



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

Section 55

Acceptance of Applications Checklist

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

April 2024

Outer Dowsing Offshore Wind Generating Station 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 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 Department for Levelling Up, Housing and Communities.

| Section 55(2) Acceptance of Applications | | | | |
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| 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 |
| | | 19 March 2024 | 16 April 2024 | 16 April 2024 |
| 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 | <p>Yes</p> <p>The Proposed Development set out in Schedule 1 of the Draft DCO (Doc 3.1) includes development falling within the categories in s14 of the PA2008. The development is for the construction of a generating station and satisfies section 14 and 15 of the PA2008; including 14 (a) and 15 (a).</p> <p>This is consistent with the summary provided in section 4 of the Application Form (Doc 1.4) which states that the application is for an NSIP.</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)

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| | <p>categories in Sections (s)14 to 30 does the Proposed Development fall)?</p> <p>If the development does not fall within the categories in s14 to 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 consent is required?</p> | |
| 3 | Summary: Section 55(3)(a) and s55(3)(c) | The Planning Inspectorate is satisfied that the Draft DCO (Doc 3.1) 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 17 June 2022 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 07 June 2023 and 20 October 2023.</p> <p>A copy of the notification letter is provided at Appendix 2 of the Consultation Report (Doc 5.1.2).</p> |
| 5 | Have any Adequacy of Consultation Representations ⁴ been received from 'A', 'B', 'C' and 'D' local authorities; and if so, | 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

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| <p>do they confirm that the Applicant has complied with the duties under s42, s47 and s48?</p> | <p>There are 18 host and neighbouring authorities, of which 13 responded to the Planning Inspectorate’s invitation to make an Adequacy of Consultation Representation (AoCR) dated 20 March 2024.</p> <p>All 13 responding 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"> • East Lindsey District Council (B authority) • Boston Borough Council (B authority) • South Holland District Council (B authority) • Lincolnshire County Council (B & C authority) • North East Lincolnshire Council (A authority) • North Kesteven District Council (A authority) • Cambridgeshire County Council (A authority) • Fenland District Council (A authority) • West Lindsey District Council (A authority) • South Kesteven District Council (A authority) • Rutland County Council (D authority) • North Lincolnshire Council (D authority) • Nottinghamshire County Council (D authority) <p>All AoCRs received have been carefully considered and are available to view on the National Infrastructure Planning website:</p> <p>Documents Outer Dowsing Offshore Wind (Generating Station) (planninginspectorate.gov.uk)</p> |
| <p>Section 42: Duty to consult</p> | |

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

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| 6 | Section 42(1)(a) persons prescribed ⁵ ? | <p>Yes</p> <p>The Applicant has provided a list of persons consulted under s42(1)(a) on 07 June 2023 and 20 October 2023 at Appendix 3 of the Consultation Report (Doc 5.1.3).</p> <p>For the phase 2 consultation a sample of the letter sent to s42(1)(a) consultees is provided at Appendix 9 of the Consultation Report (Doc 5.1.9).</p> <p>For the Autumn consultation a sample of the letter sent to s42(1)(a) consultees is provided at Appendix 10 of the Consultation Report (Doc 5.1.10)</p> <p>For the Targeted Winter consultation a sample of letter sent to s42(1)(a) consultees is provided at Appendix 11 of the Consultation Report (Doc 5.1.11)</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 do not appear to have been consulted by the Applicant under s42:</p> <ul style="list-style-type: none">• National Highways Historical Railways Estate• Southern Gas Networks Plc• CNG Services Ltd• Mua Gas Limited• Race Bank Wind Farm Limited• Dudgeon Extension Limited• National Grid Electricity Distribution (East Midlands) Limited• Aidiem Ltd• Independent Distribution Connection Specialists Ltd |
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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)

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| | | <ul style="list-style-type: none"> • Squire Energy Metering Ltd • Aminth Energy Ltd • Nu-Link Interconnector UK Ltd <p>The Applicant's Consultation Report (Doc 5.1) does not explain why the bodies identified above do not appear to have 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 each are not clear from information in the public domain.</p> <p>None of the bodies listed above have been identified by the Applicant as having an interest in the Order lands and are not listed in the Book of Reference (Doc 4.1).</p> <p>Section 51 advice has been issued to the Applicant in respect of the above matter: https://infrastructure.planninginspectorate.gov.uk/document/EN010130-000654</p> |
| 7 | Section 42(1)(aa) the Marine Management Organisation ⁶ ? | <p>Yes</p> <p>Paragraph 103 of the Consultation Report (Doc 5.1) outlines that the Applicant included the Marine Management Organisation as a consultee.</p> |
| 8 | Section 42(1)(b) each local authority within s43 ⁷ ? | <p>Yes</p> <p>Table 7.1 of the Consultation Report (Doc 5.1) lists the relevant local authorities that were identified and consulted under s43 and s42(1)(b). The host 'B' and 'C' authorities that were consulted are:</p> <ul style="list-style-type: none"> • East Lindsey District Council • Boston Borough Council • South Holland District Council |

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

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| | | <ul style="list-style-type: none">• Lincolnshire County Council* <p>The boundary 'A' authorities were consulted:</p> <ul style="list-style-type: none">• North East Lincolnshire Council• West Lindsey District Council• North Kesteven District Council• South Kesteven District Council• Peterborough City Council• Fenland District Council• King's Lynn and West Norfolk Borough Council• Cambridgeshire County Council• Norfolk County Council <p>The boundary 'D' authorities were consulted:</p> <ul style="list-style-type: none">• North East Lincolnshire Council• North Lincolnshire Council• Nottinghamshire County Council• Leicestershire County Council• Rutland County Council• North Northamptonshire Council• Peterborough City Council• Cambridgeshire County Council• Norfolk County Council |
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| | | <p>A sample of the letter sent to s42(1)(b) relevant authorities is provided at Appendix 9 of the Consultation Report (Doc 5.1.9).</p> <p>* Lincolnshire County Council were listed as a 'B' authority in Table 7.1. However, this appears to be an oversight as Lincolnshire County Council are a 'C' authority.</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>Paragraph 108 of the Consultation Report (Doc 5.1) states that all of the section 42 consultees that have been consulted in respect of the proposed application.</p> <p>Paragraph 113 of the Consultation Report (Doc 5.1) summarise how the Applicant made diligent inquiry to seek to identify and consult persons with an interest in lands affected by the Draft DCO (Doc 3.1). The full methodology undertaken by the Applicant is provided in Appendix 14 of the Consultation Report (Doc 5.1.14).</p> <p>The persons consulted under s42(1)(d) are listed at Appendix 3 of the Consultation Report (Doc 5.1.3).</p> <p>A sample of the documentation is provided at Appendix 9 of the Consultation Report (Doc 5.1.9) for the phase 2 consultation and Appendix 10 for the Autumn Consultation (Doc 5.1.10).</p> |
| Section 45: Timetable for s42 consultation | | |
| 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 | <p>Yes</p> <p>A sample of the letter sent to s42 consultees is provided at Appendix 9 of the Consultation Report (Doc 5.1.9) for the phase 2 consultation and Appendix 10 for the Autumn Consultation (Doc 5.1.10).</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.

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| | starting with the day after receipt of the consultation documents? | <p>The sample letter for phase 2 is dated 07 June 2023 and confirmed that the consultation closed on 21 July 2023, providing more than the required minimum time for receipt of responses.</p> <p>The sample letter for the Autumn consultation is dated 20 October 2023 and confirmed that the consultation closed on 24 November 2023, providing more than the required minimum time for receipt of responses.</p> |
| Section 46: Duty to notify the Planning Inspectorate of proposed application | | |
| 12 | 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>Yes</p> <p>The Applicant gave notice under s46 on 05 June 2023 for phase 2 and on 18 October 2023 for the Autumn consultation, which was before the beginning of s42 consultation.</p> <p>For the phase 2 consultation a copy of the s46 notification letter is provided at Appendix 6 of the Consultation Report (Doc 5.1.6) and a copy of s46 notification acknowledgement letter from the Planning Inspectorate is provided at Appendix 6 of the Consultation Report (Doc 5.1.6).</p> <p>For the Autumn Consultation a copy of the s46 notification letter is provided at Appendix 6 of the Consultation Report (Doc 5.1.6) and a copy of s46 notification acknowledgement letter from the Planning Inspectorate is provided at Appendix 6 of the Consultation Report (Doc 5.1.6).</p> |
| 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 is provided at Appendix 5 of the Consultation Report (Doc 5.1.5).</p> |
| 14 | Were 'B' and (where relevant) 'C' authorities consulted about the content of the SoCC; and if so, was the deadline for | <p>Yes</p> <p>Paragraph 80 of the Consultation Report (Doc 5.1.5) states that the Applicant developed a Statement of Community Consultation (SoCC) in consultation with the</p> |

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| | <p>receipt of responses 28 days beginning with the day after the day that 'B' and, where applicable, 'C' authorities received the consultation documents?</p> | <p>relevant local authorities, and the MMO. Paragraph 81 of the Consultation Report (Doc 5.1.5) states that consultees were given 28 days to provide comments.</p> <p>Consultation Report Appendix 1 (Doc 5.1.1) (Consultation Compliance Statement) states: <i>'The local authorities received the draft Updated SoCC on 13 December 2022 with the deadline for the responses being 10 January 2023 totalling 28 days.'</i></p> <p>The Applicant has not provided a copy of the dated letter with deadline for response date sent to local authorities to demonstrate compliance with s47(3). However, no comments disputing this matter were made by any of the local authorities in their AoC response received by the Planning Inspectorate. As such, the Inspectorate has no reason to conclude that the Applicant has not complied with this requirement.</p> <p>Annex 5.1.5B of the Consultation Report (Doc 5.1.5) provides the stakeholder responses received on the SoCC. The Annex states that the Applicant sent the draft SoCC to Boston Borough Council (BBC), South Holland District Council (SHDC) ('B Authority') and Lincolnshire County Council (LCC) ('C' authority). The commentary provided ahead of each of the summary of the comments received on the SoCC states that 'On Monday 8th August 2022, ODOW issued a Draft SoCC' followed by the date that the response was provided by each of the 'B' and 'C' authorities. The Applicant does not state whether a deadline was provided for responses to be provided.</p> <p>It is not clear whether East Lindsey District Council was consulted about the content of the SoCC. However, the Inspectorate notes that no concerns have been raised by East Lindsey in this regard as part of their Adequacy of Consultation response. As such, the Inspectorate is satisfied that 'B' and 'C' Authorities were consulted on the content of the SoCC.</p> |
| 15 | <p>Has the Applicant had regard to any responses received when preparing the SoCC?</p> | <p>Yes</p> <p>Appendix 5 of the Consultation Report (Doc 5.1.5) provides a summary of the consultation responses from Lincolnshire County Council, Boston Borough Council, South Holland District Council and The Planning Inspectorate in respect of the draft SoCC and demonstrates how the Applicant had regard to their content.</p> <p>Examples of changes from the draft SoCC to the final SoCC include:</p> |

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| | | <ul style="list-style-type: none"> • Reference to how engagement will seek to include minority groups i.e. Traveller communities and those with protected characteristics • Reference to what local interest groups will be engaged with i.e. Local Wildlife Trusts • Suggestion that documents need to be held in the South Holland District Council offices as well as Pinchbeck Hub • Consideration to be given to using social media as a method of communication. <p>The Planning Inspectorate is satisfied that the Applicant had regard to the responses received when preparing the SoCC.</p> |
| 16 | <p>Has the SoCC been made available for inspection on a website maintained by or on behalf of the Applicant; and has a notice been published in a newspaper circulating in the vicinity of the land which states where and when the SoCC can be inspected?</p> | <p>Yes</p> <p>The published SoCC notice, provided at Appendix 5 of the Consultation Report (Doc 5.1.5) states where and when the final SoCC was available to inspect.</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"> • Mablethorpe Library and Customer Service Centre • Skegness Library • Boston Library • Pinchbeck Community Hub and Library • Lincolnshire County Council Offices • East Lindsey District Council Tender Hall • South Holland District Council Offices • Boston Borough Council Municipal Building <p>A notice stating when and where the final SoCC could be inspected was published in:</p> |

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| | | <ul style="list-style-type: none"> • Louth Leader Publications (Skegness Standard, Mablethorpe Leader, Horncastle News, Spilsby Standard and Market Rasen Mail) on 18 January 2023 • Boston Target on 18 January 2023 • Spalding Guardian on 19 January 2023 • Spalding Voice on 18 January 2023 • Spalding Today on 19 January 2023 • Lincolnshire Echo on 19 January 2023 • Lincolnshire Free Press on 19 January 2023 • Lincolnshire Live on 18 January 2023 • Lincolnshire World on 18 January 2023 • Fishing News on 26 January 2023 <p>Clippings of the published advertisements are provided at Appendix 5 of the Consultation Report (Doc 5.1.5).</p> |
| 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>Paragraph 1 of chapter 5 of the final SoCC at Appendix 5 of the Consultation Report (Doc 5.1.5) 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>Paragraphs 95 to 101 of the Consultation Report (Doc 5.1) set out how the community consultation was carried out in line with the final SoCC.</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

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| | | <p>Table 8.6 of the Consultation Report (Doc 5.1) sets out how the Applicant has complied with the commitments set out in the final SoCC.</p> <p>Appendices 7, 8, 9, 10,11 and 13 of the Consultation Report (Docs 5.1.7, 5.1.8, 5.1.9, 5.1.10, 5.1.11 and 5.1.13) provide evidence that the commitments within the final SoCC have been carried out.</p> | | |
| <p>Section 48: Duty to publicise the proposed application</p> | | | | |
| 19 | <p>Did the Applicant publicise the proposed application in the prescribed manner set out in Regulation 4(2) of the (as amended) APFP Regulations 2009?</p> | <p>Yes</p> <p>Paragraph 121 of the Consultation Report (Doc 5.1) states:</p> <p><i>“The Applicant published a notice under section 48 in conjunction with the Phase 2 consultation under section 42. The notice provided the information required under regulation 4(3) of the APFP Regulations in relation to the proposed application.”</i></p> <p>Table 9.5 of the Consultation Report (Doc 5.1) displays the newspapers and dates of s48 publicity as set out below.</p> <p>A copy of the s48 notice is provided at Appendix 6 of the Consultation Report (Doc 5.1.6).</p> <p>Clippings of the published notices set out below are provided at Appendix 6 of the Consultation Report (Doc 5.1.6):</p> | | |
| <p style="text-align: center;">Newspaper(s) Date</p> | | | | |
| a) | <p>for at least two successive weeks in one or more local newspapers circulating in the vicinity in which the Proposed Development would be situated;</p> | <table border="0" style="width: 100%;"> <tr> <td style="vertical-align: top;"> <ul style="list-style-type: none"> • Boston Standard • Boston Target </td> <td style="vertical-align: top; padding-left: 20px;"> <p>7 June 2023 & 14 June 2023 11 October 2023 & 18 October 2023</p> <p>7 June 2023 & 14 June 2023 11 October 2023 & 18 October 2023</p> </td> </tr> </table> | <ul style="list-style-type: none"> • Boston Standard • Boston Target | <p>7 June 2023 & 14 June 2023 11 October 2023 & 18 October 2023</p> <p>7 June 2023 & 14 June 2023 11 October 2023 & 18 October 2023</p> |
| <ul style="list-style-type: none"> • Boston Standard • Boston Target | <p>7 June 2023 & 14 June 2023 11 October 2023 & 18 October 2023</p> <p>7 June 2023 & 14 June 2023 11 October 2023 & 18 October 2023</p> | | | |

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| | | <ul style="list-style-type: none"> Lincolnshire Free Press | 6 June 2023 & 13 June 2023 10 October 2023 & 17 October 2023 |
| | | <ul style="list-style-type: none"> Lincolnshire Echo | 8 June 2023 & 15 June 2023 12 October 2023 & 19 October 2023 |
| | | <ul style="list-style-type: none"> Louth Leader (Skegness Standard, Mablethorpe Leader, Horncastle News, Spilsby Standard and Market Rasen Mail) | 7 June 2023 & 14 June 2023 11 October 2023 & 18 October 2023 |
| | | <ul style="list-style-type: none"> Spalding Guardian | 8 June 2023 & 15 June 2023 12 October 2023 & 19 October 2023 |
| | | <ul style="list-style-type: none"> Spalding Voice | 8 June 2023 & 15 June 2023 12 October 2023 & 19 October 2023 |
| b) | once in a national newspaper; | <ul style="list-style-type: none"> The Times | 7 June 2023 & 12 October 2023 |
| c) | once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and | <ul style="list-style-type: none"> London Gazette | 7 June 2023 & 12 October 2023 |
| d) | where the proposed application relates to offshore development – (i) once in Lloyds List; and | <ul style="list-style-type: none"> Lloyds List Fishing News | 7 June 2023 & 12 October 2023 8 June 2023 & 27 October 2023 |

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| | (ii) once in an appropriate fishing trade journal? | | |
| 20 | Did the s48 notice include the required information set out in Regulation 4(3) of the (as amended) APFP Regulations 2009? | Yes The published s48 notice, supplied at Appendix 6 Part 1 of the Consultation Report (Doc 5.1.6) , 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 | 3 | d) | a summary of the main proposals, specifying the location or route of the Proposed Development | 1 |
| e) | a statement that the documents, plans and maps were available on a website maintained by or on behalf of the Applicant. The statement must include: <ul style="list-style-type: none"> the nature and location of the Proposed Development The address of the website The place on the website A telephone number which can be used to contact the Applicant for enquiries in | 7 | f) | the latest date on which those documents, plans and maps will be available for inspection | 7 |

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| g) | relation to the documents, plans and maps. | | h) | | |
| | whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge | 6 | | details of how to respond to the publicity | 8 |
| | 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 | 8 | | | |
| 21 | Are there any observations in respect of the s48 notice provided above? | | | | |
| | No | | | | |
| 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 157 and 176 of the Consultation Report (Doc 5.1).</p> <p>A sample of the s42 consultation letter provided at Annex 5.1.9C of Appendix 9 of the Consultation Report (Doc 5.1.9) confirms a copy of the s48 notice was enclosed for the phase 2 consultation.</p> <p>A sample of the s42 consultation letter provided at Annex 5.1.10C of Appendix 10 of the Consultation Report (Doc 5.1.9) confirms a copy of the s48 notice was enclosed for the Autumn consultation.</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

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| | | A sample of the s42 consultation letter provided at Annex 5.1.11B of Appendix 11 of the Consultation Report (Doc 5.1.9) confirms a copy of the s48 notice was enclosed for the Autumn consultation. |
| 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? | <p>Yes</p> <p>Appendix 4 of the Consultation Report (Docs 5.1.4A and 5.1.4B) sets out how the Applicant had regard to the consultation responses received; including whether or not responses led to changes to the application.</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>Paragraphs 62 and 63 of the Consultation Report (Doc 5.1) state that the Applicant has taken into consideration all relevant statutory and other guidance. The Applicant has also provided a table at Appendix 5.1.1 to demonstrate how they have complied with statutory guidance.</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) | The Applicant has complied with Chapter 2 of Part 5 (pre-application procedure) of the PA2008. |
| 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) | | |

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

| 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 1.4) explains why the development falls within the remit of the Planning Inspectorate.</p> <p>Section 5 of the Application Form (Doc 1.4) provides a brief non-technical description of the site and section 6 provides the location of the Proposed Development.</p> <p>An Onshore Location Plan (Doc 2.3) and Offshore Location Plan (Doc 2.4) have been provided.</p> | | | | | | | | |
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| 27 | Is it accompanied by a Consultation Report? | <p>Yes</p> <p>The application is accompanied by a Consultation Report (Doc 5.1) and Consultation Report Appendices (Docs 5.1.1- 5.1.17).</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 | Yes | | | | | | | | |
| 29 | Is it accompanied by the documents and information set out in APFP Regulation 5(2)? | The documents and information required by APFP Regulation 5(2) are set out in the documents and locations within the application as listed below: | | | | | | | | |
| <table border="1"> <thead> <tr> <th>Information</th> <th>Document</th> <th>Information</th> <th>Document</th> </tr> </thead> <tbody> <tr> <td>a) Where applicable, the Environmental Statement required under the EIA</td> <td>Non-Technical Summary (Doc 6.1)</td> <td>b) The draft Development Consent Order (DCO)</td> <td>Draft Development Consent Order (Doc 3.1)</td> </tr> </tbody> </table> | | Information | Document | Information | Document | a) Where applicable, the Environmental Statement required under the EIA | Non-Technical Summary (Doc 6.1) | b) The draft Development Consent Order (DCO) | Draft Development Consent Order (Doc 3.1) | |
| Information | Document | Information | Document | | | | | | | |
| a) Where applicable, the Environmental Statement required under the EIA | Non-Technical Summary (Doc 6.1) | b) The draft Development Consent Order (DCO) | Draft Development Consent Order (Doc 3.1) | | | | | | | |

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

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| | Regulations ¹³ and any scoping or screening opinions or directions | Volume 1: Environmental Statement (ES) (Docs 6.1.1 to 6.1.31) Volume 2 ES Figures: (Doc 6.2.1 to 6.2.31) Volume 3 ES Appendices: (Docs 6.3.1 to 6.3.31) Consultation Report Appendix 2: Scoping Report and Scoping Opinion (Doc 5.1.2, Parts 1 and 2) | | |
| | Is this of a satisfactory standard? | Yes (with minor discrepancies as noted in s51 advice) | | Is this of a satisfactory standard? Yes (with minor discrepancies as noted in s51 advice) |
| c) | An Explanatory Memorandum explaining the purpose and effect of provisions in the draft DCO | Explanatory Memorandum (Doc 3.2) | d) | Where applicable, a Book of Reference Book of Reference (Doc 4.1) |
| | Is this of a satisfactory standard? | Yes | | Is this of a satisfactory standard? Yes |
| e) | A copy of any Flood Risk Assessment | Flood Risk Assessment Onshore Export Cable Corridor and 400kV Cables | f) | A statement whether the proposal engages one or more of the matters set out in section 79(1) of the Statutory Nuisance Statement (Doc 9.4) |

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

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| | | - ES Appendix 24.2 (Doc 6.3.24.2) Flood Risk Assessment Onshore Substation - ES Appendix 24.3 (Doc 6.3.24.3) | | Environmental Protection Act 1990 (statutory nuisances) and if so how the Applicant proposes to mitigate or limit them | |
| | Is this of a satisfactory standard? | Yes (with minor discrepancies as noted in s51 advice) | | Is this of a satisfactory standard? | Yes |
| h) | A Statement of Reasons and a Funding Statement (where the application involves any Compulsory Acquisition) | Funding Statement (Doc 4.2) Statement of Reasons (Doc 4.3) | 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 | Land Plans (Doc ref 2.5) |
| | Is this of a satisfactory standard? | Yes | | Is this of a satisfactory standard? | Yes (with minor discrepancies as noted in s51 advice) |

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| j) | <p>A Works Plan showing, in relation to existing features:-</p> <p>(i) the proposed location or (for a linear scheme) the proposed route and alignment of the development and works; and</p> <p>(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> | <p>Onshore Works Plans (Doc 2.1)</p> <p>Offshore Works Plans (Doc 2.2)</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> | <p>Access to Works Plan (Doc 2.9)</p> <p>Public Rights of Way Plan (Doc 2.10)</p> <p>Streets Plan (Doc 2.11)</p> |
| Is this of a satisfactory standard? | | Yes (with minor discrepancies as noted in s51 advice) | Is this of a satisfactory standard? | | Yes (with minor discrepancies as noted in s51 advice) |
| l) | <p>Where applicable, a plan with accompanying information identifying:-</p> <p>(i) any statutory or non-statutory</p> | <p>(i) Document 2.15 – Statutory and Non-Statutory Nature Conservation Sites Plan Onshore</p> <p>Document 2.16 - Statutory and Non-</p> | m) | <p>Where applicable, a plan with accompanying information identifying any statutory or non-statutory sites or features of the historic environment, (eg scheduled monuments, World Heritage sites, listed buildings, archaeological sites and registered</p> | <p>Document 2.13 - Historic Environment Plan Onshore</p> <p>Document 2.14 - Historic Environment Plan Offshore</p> |

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| <p>sites or features of nature conservation eg sites of geological or landscape importance;</p> <p>(ii) habitats of protected species, important habitats or other diversity features; and</p> <p>(iii) water bodies in a river basin management plan,</p> <p>together with an assessment of any effects on such sites, features, habitats or bodies likely to be caused by the Proposed Development</p> | <p>Statutory Nature Conservation Sites Plan Offshore</p> <p>Document 6.3.21.1 – ES Appendix 21.1 Onshore Ecology Desk Based Assessment Figures 21.1.1.1 to 21.1.1.7 and Figures 21.1.2.1 to 21.1.2.12</p> <p>Document 7.1 – Report to Inform Appropriate Assessment, Figures 9.1 to 9.11</p> <p>Document 7.2 – Habitats Regulations Assessment Screening Report, Figures 5.1 to 5.5</p> <p>Document 6.2.28 – ES Chapter 17 Seascape, Landscape and Visual Figures (Part 2 of 15), Figure 28.10</p> <p>An assessment of sites or features of nature conservation or landscape importance are included in:</p> <p>Document 6.1.21 – ES Chapter 21 Onshore</p> | <p>battlefields) together with an assessment of any effects on such sites, features or structures likely to be caused by the Proposed Development</p> | <p>Document 6.3.20.2 – ES Appendix 20.2: Heritage Statement Annex 4: Figures</p> <p>Assessment of effects on such sites, features or structures is included in:</p> <p>Document 6.1.20 – ES Chapter 20: Onshore Archaeological and Cultural Heritage</p> <p>Document 6.3.20.1 – ES Appendix 20.1 and Document 6.3.20.2 – ES Appendix 20.2</p> <p>Document 6.1.13 – ES Chapter 13: Marine and Intertidal Archaeology</p> <p>Document 6.3.13.1 – ES Appendix 13.1 Marine and Intertidal Archaeology Technical Report</p> |
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| | <p>Ecology; Document 6.3.21.1 – ES Appendix 21.1; Document 6.1.22 – ES Chapter 22 Onshore Ornithology.</p> <p>Document 6.1.7 – ES Chapter 7 Marine Physical Processes; Document 6.1.9 – ES Chapter 9 Benthic and Intertidal Ecology; Document 6.1.10 – ES Chapter 10, Fish and Shellfish Ecology; Document 6.1.11 – ES Chapter 11 Marine Mammals; Document 6.1.12 – ES Chapter 12 Offshore and Inter-Tidal Ornithology</p> <p>Document 7.1 – Report to Inform Appropriate Assessment and Document 7.2 – Habitats Regulations Assessment Screening Report</p> <p>Document 6.1.17 – ES Chapter 17 Seascape, Landscape and Visual</p> <p>(ii) Document 6.2.21 – ES Chapter 21 Onshore</p> | | |
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| | <p>Ecology Volume 2 Figures in 2 parts</p> <p>Document 6.3.21.1 – ES Appendix 21.2: UK Habitat Survey Report - Figures 21.2.1.1 to 21.2.2.55</p> <p>Document 6.3.21.4 – ES Appendix 21.4: Preliminary Roost Survey for Bats in 2 parts – Figures 21.4.1.1 to 21.4.2.54; and Figures 21.4.3 to 21.4.6.54</p> <p>Document 6.3.21.5 – ES Appendix 21.5: Badger Desk Study and Field Survey – Figures 21.5.21 to 21.5.3.54</p> <p>Document 6.3.21.6 – ES Appendix 21.6: Riparian Mammal Surveys – Figures 21.6.1.1 to 21.6.3.54</p> <p>Document 6.3.21.7 – ES Appendix 21.7: Great Crested Newt Surveys – Figures 21.7.3.1 to 21.7.3.54</p> | | |
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| | <p>Document 6.3.21.8 – ES Appendix 21.8: Reptile Habitat Suitability Study – Figures 21.8.1.1 to 21.8.1.26</p> <p>Document 6.3.21.9 – ES Appendix 21.9: Invertebrate Study Figures 21.9.1.1 to 21.9.1.54</p> <p>Document 6.3.21.10 – ES Appendix 21.10: Fish Habitat Survey Figures 21.10.1.1 to 21.10.2.8</p> <p>Document 6.3.22.1 – ES Appendix 22.1: Ornithology Desk Study Figures 22.1.1 to 22.1.5.7</p> <p>Document 6.3.22.3 – ES Appendix 22.3: Winter Bird Survey 2022-2023 in 4 parts Figures 22.3.29.1 to 22.3.56.1; and 22.3.57.1 to 22.3.75.3</p> <p>Document 6.3.22.4 – ES Appendix 22.4: Breeding Bird Surveys</p> | | |
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| | <p>2023 Figures 22.4.2.1 to 22.4.2.13</p> <p>Document 6.3.22.5 – ES Appendix 22.5 Breeding Bird Surveys 2023 Figures 22.5.1.2 to 22.5.1.6</p> <p>Document 6.2.10 – ES Chapter 10 Fish and Shellfish Ecology Figures 10.2 to 10.22</p> <p>Document 6.2.11 – ES Chapter 11 Marine Mammals Figures 11.2 to 11.5</p> <p>Document 2.17 - Important Hedgerows and Tree Preservation Order Plan</p> <p>Assessment of habitats and other features are included in:</p> <p>Document 6.1.21 ES Chapter 2 Onshore Ecology</p> <p>Document 6.1.22 – ES Chapter 22 Onshore Ornithology</p> | | |
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| | <p>Document 6.1.9 – ES Chapter 9 Benthic and Intertidal Ecology</p> <p>Document 6.1.10 – ES Chapter 10, Fish and Shellfish Ecology</p> <p>Document 6.1.11 – ES Chapter 11 Marine Mammals</p> <p>Document 6.1.12 – ES Chapter 12 Offshore and Inter-Tidal Ornithology</p> <p>(iii) Document 6.3.24.1 – ES Chapter 24 Hydrology and Flood Risk Volume 3 Appendices Appendix 24.1 Groundwater Risk Assessment</p> <p>Document 6.3.24.2 – ES Chapter 24 Hydrology and Flood Risk Volume 3 Appendices Appendix 24.2 Flood Risk Assessment: Onshore ECC and 400kv Cable Corridor</p> <p>Document 6.2.24 – Environmental</p> | | |
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| | | <p>Statement Chapter 24 Hydrology and Flood Risk Volume 2 Figures</p> <p>Assessment of effects on waterbodies are included in:</p> <p>Document 6.1.24 – ES Chapter 24 – Hydrology and Flood Risk</p> | | | |
| | Is this of a satisfactory standard? | Yes (with minor discrepancies as noted in s51 advice) | | Is this of a satisfactory standard? | Yes (with minor discrepancies as noted in s51 advice) |
| n) | Where applicable, a plan with any accompanying information identifying any Crown land | <p>Crown Land Plans Onshore (Doc 2.6)</p> <p>Crown Land Plans Offshore (Doc 2.7)</p> | 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 | <p>Onshore Location Plan (Doc 2.3)</p> <p>Offshore Location Plan (Doc 2.4)</p> <p>Offshore Order Limits and Grid Co-ordinates (Doc 2.8)</p> <p>Special Category Land Onshore (Doc 2.12)</p> <p>Onshore Crossing Plan (Doc 2.18)</p> <p>Offshore Crossing Plan (Doc 2.19)</p> <p>Traffic Regulation Order Plan (Doc 2.20)</p> |

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| | Is this of a satisfactory standard? | Yes | | Are they of a satisfactory standard? | Yes |
| p) | Any of the documents prescribed by Regulation 6 of the APFP Regulations: | Cable Statement (Doc 9.2) Safety Zone Statement (Doc 9.3) | q) | Any other documents considered necessary to support the application | Cover Letter (Doc 1.1) Guide to the Application (Doc 1.2) Draft Section 55 Checklist (Doc 1.3) Other Consents and Licences (Doc 3.3) Outline Code of Construction Practice (Doc 8.1) Outline Noise and Vibration Management Plan (Doc 8.1.1) Outline Air Quality Management Plan (Doc 8.1.2) Outline Soil Management Plan (Doc 8.1.3) Outline Onshore Pollution Prevention and Emergency Incident Response Plan (Doc 8.1.4) Outline Surface Water Drainage Strategy (Doc 8.1.5) Outline Site Waste Management Plan (Doc 8.1.6) |

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| | | | | <p>Outline Offshore Operations and Maintenance Plan (Doc 8.2)</p> <p>In Principle Monitoring Plan (Doc 8.3)</p> <p>Outline Project Environmental Management Plan (Doc 8.4)</p> <p>Outline Cable Specification and Installation Plan (Doc 8.5)</p> <p>Outline Marine Mammal Mitigation Protocol (Piling) (Doc 8.6.1)</p> <p>Outline Marine Mammal Mitigation Protocol (UXO) (Doc 8.6.2)</p> <p>In Principle Southern North Sea Special Area of Conservation Site Integrity Plan (Doc 8.7)</p> <p>Outline Marine Archaeological WSI (Doc 8.8)</p> <p>Outline Onshore Archaeology WSI (Doc 8.9)</p> <p>Outline Landscape and Ecological Management Strategy (OLEMS) (Doc 8.10)</p> <p>Outline Operational Artificial Light Emissions Management Plan (Doc 8.11)</p> |
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| | | | | <p>Outline Operational Drainage Management Plan (Doc 8.12)</p> <p>Outline Fisheries Liaison and Co-existence Plan (Doc 8.14)</p> <p>Outline Construction Traffic Management Plan (Doc 8.15)</p> <p>Outline Travel Plan (Doc 8.16)</p> <p>Outline Public Access Management Plan (Doc 8.17)</p> <p>Outline Vessel Management Plan (Doc 8.20)</p> <p>Outline Scour and Cable Protection Management Plan (Doc 8.21)</p> <p>Outline Biogenic Reef Mitigation Plan (Doc 8.22)</p> <p>Planning Statement (Doc 9.1)</p> <p>Policy Compliance Document (Doc 9.1.1)</p> <p>Biodiversity Net Gain Report Principles and Approach (Doc 9.5)</p> |
| | <p>Are they of a satisfactory standard?</p> | <p>Yes (with minor discrepancies as noted in Box 30)</p> | <p>Are they of a satisfactory standard?</p> | <p>Yes (with minor discrepancies as noted in Box 30)</p> |
| <p>30</p> | <p>Are there any observations in respect of the documents provided at Box 29 (a) to (q) above?</p> | | | |

Yes

Other Consents and Licenses (Doc 3.3)

The document does not include an introductory section explaining the purpose of the document which may be helpful to include.

Minor labelling and typographic errors

Minor labelling inconsistencies and typographical errors were noted in the following documents and examples listed:

Consultation Report (Doc 5.1) and Annexes – there are inconsistencies noted in the dates that s48 notices were published as shown in the table provided at 7.1 of the CR, and copies of the notices provided in Annex 5.1.6.

Environmental Statement Chapter 12 (Doc 6.1.12) - Table 12.78 states that cumulative effects from operational disturbance/displacement on red-throated diver would be “*confirmed following Population Viability Analysis post-PEIR*”. An assessment of cumulative effects on red-throated diver is subsequently provided at paragraphs 368 to 376; however, no reference is provided to PVA.

Environmental Statement Chapter 16 Aviation, Radar, Military and Communication Volume 1 (Doc 6.1.16) - there are instances of potential missing text or formatting errors within the document, e.g., 16.7.1.1 Impact 1: Creation of an Aviation Obstacle Environment (page 51): “*From a starting point of no infrastructure within the array area, the infrastructure outlined in...*”

Environmental Statement Chapter 20 Onshore Archaeology and Cultural Health (Doc 6.1.120) - there is missing text at paragraph 88 with regards to significance of effect for this receptor.

Environmental Statement Chapter 21 Onshore Ecology Volume 2 (Doc 6.2.21) - it is difficult to distinguish retained/reinstated habitats on Figures 21.1.2 to 21.1.6 due to the pale shading applied.

Environmental Statement Chapter 25: Land Use (Doc 6.2.25) - Land Use provides its figures in one file with a document reference of 6.2.25 but each figure within the document is also given its own document reference number (e.g. 6.2.25.1). The titles of the figures are labelled 25.1 and so on.

Environmental Statement Chapter 30 Human Health (Doc 6.1.30) - refers to an ‘Appendix A’, when appendices are numbered.

Environmental Statement Appendix 27 (Doc 6.3.27) - Annexes B, C, J, and K contain some presentational errors (e.g., tables have very small text and some are incomplete)

Flood Risk Assessment (FRA) (Doc 6.3.24.2) - the FRA indicates that the majority of the Site lies within Flood Zone (FZ) 3a, with small portions of the Site to the north and west located within FZ2. The EA's Flood Map for Planning for the Onshore Substation is included as Figure 24.3.6 and identifies FZ2 and FZ3; it does not distinguish land that is in FZ3a and 3b (if relevant). The FRA makes no mention of FZ3b and it is unclear whether any land within this zone is present.

Habitats Regulations Assessment (HRA) (Doc 7.2 and 7.3) - It is noted that Table 2.1 within the HRA Screening Matrices (Doc 7.3) does not list all European sites that are subsequently included as individual screening matrices in this document, or those included in the HRA Screening Report (Doc 7.2), which are more numerous.

Cable Statement (Doc 9.2) - document reference 6.2.3.4 is referred to in Paragraph 14 of the Cable Statement but this document cannot be located and is unclear which document it should refer to.

8.20 Outline Vessels Management Plan (Doc 8.20) – the document reference included in the cover page is 8.2.

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

<https://infrastructure.planninginspectorate.gov.uk/document/EN010130-000654>

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| 31 | <p>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)?¹⁴</p> | <p>Yes</p> <p>A Habitats Regulations Assessment (HRA) Report has been provided (Doc 7.1 Report to Inform Appropriate Assessment; Document 7.2 Habitats Regulations Screening Report; Document 7.3 Report to Inform Appropriate Assessment Screening Matrices; and Doc 7.4 Report to Inform Appropriate Assessment Integrity Matrices).</p> <p>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.</p> <p>Note: The Examining Authority will be able to ask questions during the Examination. This may result in additional information being required to inform the HRA Report and the competent authority. Depending upon the type and availability of information</p> |
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¹⁴ Regulation 5(2)(g) of the APFP Regulations

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| | | 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 | No hard copies requested. |
| 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 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 concludes that the application (including accompaniments) has been prepared to a standard that it considers satisfactory. 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: https://infrastructure.planninginspectorate.gov.uk/document/EN010130-000654 |
| 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 11 March 2024; before the application was made. |

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>Louise Harraway</i> | 16 April 2024 |
| Acceptance Inspector | <i>Rod Macarthur</i> | 16 April 2024 |

