ¹⁵	N/A
33	Has the Applicant had regard to statutory guidance 'Planning Act 2008: Application form guidance', and has this regard led to the application being prepared to a standard that the Planning Inspectorate considers satisfactory?	Yes Chapter 7 and 8 of the Consultation Report (Doc 4.1) shows how the Applicant has considered all relevant statutory and other guidance, when undertaking their pre-application duties. The Planning Inspectorate is satisfied that the Applicant has demonstrated regard to the guidance principles.
34	Summary - s55(3)(f) and s55(5A)	The Planning Inspectorate considers that the submitted application generally accords with the requirements of s55(3)(f) having regard to s55(5)(a) and concludes that the application is of a satisfactory standard. In respect of the discrepancies identified in Box 30 of this checklist, to help facilitate an efficient and effective examination of the application s51 advice has been provided to the Applicant in conjunction with the decision to accept the application. That advice is published on the National Infrastructure Planning website, here: http://infrastructure.planninginspectorate.gov.uk/document/EN010085-000454
The Infrastructure Planning (Fees) Regulations 2010 (as amended)		
Fees to accompany an application		
35	Was the fee paid at the same time that the application was made ¹⁶ ?	The fee was received on 3 September 2019 ; before the application was made.

¹⁴ Regulation 5(2)(g) of the APFP Regulations

¹⁵ Regulation 5(2)(r) of the APFP Regulations

¹⁶ The Planning Inspectorate must charge the Applicant a fee in respect of the decision by the Planning Inspectorate under section 55 of the PA2008. If the Applicant fails to pay the fee, the Planning Inspectorate need not consider the application until payment is received. The fee must be paid at the same time that the application is made

Role	Electronic signature	Date
Case Manager	<i>Emré Williams</i>	8 October 2019
Acceptance Inspector	<i>Grahame Kean</i>	8 October 2019

