

# 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

### Section 55 Application Checklist<sup>1</sup>

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
		<b>06 April 2018</b>	<b>04 May 2018</b>	<b>26 April 2018</b>
Section 55(3) – the Secretary of State may <u>only</u> accept an application if the Secretary of State concludes that:-		Planning Inspectorate Comments		
<b>s55(3)(a) and s55(3)(c) It is an application for an order granting development consent</b>				
2	<p>Is the development a nationally significant infrastructure project<sup>2</sup> (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<sup>3</sup> (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><b>Yes</b></p> <p>The proposed development set out in <b>Schedule 1</b> of the <b>draft Development Consent Order (dDCO) (Doc 2.1)</b> is a Nationally Significant Infrastructure Project (NSIP), which is a development falling within the categories in ss14 and 15 of the Planning Act 2008 (PA2008).</p> <p>This is consistent with the summary provided in the <b>Application Form (Doc 1.3)</b> in <b>Box 4</b> which concludes that the application is for a NSIP, stating:</p> <p><i>“The proposed development comprises an onshore generating station within England with a capacity of more than 50 megawatts and is therefore a 'national infrastructure project' as defined by Section 14(1) and 15(2) of the Planning Act 2008...”</i></p>		

<sup>1</sup> 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

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

<sup>3</sup> 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?	
<b>3</b>	<b>Summary – s55(3)(a) and s55(3)(c)</b>	<b>Box 4</b> of the <b>Application Form (Doc 1.3)</b> confirms that the Applicant has demonstrated that the application as submitted is an application for an order granting development consent under the PA2008.
<b>s55(3)(e) The applicant in relation to the application made has complied with Chapter 2 of Part 5 (pre-application procedure)</b>		
4	In accordance with the EIA Regulations <sup>4</sup> , 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?	(a) <b>No</b> , the Applicant did (not) request a screening opinion in respect of the development  (b) <b>Yes</b> , on 17 August 2017, before the start of s42 consultation on 27 January 2018.  The <b>Scoping Opinion (Doc 3.1; Appendix 3.2)</b> at <b>paragraph 1.1.4</b> confirms:  <i>“...the Applicant is deemed to have notified the SoS under Regulation 8(1)(b) of the EIA Regulations that they propose to provide an environmental Statement (ES) in respect of the Proposed Development. Therefore, in accordance with Regulation 6(2)(a) of the EIA Regulations, the Proposed Development is determined to be EIA development.”</i>
5	Have any adequacy of consultation representations <sup>5</sup> 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?	<b>Yes.</b>  There are 11 host and neighbouring authorities, of which 9 provided Adequacy of Consultation Representations (AoCR) confirming either that the Applicant had complied with their duties under s42, s47 and s48 of the PA2008 and/ or that they had “no comments”, these were:  <b>Host (B) Authorities</b> <ul style="list-style-type: none"> <li>• Swale Borough Council (SBC)</li> <li>• Kent County Council (KCC)</li> </ul> <b>Neighbouring (“A, D”) Authorities</b> <ul style="list-style-type: none"> <li>• Ashford Borough Council (ABC)</li> </ul>

<sup>4</sup> 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).

<sup>5</sup> 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"> <li>• Canterbury City Council (CCC)</li> <li>• Maidstone District Council (MDC)</li> <li>• Medway Council (MC)</li> <li>• London Borough of Bexley (LBBx)</li> <li>• London Borough of Bromley (LBBr)</li> <li>• Surrey County Council (SCC)</li> </ul> <p>Responses were invited but were not received from the following authorities:</p> <p><b>Neighbouring (“A, D”) Authorities</b></p> <ul style="list-style-type: none"> <li>• East Essex County Council (EECC)</li> <li>• Thurrock Council (TC)</li> </ul> <p>These AoCRs have been carefully considered and are available to view on the project page <a href="#">Kemsley Paper Mill (K4) CHP Plant</a> of the National Infrastructure Planning website. There were no concerns raised by the Local Authorities.</p>
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**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 <sup>6</sup> ?	<p><b>Yes</b></p> <p>The Applicant has provided a list of persons consulted under s42(1)(a) in <b>Appendix 1 (Doc 5.1)</b> of the Consultation Report.</p> <p>The Planning Inspectorate has identified the following parties based on a precautionary interpretation of the regulations that have not been consulted by the applicant under s42:</p> <ul style="list-style-type: none"> <li>• Network Rail Infrastructure Ltd</li> <li>• Energy Assets Network Limited</li> <li>• Energy Assets Power Networks</li> <li>• Fulcrum Electricity Assets Limited</li> <li>• Murphy Power Distribution Limited</li> </ul>

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

		<ul style="list-style-type: none"> <li>• Vattenfall Networks Limited</li> </ul> <p>Although National Grid Electricity Transmission Plc (NGET) is not identified in the Applicant's list of consultees provided at <b>Appendix 1</b>, a response dated 2 March 2018 from National Grid (on behalf of NGET and National Grid Gas Plc (NGG)) is provided at <b>Appendix 3</b> and therefore confirms that NGET had been consulted.</p> <p>The Applicant's <b>Consultation Report (Doc 5.1)</b> does not give a clear explanation as to why the bodies identified above have not been consulted. It is noted that the licences held by Energy Assets Networks Limited (EANL); Energy Assets Power Networks (EAPN); Fulcrum Electricity Assets Limited; Murphy Power Distribution Limited and Vattenfall Networks Limited all cover Great Britain. The operational areas of these bodies however are not clear from information in the public domain.</p> <p>The Applicant has also consulted a number of additional parties not on the Planning Inspectorate's (PINS) list.</p> <p>Given the individual circumstances of this case, and taking a precautionary approach to ensure that all persons potentially affected by, or potentially likely to have an interest in, the application are given the opportunity to participate fully in the examination of the application, PINS suggests that the Applicant may wish to include the above bodies amongst those on whom they serve notice of the accepted application under s56(2)(a) of PA2008 unless there is a specific justification why this is not necessary.</p> <p><a href="#">S51 advice</a> has been issued regarding this matter.</p>
7	s42(1)(aa) the Marine Management Organisation <sup>7</sup> ?	<p><b>Yes</b></p> <p>The Applicant has consulted the Marine Management Organisation (MMO) as detailed in <b>Appendix 1</b> (s42 Consultee list) and <b>Appendix 3</b> of the <b>Consultation Report (Doc 5.1)</b>, the latter includes a response to the Applicant's s42 consultation from the MMO dated 22 February 2018.</p>
8	s42(1)(b) each local authority within s43 <sup>8</sup> ?	<p><b>Yes</b></p>

<sup>7</sup> 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

		<p>The Applicant has consulted each local authority within s43 as described in <b>Section 10.3</b> and confirmed in <b>Appendix 1</b> of the <b>Consultation Report (Doc 5.1)</b>. These are:</p> <p><b>Host (B) Authorities</b></p> <ul style="list-style-type: none"> <li>• Swale Borough Council (SBC)</li> <li>• Kent County Council (KCC)</li> </ul> <p><b>Neighbouring (“A, D”) Authorities</b></p> <ul style="list-style-type: none"> <li>• Ashford Borough Council (ABC)</li> <li>• Canterbury City Council (CCC)</li> <li>• East Essex County Council (EECC)</li> <li>• London Borough of Bexley (LBBx)</li> <li>• London Borough of Bromley (LBBr)</li> <li>• Maidstone District Council (MDC)</li> <li>• Medway Council (MC)</li> <li>• Surrey County Council (SCC)</li> <li>• Thurrock Council (TC)</li> </ul>
9	s42(1)(c) the Greater London Authority (if in Greater London area)?	<b>Not applicable</b>
10	s42(1)(d) each person in one or more of s44 categories <sup>9</sup> ?	<p><b>Yes</b></p> <p>The Applicant has consulted each person in one or more s44 categories as described in <b>Section 10.4</b> of the <b>Consultation Report (Doc 5.1)</b>.</p> <p><b>Paragraphs 10.4.1 – 10.4.3</b> confirms that four Category 1 persons were identified by the Applicant following diligent inquiries, whilst <b>paragraphs 10.4.4 and 10.4.5</b> confirms that there are no Category 2 or 3 persons.</p> <p>Although Category 1 persons have been identified, a Book of Reference is only</p>

<sup>8</sup> 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

<sup>9</sup> 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

		required by APFP Regulation 7 in respect of any land which it is proposed shall be subject to powers of compulsory acquisition or other specified rights. No such rights appear to be proposed - see Comments on Regulation 5(2)(d) in <b>Box 30</b> below.
<b>s45: Timetable for s42 Consultation</b>		
11	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><b>Yes</b></p> <p><b>Paragraph 10.6.1</b> of the Consultation Report states:</p> <p><i>“The letter provided a deadline for responses of 5pm on the 2nd March 2018, by email or by post. That deadline provides a 35 day deadline from Friday 26th January 2018, 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, even if there were to be some delay in a consultation body receiving the S42 pack.”</i></p> <p>The s42 notification letter dated 22 January 2018 (sent 24 January 2018) at <b>Appendix 2 (Doc 5.1)</b> of the <b>Consultation Report</b> confirms the above statement.</p>
<b>s46: Duty to notify Secretary of State of proposed application</b>		
12	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><b>Yes</b></p> <p>The Applicant gave notice under s46 on 23 January 2018 which was before the beginning of s42 consultation.</p> <p>A copy of the letter dated 23 January 2018 from the Applicant confirming consultation documents sent to the Secretary of State and PINS acknowledgement letter of the s46 notification dated 5 February 2018 is included in <b>Appendix 4 (Doc 5.1)</b>.</p>
<b>s47: Duty to consult local community</b>		
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><b>Yes</b></p> <p>The Applicant produced a Statement of Community Consultation (SoCC) which is provided in <b>Appendix 7 (Doc 5.1)</b> of the Consultation Report.</p>
14	Were “B” and (where relevant) “C” authorities	<p><b>Yes</b></p>



	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><b>Section 12.2 to 12.4 of the Consultation Report (Doc 5.1)</b> outlines the Applicant’s approach to developing the draft SoCC with relevant Local Authorities.</p> <p><b>Paragraph 12.4.2</b> of the Consultation Report confirms that the Applicant sent the draft SoCC and the Community Consultation Strategy, which explains the approach and methodology taken within the draft SoCC to SBC (‘B Authority’) and KCC (‘B Authority’) on 5 October 2017 and set a deadline of 2 November 2017 for responses, which was more than the required 28 day period.</p> <p><b>Appendix 6 (Doc 5.1)</b> of the Consultation Report, provides email correspondence confirming that the Applicant issued the draft SoCC on 5 October 2017 and confirmation from both SBC and KCC that they had received the draft SoCC.</p>
15	Has the applicant had regard to any responses received when preparing the SoCC?	<p><b>Yes</b></p> <p><b>Appendix 6 (Doc 5.1)</b> of the <b>Consultation Report</b>, provides responses from both SBC and KCC on the Applicants draft SoCC.</p> <p><b>Paragraph 12.4.3</b> of the Consultation Report, confirms that SBC raised no issues on the proposed draft SoCC, whilst <b>Paragraph 12.4.4</b> outlines how the Applicant had regard to responses received from KCC prior to finalising the SoCC.</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><b>Yes</b></p> <p><b>Section 12.5 (Doc 5.1)</b> of the <b>Consultation Report</b> confirms that the SoCC was made available at DS Smith Mill Office, SBC Office and the Sittingbourne Library, which is reasonably convenient having regard to the location of the scheme. Notices stating when and where the final SoCC could be inspected were published on the 8<sup>th</sup> and 15<sup>th</sup> November 2017 in the:</p> <ul style="list-style-type: none"> <li>• Sittingbourne News Extra; and</li> <li>• Sheerness Times Guardian.</li> </ul> <p><b>Appendix 10</b> of the Consultation Report includes a copy of the notices as advertised in the abovementioned newspapers.</p>

17	Does the SoCC set out whether the development is EIA development <sup>10</sup> ; and does it set out how the applicant intends to publicise and consult on the preliminary environmental information?	<p><b>Yes</b></p> <p>The SoCC at <b>Appendix 7 (Doc 5.1)</b> of the Consultation Report sets out in <b>Section 3.2</b> (Environmental Impact Assessment) that the scheme is EIA development and how the Applicant proposes to consult on the preliminary environmental information.</p>	
18	Has the applicant carried out the consultation in accordance with the SoCC?	<p><b>Yes</b></p> <p>The Applicant has set out in <b>Section 12.6</b> and <b>Table 12.1</b> (Compliance with SoCC) of the <b>Consultation Report (Doc 5.1)</b> the activities that have been carried out and how the commitments in the SoCC have been met.</p> <p>SBC has confirmed in their AoCR that the Applicant had complied with their duties under s47 of the PA2008.</p>	
<b>s48: Duty to publicise the proposed application</b>			
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><b>Yes</b></p> <p>The Applicant has described the newspapers and dates of s48 publicity in <b>Chapter 15</b> of the <b>Consultation Report (Doc 5.1)</b>, as set out below:</p>	
		<b>Newspaper(s)</b>	<b>Date</b>
for at least two successive weeks in one or more local newspapers circulating in the vicinity in which the proposed development would be situated;		<ul style="list-style-type: none"> <li>• Sittingbourne News Extra</li> <li>• Sheerness Times Guardian</li> </ul>	24 January 2018 and 31 January 2018
once in a national newspaper;		<ul style="list-style-type: none"> <li>• The Telegraph</li> </ul>	30 January 2018
once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and		<ul style="list-style-type: none"> <li>• The London Gazette</li> </ul>	Online 30 January 2018 and in paper 31

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

					January 2018
	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?	<b>Yes</b> Copies of the published s48 notice (as detailed in <b>Box 19</b> , above) are supplied in <b>Appendix 14</b> of the <b>Consultation Statement (Doc 5.1)</b> and contains the required information as set out below:			
	<b>Information</b>	<b>Paragraph</b>		<b>Information</b>	<b>Paragraph</b>
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 3	d)	a summary of the main proposals, specifying the location or route of the proposed development	Paragraph 2
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 4 and 5	f)	the latest date on which those documents, plans and maps will be available for inspection	Paragraph 5
g)	whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge	Paragraph 6	h)	details of how to respond to the publicity	Paragraph 7
i)	a deadline for receipt of those responses by	Paragraph			

	the applicant, being not less than 28 days following the date when the notice is last published	8	
21	Are there any observations in respect of the s48 notice provided above?		
	<b>N/A</b>		
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 <sup>11</sup> ?	<b>Yes</b> The notice was sent to the EIA consultation bodies on 22 January 2018 as confirmed in <b>Appendix 2</b> of the <b>Consultation Report (Doc 5.1)</b> .	
<b>s49: Duty to take account of responses to consultation and publicity</b>			
23	Has the applicant had regard to any relevant responses to the s42, s47 and s48 consultation?	<b>Yes</b> <b>Section 10.7 to 10.11</b> of the <b>Consultation Report (Doc 5.1)</b> provides an account of regard had by the Applicant to relevant responses received under s42, whilst <b>Chapter 14</b> provides an account of regard had by the Applicant to relevant responses received under s47 and <b>paragraph 15.3.1</b> states:  <i>“As noted the S48 publicity was undertaken at the same time as S42 consultation. All of the responses received during that period either made specific reference to S42 in their response or were from a consultee included on the S42 mailing list. No other responses were received from any other parties who would have been notified of the project by the S48 publicity.”</i>  They have also described either by way of a table (e.g. <b>Table 14.1</b> – Responses regarding issues of concern) or within the contents of the sections noted above the consideration given to responses that did not lead to a change.  In summary, the submitted <b>Consultation Report (Doc 5.1)</b> analyses responses received and issues identified by the Applicant. The actions appear to be reflected in	

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

		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.
<b>Guidance about pre-application procedure</b>		
24	To what extent has the applicant had regard to DCLG guidance 'The Planning Act 2008: Guidance on the pre-application process' <sup>12</sup> ?	<p><b>Yes</b></p> <p><b>Chapter 7</b> of the <b>Consultation Report (Doc 5.1)</b> includes <b>Table 7.1: Compliance with relevant legislation</b>, which describes and summarises how the Applicant has complied with relevant legislation, whilst <b>Chapter 8</b> explains how the Applicant has had regard to DCLG guidance on the pre-application process.</p> <p>Having reviewed the application, it appears that the Applicant has identified and had regard to the relevant DCLG guidance.</p>
<b>25</b>	<b>Summary - s55(3)(e)</b>	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. Whilst there are some consultation discrepancies, <a href="#">s51 advice</a> has been provided to the applicant to remedy these.
<b>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)</b>		
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"> <li>a brief statement which explains why it falls within the remit of the Secretary of State; and</li> <li>a brief statement that clearly identifies the location of the application site, or the route if it is a linear scheme?</li> </ul>	<p><b>Yes</b></p> <p><b>Box 4</b> of the <b>Application Form (Doc 1.3)</b> explains why the development falls within the remit of the Secretary of State.</p> <p><b>Box 5</b> of the Application Form provides a brief non-technical description of the site, whilst <b>Box 6</b> provides a description of the location of the proposal.</p> <p>A <b>Context Site Location Plan (Doc 4.1)</b> and <b>Site Location Plan – Aerial Photo (Doc 4.2)</b> has been provided.</p>
27	Is it accompanied by a consultation report?	<p><b>Yes</b></p> <p>The application is accompanied by a <b>Consultation Report (Doc 5.1)</b>.</p>

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

28	Where a plan comprises three or more separate sheets has a key plan been provided showing the relationship between the different sheets? <sup>13</sup>	<b>Yes</b>			
29	Is it accompanied by the documents and information set out in APFP Regulation 5(2)?	<b>Yes</b> , the documents and information required by APFP regulation 5(2) are set out in the documents and locations within the application as listed below:			
<b>Information</b>		<b>Document</b>	<b>Information</b>		<b>Document</b>
a)	Where applicable, the environmental statement required under the EIA Regulations <sup>14</sup> and any scoping or screening opinions or directions	<b>Yes</b> <b>Environmental Statement (ES) Volumes 1 – 3 (Doc 3.1 and Doc 3.2).</b>	b)	The draft proposed order	<b>Yes</b> <b>Development Consent Order (Doc 2.1)</b>
	Is this of a satisfactory standard?	<b>Yes</b>		Is this of a satisfactory standard?	<b>Yes</b> , with minor discrepancies as noted in Box 30.
c)	An explanatory memorandum explaining the purpose and effect of provisions in the draft order	<b>Yes.</b> <b>Explanatory Memorandum (Doc 2.2)</b>	d)	Where applicable, a book of reference (where the application involves any compulsory acquisition)	<b>N/A</b> <b>See comments in Box 30.</b>
	Is this of a satisfactory standard?	<b>Yes</b>		Is this of a satisfactory standard?	<b>N/A</b>
e)	A copy of any flood risk assessment	<b>Flood Risk Assessment Appendix 9.1 of the ES (Doc 3.1).</b>	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	<b>Statement of Statutory Nuisances (Doc 5.4)</b>

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

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

	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)	<b>N/A.</b> <b>See comments in Box 30.</b>	i)	A land plan identifying:-  (i) the land required for, or affected by, the proposed 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	<b>Yes</b>  <b>Box 11</b> of the <b>Application Form (1.3)</b> confirms a <b>Land Plan (Doc 4.3)</b> being submitted, which identifies land required for the proposed development.
	Is this of a satisfactory standard?	<b>N/A</b>		Is this of a satisfactory standard?	<b>Yes</b>
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	<b>Yes.</b> <b>Doc 4.4; 4.5; 4.9 and 4.13</b>  <b>Box 12</b> of the <b>Application Form (1.3)</b> identifies the relevant works plans associated to the proposed development, <b>see comments in Box 30.</b>	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	<b>N/A.</b>  <b>Box 21</b> of the <b>Application Form (Doc1.3)</b> confirms that there are no new or altered means of access, stopping up of street or any diversions, extinguishments or creation or rights of way or public rights of navigation, <b>see comments in Box 30.</b>

	Is this of a satisfactory standard?	Yes		Is this of a satisfactory standard?	N/A
l)	Where applicable, a plan with accompanying information identifying:-  (i) any statutory/non-statutory sites or features of nature conservation e.g. 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,  together with an assessment of any effects on such sites, features, habitats or bodies likely to be caused by the proposed development	<b>Yes</b>  (i) <b>Figures 10.1, 10.5, 11.3 and 11.11 of the ES (Doc 3.1)</b>  (ii) <b>Figures 10.2a to 10.2f, 10.4 and 10.5 of the ES (Doc 3.1)</b>  (iii) <b>Water Bodies Plan (Doc 4.15)</b>  <b>See comments in Box 30.</b>  An assessment of effects is set out in <b>Chapters 9, 10 and 11 of the ES (Doc 3.1)</b>	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 and registered battlefields) together with an assessment of any effects on such sites, features or structures likely to be caused by the proposed development	<b>Yes</b>  Plans identifying historic environment, statutory and non-statutory sites and features are provided in <b>Figure 12.2</b> and within <b>Appendix 12.1 in Figures 1 and 2 (Doc 3.1), see comments in Box 30.</b>  An assessment of effects is set out in <b>Chapter 12 and Appendix 12.1 of the ES (Doc 3.1).</b>
	Is this of a satisfactory standard?	<b>Yes</b>		Is this of a satisfactory standard?	<b>Yes</b>
n)	Where applicable, a plan with any accompanying information identifying any Crown land	<b>N/A.</b>  <b>Box 20 of the Application Form (Doc 1.3)</b> confirms there is no Crown Land associated to the proposed development, <b>see comments in Box</b>	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	<b>Yes.</b>  <b>Doc 4.7; 4.8a; 4.8b; 4.10; 4.11; 4.12a and 4.12b</b>  <b>Box 23 of the Application Form (1.3)</b> identifies other plans, drawings etc. in support of the



		<b>30.</b>			application.
	Is this of a satisfactory standard?	<b>N/A</b>		Are they of a satisfactory standard?	<b>Yes</b> , with minor discrepancies as noted in Box 30.
p)	Any of the documents prescribed by Regulation 6 of the APFP Regulations:	<b>Yes</b> <b>Box 22 of the Application Form (1.3) identifies Regulation 6 - Grid and Gas Connection Statement (Doc 5.5) as required under Regulation 6(1)(b)(i) of the APFP Regulations.</b>	q)	Any other documents considered necessary to support the application.	<b>Yes</b> <b>Doc 1.1; 1.2; 5.2 and 5.3</b> <b>Box 23 of the Application Form (1.3) identifies other documents in support of the application, see comments in Box 30.</b>
	Are they of a satisfactory standard?	<b>Yes</b>		Are they of a satisfactory standard?	<b>Yes</b>
30	Are there any observations in respect of the documents provided above?				
	<p>Brief summary of relevant observation made in <b>Box 29</b></p> <p><b><u>Regulation 5(2)(b)</u></b></p> <p><b>Article 12: Certification of plans, etc.</b></p> <p>1(e) refers to the works plans document reference and drawing numbers. Upon cross-referencing these with the Work Plans as submitted, we have noted that the references applied within the draft DCO are incorrect and should be referenced as follow:</p> <p><b>Works Plan (Doc 4.5)</b> [10392-0029-010]; and</p> <p><b>Works Plan (Doc 4.9)</b> [10392-0031-007].</p> <p>It also appears that <b>Works Plan (4.13)</b> [10392-0027-007] has not been referenced within this Article.</p> <p><a href="#">S51 advice</a> has been issued regarding this matter.</p>				

### **Regulation 5(2)(d) and 5(2)(h)**

**Paragraph 2.3** of the **Application Guide (Doc 1.2)** states:

*“No compulsory purchase powers or rights over the apparatus of statutory undertakers are being sought within the draft Development Consent Order. For that reason the DCO application does not include a Book of Reference, a Statement of Reasons, or a Funding Statement.”*

### **Regulation 5(2)(j)**

**Works Plan – Key Plan (Doc 4.4)** [Drawing No: 10392-0026-006]

**Work No.1 – Works Plan with limits of deviation for horizontal tube boiler (Doc 4.5)** [Drawing No: 10392-0029-010]

**Work No.1 – Works Plan with limits of deviation for vertical tube boiler (Doc 4.9)** [Drawing No: 10392-0031-007]

**Work No.2 – Tie-ins to existing site facilities (Illustrative) (Doc 4.13)** [Drawing No: 10392-0027-007]

See comments above pertaining to **Reg. 5(2)(b)** of the APFP in regards to Drawing Number references as listed above. It does however appear that these Work Plans are consistent with the works described in Schedule 1 of the **draft Development Consent Order (Document 2.1)**.

See comments below pertaining to **Reg. 5(2)(o)** of the APFP in regards to Works No.1(g). It should be noted that upon review of **Doc 4.9** in conjunction with plan titled **Illustrative layout with vertical tube boiler (Doc 4.10)** it appears that Work number 1(g) as illustrated in **Doc 4.9** (*CHP Pipe Bridge, including pipes and cables*) is not positioned at a 90° angle as depicted in **Doc 4.10** for the Vertical Tube Boiler. It may therefore be necessary to update these plans accordingly.

[S51 advice](#) has been issued regarding this matter.

### **Regulation 5(2)(k) and 5(2)(n)**

**Paragraph 2.3.2** of the **Application Guide (Doc 1.2)** states:

*“There are no altered accesses proposed, and therefore no Access Plan has been provided. There is no Crown Land within the proposal site or the immediate vicinity, so no Crown Plan has been submitted.”*

### **Regulation 5(2)(l)**

The Applicant has provided a plan with accompanying information to demonstrate information required under the APFP Regulations 5(2)(l)(i to iii) within the **Environmental Statement (Doc 3.1)**, which is set out in **Chapters 9, 10 and 11** of the Environmental Statement (Doc 3.1) and depicted in:

(i) Designated Sites Location Plan (**Fig 10.1**); Construction noise contours and birds (**Fig 10.5**); Landscape and Relevant Designations and

National Landscape Character (**Fig 11.3**); and Landscape character areas of the Swale District (**Fig 11.11**).

(ii) Protected Species Distributions (**Figs 10.2a to 10.2f**); Breeding bird territories (**Figure 10.4**) and Construction noise contours and birds (Fig 10.5); and

(iii) Water Bodies Plan (**Doc 4.15**)

**Regulation 5(2)(m)**

The Applicant has provided plans with accompanying information to demonstrate the information required under the APFP Regulations 5(2)(m), which is set out in **Chapter 12** of the **Environmental Statement (Doc 3.1)** and depicted in **Figure 12.2**: Designated heritage assets in proximity to the site; and in the **Desk Based Heritage Assessment (ES Appendix 12.1)**, which includes the Site Location and HER Entries (**Figure 1**), and the Designated Assets within 3km of Proposal Site (**Figure 2**).

**Regulation 5(2)(o)**

**Illustrative Elevation cross sections – Horizontal Tube Boiler (Doc 4.7)** [Drawing No: 10392-0042-003]

**Site Context – Illustrative 3d Visual – Horizontal Tube Boiler (Doc 4.8a)** [Drawing No: 10392-0043-003]

**Site Context – 3d Visual – Horizontal Tube Boiler (Illustrative) (Doc 4.8b)** [Drawing No: 10392-0043-002]

**Illustrative layout with vertical tube boiler (Doc 4.10)** [Drawing No: 10392-0038-005]

**Illustrative Elevation cross sections – Vertical Tube Boiler (Doc 4.11)** [Drawing No: 10392-0028-004]

**Site Context – Illustrative 3d Visual – Vertical Tube Boiler (Doc 4.12a)** [Drawing No: 10392-0022-007]

**Site Context – Illustrative 3d Visual – Vertical Tube Boiler (Doc 4.12b)** [Drawing No: 10392-0022-007]

**Doc 4.7** is an illustrative plan depicting elevation cross sections of the Horizontal Tube Boiler in relation to Works No.1 Main and Ancillary plant items, which should be viewed in conjunction with the plan titled **Illustrative layout with horizontal tube boiler (Doc 4.6)**. When reviewing these plans in conjunction, it is noteworthy that Works Number 1(v) as shown on **Doc 4.6** is not illustrated on any of the elevation cross-sections plans depicted in **Doc 4.7**. It may therefore be necessary to update these plans accordingly.

**Doc 4.11** is an illustrative plan depicting elevation cross sections of the Vertical Tube Boiler in relation to Works No.1 Main and Ancillary plant items, which should be viewed in conjunction with the plan titled **Illustrative layout with vertical tube boiler (Doc 4.10)**. When reviewing these plans in conjunction, it is noteworthy that Works Number 1(v) as shown on **Doc 4.11** is not illustrated on any of the elevation cross-sections plans depicted in **Doc 4.10**. It may therefore be necessary to update these plans accordingly.

It should be noted that Works number 1(g) as illustrated in **Doc 4.9**, specifically the illustrative laydown of the “*CHP Pipe Bridge, including pipes and cables*”, appears to be identical to that depicted in **Doc 4.5**. However, upon review of **Doc 4.10** (see comments above regarding Regulation

5(2)(j)), this particular “Main Plant item” should run at a 90° angle. It may therefore be necessary to update these plans accordingly.

We draw your attention to Docs 4.12a and 4.12b, which have been titled with the same name and Drawing number. This may create considerable confusion when cross-referring to specific plans and/or drawings and therefore it may be necessary to either rename or re-reference these particular illustrative plans. [S51 advice](#) has been issued regarding this matter.

**Regulation 5(2)(g)**

The Applicant considers the following documents necessary to support the application: **Covering Letter (Doc 1.1); Overall Summary Document (Doc 1.2); Planning Statement (Doc 5.2) and Design and Access Statement (Doc 5.3).**

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)? <sup>15</sup>	<p><b>Yes</b></p> <p>A Habitat Regulations Assessment Report is provided at <b>Appendix 10.2</b> of the <b>Environmental Statement (Doc 3.1)</b>.</p> <p>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.</p> <p><b>Note:</b> 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. <a href="#">S51 advice</a> has been issued in relation to this. Depending upon the type and availability of information required; it may not be possible to obtain this during the statutory timetable of the examination.</p>
32	If requested by the Secretary of State, two paper copies of the application form and other supporting documents and plans <sup>16</sup>	<p><b>Yes</b></p> <p>Two complete paper copies of the application and other supporting documents, including plans were submitted on 06 April 2018.</p>
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?	<p>While there is no specific reference to DCLG ‘<i>Planning Act 2008: Application form guidance</i>’ within the Consultation Report, on reviewing the application the Applicant has identified and has had regard to relevant guidance, and the overall standard of the application is satisfactory.</p>

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

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

<b>34 Summary - s55(3)(f) and s55(5A)</b>	The application as submitted is of a broadly satisfactory standard. A number of minor discrepancies/inconsistencies are evident upon inspection of the application documents and will need to be remedied in due course, however, none are considered to significantly reduce the ability of prospective participants in the examination from appreciating the extent and effects of the application. Section 51 advice has been provided to the applicant to remedy these.
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**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 <sup>17</sup> ?	Application Fee amounting to £6,939.00 was received before receipt of the application on 06 April 2018.
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Electronic Signature	Name	Date
<b>Case Leader</b>	<i>Emré Michael Williams</i>	26 April 2018
<b>Acceptance Inspector</b>	<i>David Richards</i>	26 April 2018

<sup>17</sup> 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.