

The Planning Act 2008

Section 55 Acceptance of Applications*

(Appendix 2 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

M20 Junction 10a Section 55 Application Checklist¹

Section 55(2) Acceptance of Applications				
1	Within 28 days (starting day after receipt) the Secretary of State must decide whether or not to accept the application.	Date received	28 day due date	Date of decision
		19 July 2016	15 August 2016	11 August 2016
Section 55(3) – the Secretary of State may <u>only</u> accept an application if the Secretary of State concludes that:-		Planning Inspectorate Comments		
s55(3)(a) and s55(3)(c) It is an application for an order granting development consent				
2	<p>Is the development a nationally significant infrastructure project² (NSIP) (or does it form part of an NSIP); and does the application state on the face of it that it is an application for a development consent order³ (DCO) under the Planning Act 2008 (the PA2008), or equivalent words? Does the application specify the development to which it relates (i.e. which category or categories in ss14-30 does the application scheme fall)?</p> <p>If the development does not fall within the categories in ss14-30, has a direction been given by the Secretary of State under s35 of the PA2008 for the development to be treated as development for which development</p>	<p>Yes.</p> <p>The proposed development set out in Schedule 1 of the Draft DCO (Doc 3.1) comprises development falling within the categories in s14 of the PA2008; namely Section 14(1)(h). The development is for an alteration to a highway (motorway) and satisfies sections 22(3)(a), 22(3)(b), 22(3)(c) and Section 22(4) of the PA2008.</p> <p>This is confirmed by the summary provided in the Application Form (Doc 1.3) at section 4 which concludes that the application is for an NSIP.</p> <p>It is noted that the Applicant has provided a Nationally Significant Infrastructure Project Plan (Doc 2.14) which sets out how in the Applicant's opinion the thresholds in Section 22(3)(c) and Section 22(4) of the PA2008 are met.</p>		

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

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

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

	consent is required?	
3	Summary – s55(3)(a) and s55(3)(c)	The Planning Inspectorate considers that the Draft DCO (Doc 3.1) includes development which comprises an NSIP as defined by s14 of the PA2008, and that development consent is required for that development.
s55(3)(e) The applicant in relation to the application made has complied with Chapter 2 of Part 5 (pre-application procedure)		
4	Did the applicant before carrying out the s42 consultation 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 ⁴ ?	<p>Yes.</p> <p>Notification under Regulation 6(1)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the EIA Regs) was sent to the Planning Inspectorate on 16 January 2015. This notification was accompanied by a scoping report provided under Regulation 8 of the EIA Regs.</p> <p>Para 1.6.2 of the Consultation Report (Doc 5.1) indicates that an initial 9 week statutory consultation period started on 14 January 2016. Notification under Regulation 6 of the EIA Regs was provided on 14 January 2015; about a year before the Applicant began its initial s42 consultation.</p> <p>Sample letters providing notification of the initial statutory consultation period are dated 8 January 2016 and are provided at Appendix A.2.3 and Appendix A.2.4 of the Consultation Report (Doc 5.2).</p>
5	Have any adequacy of consultation representations ⁵ been received from “A”, “B”, “C” and “D” authorities; and if so do they confirm that the Applicant has complied with the duties under s42, s47 and s48?	<p>Yes.</p> <p>There are 13 host and neighbouring authorities, of which eight provided responses confirming either that the Applicant had complied with its duties under s42, s47 and s48 of the PA2008, and/or that the council had no substantive comments to make. The councils which responded were:</p> <ul style="list-style-type: none"> • Ashford Borough Council ('B' authority); • Kent County Council (KCC) ('C' authority); • Shepway District Council (SDC) ('A' authority);

⁴ Regulation 6 of the The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

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

		<ul style="list-style-type: none"> • Tunbridge Wells Borough Council ('A' authority); • Maidstone Borough Council ('A' authority); • Canterbury City Council ('A' authority); • London Borough of Bexley ('D' authority); and • Medway Council ('D' authority). <p>SDC's adequacy of consultation representation does not refer explicitly to the Applicant's pre-application consultation duties. Whilst SDC expresses support for the scheme in principle, some concern is expressed in respect of its impact on traffic.</p> <p>KCC's adequacy of consultation representation confirms that the Applicant has complied with its duties under s42, s47 and s48 of the PA2008, but raises some concern in respect of the Applicant's duties under s49 of the PA2008.</p> <p>The Planning Inspectorate has responded to SDC and KCC to clarify the acceptance tests, and with advice as to how any issues raised might be submitted and considered during the examination of the application (available here).</p>
s42: Duty to Consult		
	Did the applicant consult the applicable persons set out in s42 of the PA2008 about the proposed application?	
6	s42(1)(a) persons prescribed ⁶ ?	<p>Table C.1-4 at Appendix C.1.1 of the Consultation Report (Doc 5.4) lists the prescribed consultees identified and consulted under s42(1)(a).</p> <p>On the basis of the information provided, and in application of a precautionary interpretation of the The Infrastructure Planning (Interested Parties and Miscellaneous Prescribed Provisions) Regulations 2015, the Planning Inspectorate has identified the following persons prescribed by s42(1)(a) of the PA2008 which appear to have been omitted from the Applicant's statutory consultation:</p> <ul style="list-style-type: none"> • Thurrock Council ('D' authority - see box 8, below); • Smeeth Parish Council ('B' parish council);

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

- The Crown Estate;
- The Secretary of State for Defence (The Ministry of Defence (MoD));
- Network Rail Infrastructure Ltd;
- High Speed 1 Ltd;
- Highways England Historical Railways Estate;
- Energy Assets Pipelines Ltd (EAPL);
- ESP Connections Ltd (ESPCL);
- Indigo Pipelines Ltd (IPL);
- Harlaxton Energy Networks Ltd (HENL);
- Peel Electricity Networks Ltd (PENL); and
- UK Power Distribution Ltd (UPDL).

Para 7.2.2 of the **Consultation Report (Doc 5.1)** states “A list of prescribed consultees notified under regulation 9(1)(a) of the EIA Regulations was provided by the Secretary of State. It was noted by Highways England that this list did not include the MoD / DIO. Investigations by Highways England showed the Scheme did not affect any relevant MoD / DIO [Defence Infrastructure Organisation] land.” But on submission of the application, the Planning Inspectorate identified the MoD as a prescribed consultee because the scheme is within a low-flying area.

Justification as to why all other persons listed above have not been consulted is not provided in the **Consultation Report (Doc 5.1)**.

It is noted that no Crown land is comprised within the Order lands. This could provide justification for the omission of the Crown Estate from the Applicant’s pre-application consultation exercises.

It is noted that the licences held by EAPL; ESPCL; IPL; HENL; PENL; and UPDL all cover Great Britain. The operational areas of these bodies however are not clear from information in the public domain. EAPL; ESPCL; IPL; HENL; PENL; and UPDL have not been identified by the Applicant as being interested in the Order lands and are not listed in the **Book of Reference (Doc 4.3)**.

		Section 51 advice has been issued to the Applicant in respect of the above matters (available here).
7	s42(1)(aa) the Marine Management Organisation ⁷ ?	Not applicable.
8	s42(1)(b) each local authority within s43 ⁸ ?	<p>Table 3-1 and Table 3-2 of the Consultation Report (Doc 5.1) list the relevant local authorities that were identified and consulted under s43 and s42(1)(b) of the PA2008.</p> <p>The 'B' authority was consulted:</p> <ul style="list-style-type: none"> • Ashford Borough Council. <p>The 'C' authority was consulted:</p> <ul style="list-style-type: none"> • Kent County Council (KCC). <p>All 'A' authorities were consulted:</p> <ul style="list-style-type: none"> • Tunbridge Wells Borough Council; • Maidstone Borough Council; • Swale Borough Council; • Canterbury City Council; • Shepway District Council; and • Rother District Council. <p>The 'D' authorities consulted were:</p> <ul style="list-style-type: none"> • Medway Council; • East Sussex County Council; • Surrey County Council;

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

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

		<ul style="list-style-type: none"> • London Borough of Bexley; and • London Borough of Bromley. <p>On the basis of the information provided, the Planning Inspectorate has identified that Thurrock Council appear not to have been consulted. Thurrock Council shares a boundary with KCC and is therefore a 'D' authority in relation to the scheme.</p> <p>Section 51 advice has been issued to the Applicant in respect of the above matter (available here).</p>
9	s42(1)(c) the Greater London Authority (if in Greater London area)?	Not applicable.
10	s42(1)(d) each person in one or more of s44 categories ⁹ ?	<p>Paras 3.5.1, 7.2.6 and 7.2.7 of the Consultation Report (Doc 5.1) explain how the Applicant made diligent inquiry to identify and consult persons with an interest in the Order lands.</p> <p>Table C.1-5 at Appendix C.1.1 of the Consultation Report (Doc 5.4) lists land interests consulted as part of the initial statutory consultation period between 14 January 2016 and 17 March 2016. Table C.1-6 at Appendix C.1.2 lists land interests consulted as part of the 'second consultation' between 31 March 2016 and 5 May 2016. Table C.1-7 at Appendix C.1.3 lists newly identified land interests consulted as part of the 'final land interests consultation' between 20 May 2016 and 3 July 2016.</p> <p>Table C.2-2 at Appendix C.2.1 comprises two land interests who were omitted from the statutory consultation exercises; William James Mitchell and Philip Batt, both listed in the Book of Reference (Doc 4.3) as having Category 1 and Category 3 interests in the Order lands. Paras 9.4.1 and 9.4.2 of the Consultation Report (Doc 5.1) explain the late identification of these interests and the steps taken by the Applicant to ensure that Mr Mitchell and Mr Batt are not disadvantaged through their omission from the statutory consultation exercises. A letter was sent to both land interests on 4 July 2016 informing them of the scheme and sending them the information used as part of the 'final land interests consultation'. A second letter would be sent to notify the interests of the submitted application and, if accepted, how representations can be made about it.</p>

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

		<p>The Planning Inspectorate is otherwise satisfied that the Applicant has consulted each person within one or more of the categories in s44 of the PA2008.</p> <p>Section 51 advice has been issued to the Applicant in respect of the omitted land interests (available here).</p>
<p>s45: Timetable for s42 Consultation</p>		
<p>11</p>	<p>Did the applicant notify s42 consultees of the deadline for receipt of consultation responses; and if so was the deadline notified by the applicant 28 days or more starting with the day after receipt of the consultation documents?</p>	<p>Yes.</p> <p>Samples of the letters sent to s42 consultees for each of the statutory consultation periods are provided at Appendix A of the Consultation Report (Doc 5.2).</p> <p>Sample letters for the initial statutory consultation period are dated 8 January 2016 and give a deadline of 17 March 2016 for responses (Appendix A.2.3 and Appendix A.2.4 of the Consultation Report (Doc 5.2)). Assuming the letters were received on 9 January 2016, 69 days were provided for responses to be received.</p> <p>Following updates to the scheme, two further statutory consultation periods were held between 31 March and 5 May 2016 ('second consultation' involving all s42 persons) and between 20 May and 3 July 2016 ('final land interests consultation' involving s42(d) persons only).</p> <p>Sample letters notifying consultees of the 'second consultation' are dated 29 March 2016 and give a deadline of 5 May 2016 for responses (Appendix A.2.8 and Appendix A.2.9). Assuming the letters were received on 30 March 2016, 37 days were provided for responses to be received.</p> <p>The sample letter for the 'final land interests consultation' is undated and the deadline for responses has not been inserted (Appendix A.2.10). Para 9.3.4 of the Consultation Report (Doc 5.1) states that "<i>Letters were sent over a 14 day period commencing on 20 May and concluding on 2 June 2016. Each letter identified the relevant consultation deadline date for responses. The consultation period closed on 3 July 2016.</i>" Assuming that the letter was in the latest instance received on 3 June 2016, 31 days were provided for responses to be received.</p>
<p>s46: Duty to notify Secretary of State of proposed application</p>		

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>Yes.</p> <p>The Applicant gave notice under s46 on 30 December 2015, which was before the beginning of s42 consultation; which commenced on 14 January 2016.</p> <p>Copies of the s42 consultation notification letters are provided at Appendix A.2.3 and Appendix A.2.4 of the Consultation Report (Doc 5.2).</p>
s47: 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>Chapter 5 of the Consultation Report (Doc 5.1) outlines the Applicant's approach to developing the draft SOCC in consultation with the host authorities. Chapter 6 of the Consultation Report (Doc 5.1) summarises the Applicant's activities carried out under s47 of the PA2008.</p> <p>A copy of the finalised SOCC is provided at Appendix A.1 of the Consultation Report (Doc 5.2).</p> <p>The date that the SOCC notice appeared in the relevant press is evidenced through clippings provided at Appendix A.3.5 of the Consultation Report (Doc 5.2).</p>
14	Were "B" and (where relevant) "C" authorities consulted about the content of the SOCC; and if so was the deadline for receipt of responses 28 days beginning with the day after the day that "B" and (where applicable) "C" authorities received the consultation documents?	<p>Yes.</p> <p>It is confirmed in para 5.1.10 and para 5.1.11 of the Consultation Report (Doc 5.1) that Kent County Council ('C' authority) and Ashford Borough Council ('B' authority) were consulted about the contents of the SOCC on 26 October 2015. A deadline of 23 November 2015 provided 28 days for responses to be received. Copies of the notification letters are provided in Appendix A.1.2 of the Consultation Report (Doc 5.2).</p> <p>One response to the SOCC consultation was received from Ashford Borough Council on 23 November 2015. It is provided at Appendix A.1.3 of the Consultation Report (Doc 5.2).</p>
15	Has the applicant had regard to any responses received when preparing the SOCC?	<p>Yes.</p> <p>In Table 5-1 of the Consultation Report (Doc 5.1) the Applicant provides a summary</p>

		<p>of Ashford Borough Council’s consultation response in respect of the draft SOCC, and demonstrates how regard was taken to it. Para 5.2.1 of the Consultation Report (Doc 5.1) states that:</p> <p><i>“Following the revision of the draft SOCC to address Ashford Borough Council’s comments, Highways England published the updated SOCC on its scheme webpage on 29 December 2015.”</i></p> <p>Examples of changes from the draft SOCC to the final SOCC:</p> <ul style="list-style-type: none"> • Amended consultation deadline from 3 March 2016 at 23:59 to 17 March 2016 at 23:59, as requested. • Further information under the “<i>How can I find out more about the community consultation</i>” heading to include direct distribution drops and four parish councils, as requested. • Further information under “<i>Consultation on options</i>” to include more information on the scheme since the 2008 proposals, as requested.
16	<p>Has the SOCC been made available for inspection in a way that is reasonably convenient for people living in the vicinity of the land; and has a notice been published in a newspaper circulating in the vicinity of the land which states where and when the SOCC can be inspected?</p>	<p>Yes.</p> <p>Para 5.2.3 of the Consultation Report (Doc 5.1) lists of the following publications within which notices were published, and each states where and when the SOCC could be inspected:</p> <ul style="list-style-type: none"> • Ashford Herald – Thursday 7 January 2016. • Folkestone Herald – Wednesday 6 January 2016. • Dover Express – Thursday 31 December 2015. • Kent Express – Thursday 7 January 2016. • Folkestone & Hythe Express – Wednesday 30 December 2015. <p>Clippings of each of these advertisements are contained in Appendix A.3.5 of the Consultation Report (Doc 5.2), which confirms the dates detailed above.</p> <p>Figure 5-2 of the Consultation Report (Doc 5.1) states that the Applicant made the SOCC available for inspection by the public in the following places on the following dates, which were reasonably convenient having regard to the location of the scheme:</p>

		<ul style="list-style-type: none"> • The New Ashford Market (Amos Hall), Ashford TN24 0HB on Thursday 21 January from 12pm to 8pm, Friday 22 January from 10am to 8pm and Saturday 23 January from 9:30am to 3:30pm. • ASDA, Kimberley Way, Ashford TN24 0SE on Wednesday 03 February from 11am to 3pm. • Ashford Designer Outlet, Kimberley Way, Ashford TN24 0SD on Wednesday from 11am to 3pm. <p>Two locations requested by Ashford Borough Council in response to the draft SOCC consultation were not included by the Applicant. Para 1.4.3 of the Consultation Report (Doc 5.1) states that the final revised SOCC was published on the Applicant's website in full. The published SOCC at Appendix 1.1.1 of the Consultation Report (Doc 5.2) states where it was available to inspect and how paper copies could be requested free of charge.</p>
17	Does the SOCC set out whether the development is EIA development ¹⁰ ; and does it set out how the applicant intends to publicise and consult on the preliminary environmental information?	<p>Yes.</p> <p>Page 2 of the published SOCC at Appendix A.1.1.1 of the Consultation Report (Doc 5.2) sets out that the scheme is EIA development and how the Applicant proposed to consult on the preliminary environmental information.</p>
18	Has the applicant carried out the consultation in accordance with the SOCC?	<p>Yes.</p> <p>In Table 11-2 of the Consultation Report (Doc 5.1) the Applicant provides a detailed account of the activities that were carried out and explains how they were carried out in compliance with the SOCC.</p>
s48: Duty to publicise the proposed application		
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)	<p>Yes.</p> <p>Two s48 publications were undertaken.</p> <p>The Applicant has described the newspapers and provided dates of s48 publicity in</p>

¹⁰ Regulation 10 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

Regulations 2009?		<p>the Consultation Report (Doc 5.1), as set out below.</p> <p>Para 1.7.2 of the Consultation Report (Doc 5.1) states: <i>“Highways England Undertook formal s48 consultation for a period of 9 weeks from 14 January to 17 March 2016.”</i></p> <p>Para 1.7.4 of the Consultation Report (Doc 5.1) states: <i>“A second Section 48 consultation from 31 March to 5 May 2016 allowed for an update on the scheme specifically related to the Redline Boundary and alternative access for the Stour Park development.”</i></p> <p>The s48 notices are supplied at appendices A.3.1 through A.3.4 of the Consultation Report (Doc 5.1), and the Applicant provides a summary of the notices at Table 8-1 of the Consultation Report (Doc 5.1).</p>
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20	Newspaper(s)	Date
for at least two successive weeks in one or more local newspapers circulating in the vicinity in which the proposed development would be situated;	<p>Yes.</p> <p>In the Kentish Express series that include the <i>Folkestone and Hythe Express</i> and the <i>Ashford Herald</i>.</p>	<p><i>Kentish Express:</i> 7 January 2016 14 January 2016</p> <p><i>Ashford Herald:</i> 14 January 2016 21 January 2016</p>
once in a national newspaper;	<p>Yes.</p> <p>In the <i>London Gazette</i> and <i>The Times</i>.</p>	<p>1 February 2016 for two consecutive weeks.</p>
once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and	<p>Not applicable.</p>	<p>Not applicable.</p>

	where the proposed application relates to offshore development – (i) once in Lloyds List; and (ii) once in an appropriate fishing trade journal?	Not applicable.	Not applicable.
21	Did the s48 notice include the required information set out in Regulation 4(3) of APFP Regulations?	Yes. The s48 notices are supplied at appendices A.3.1 through A.3.4 of the Consultation Report (Doc 5.2) and contain the required information as set out below:	
22	Information	Paragraph	Information
	The name and address of the applicant.	Paragraph one.	the latest date on which those documents, plans and maps will be available for inspection
	A statement that the applicant intends to make an application for development consent to the Secretary of State	Para one.	whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge
	a statement as to whether the application is EIA development	Para three.	details of how to respond to the publicity
	a summary of the main proposals, specifying the location or route of the proposed development	Para two.	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
	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	Paras four and five.	

23	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 Regulation 9(1)(c) of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the EIA Regulations) ¹¹ ?	<p>Yes.</p> <p>At Appendix A.2.6 of the Consultation Report (Doc 5.2) the Applicant provides evidence that the notice was sent to the EIA consultation bodies on 13 January 2016.</p> <p>The Applicant provides a list of all parties consulted under Regulation 9(1)(b) of The Infrastructure Planning (Environmental Impact Assessment) Regulations at Appendix C.1.1 of the Consultation Report (Doc 5.4).</p>
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s49: Duty to take account of responses to consultation and publicity

24	Has the applicant had regard to any relevant responses to the s42, s47 and s48 consultation?	<p>Section 4.4 (paras 4.4.1 through 4.4.4) of the Consultation Report (Doc 5.1) sets out how the Applicant took account of responses following s42, s47 and s48 consultation.</p> <p>The tables comprising Appendix D of the Consultation Report (Doc 5.5) record the actions taken by the Applicant in having regard to the responses received in response to the initial statutory consultation period (s47 at Appendix D.1; s42 at Appendix D.2) and the 'second consultation' (Appendix D.3). Each table explains how individual responses led to responding actions by the Applicant. Where consultation responses did not lead to any changes to the scheme, justification has been provided. Section 7.5 of the Consultation Report (Doc 5.1) explains the structure and content of the tables provided at Appendix D and summarises the key issues raised.</p> <p>Paras 9.5.9 and 9.5.10 of the Consultation Report (Doc 5.1) explain that no formal responses were provided for the 'final land interests consultation'.</p>
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Guidance about pre-application procedure

25	To what extent has the applicant had regard to DCLG guidance 'The Planning Act 2008: Guidance on the pre-application process' ¹² ?	<p>Paras 1.2.5 to 1.2.7 and 1.10.1 of the Consultation Report (Doc 5.1) explain how the Applicant has had regard to DCLG guidance on the pre-application process. The application appears to be in general conformity with the Guidance and the Applicant has confirmed compliance with Guidance in para 3.1.4 of the Consultation Report (Doc 5.1) when setting out the rationale for the non-statutory engagement. Paras 4.2.2 to 4.2.5 and para 4.3.2 confirm the Applicant had due regard to Guidance and</p>
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¹¹ Regulation 11 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

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

		<p>PINS Advice Notes when developing the methodology for the statutory consultation.</p> <p>An example of how the Applicant demonstrated it had regard to Guidance was by ensuring that the book of reference was as up to date as possible by the submission date. The Applicant did this by holding two additional rounds of statutory consultation under s48.</p> <p>Table 11-1 of the Consultation Report (Doc 5.1) usefully sets down a summary of how the Applicant complied with statutory pre-application guidance.</p>
26	Summary - s55(3)(e)	<p>The Planning Inspectorate considers that the applicant's pre-application consultation duties have been undertaken to a satisfactory standard.</p> <p>However, the applicant is strongly recommended to consider and respond to the content of s51 advice about s42 consultation issued alongside this checklist (available here).</p>
<p>s55(3)(f) and s55(5A) The application (including accompaniments) achieves a satisfactory standard having regard to the extent to which it complies with section 37(3) (form and contents of application) and with any standards set under section 37(5) and follows any applicable guidance under section 37(4)</p>		
27	<p>Is it made in the prescribed form as set out in Schedule 2 of the APFP Regulations, and does it include:</p> <ul style="list-style-type: none"> • a brief statement which explains why it falls within the remit of the Secretary of State; and • a brief statement that clearly identifies the location of the application site, or the route if it is a linear scheme? 	<p>Yes.</p> <p>The application is made in the prescribed form, and explains why it falls within the remit of the Secretary of State in section 4 of the Application Form (Doc 1.3).</p> <p>Section 5 of the Application Form (Doc 1.3) provides a brief non-technical description of the site. Section 6 provides the location of the application site.</p>
28	Is it accompanied by a consultation report?	<p>Yes.</p> <p>A Consultation Report (Doc 5.1) with four appendices A-D (Doc 5.2 to Doc 5.5) accompanies the application.</p>
29	Where a plan comprises three or more separate sheets has a key plan been provided showing the relationship	<p>Yes.</p> <p>In all instances where three or more separate sheets comprise a plan, a key plan is</p>

	between the different sheets? ¹³	provided showing the relationships between the different sheets.			
30	Is it accompanied by the documents and information set out in APFP Regulation 5(2)?	Yes. The documents and information required by APFP Regulation 5(2) are set out in the documents and locations within the application as listed below:			
31	Information	Document	Information	Document	
a)	Where applicable, the environmental statement (ES) required under the EIA Regulations and any scoping or screening opinions or directions	<ul style="list-style-type: none"> • Environmental Statement (Doc 6.1); • Figures (Doc 6.2); • Appendices (Doc 6.3); and • Non-technical summary (Doc 6.5). 	b)	A works plan showing, in relation to existing features:- the proposed location or (for a linear scheme) the proposed route and alignment of the development and works; and the limits within which the development and works may be carried out and any limits of deviation provided for in the draft order	Works Plans (Doc 2.3).
	Is this of a satisfactory standard?	<i>See box 32 of this checklist.</i>		Is this of a satisfactory standard?	No. <i>See box 32 of this checklist.</i>
c)	The draft proposed order	Draft DCO (Doc 3.1).	d)	Where applicable, a plan identifying any new or altered means of access, stopping up of streets or roads or any diversions,	Rights of Way and Access Plans (Doc 2.4).

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

				extinguishments or creation of rights of way or public rights of navigation	
	Is this of a satisfactory standard?	Yes.		Is this of a satisfactory standard?	Yes.
e)	An explanatory memorandum explaining the purpose and effect of provisions in the draft order	Explanatory Memorandum to Draft DCO (Doc 3.2).	f)	Where applicable, a plan with accompanying information identifying:- any statutory/non-statutory sites or features of nature conservation e.g. sites of geological/ landscape importance; habitats of protected species, important habitats or other diversity features; and 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	<p><i>Ecology</i></p> <ul style="list-style-type: none"> ES Figure 2.3 (Doc 6.2) (plan) and ES Chapter 8 (Doc 6.1) (assessment). <p><i>Landscape</i></p> <ul style="list-style-type: none"> ES Figure 7.2 (Doc 6.2) (plan) and ES Chapter 7, Doc 6.1 (assessment). <p><i>Water</i></p> <ul style="list-style-type: none"> ES Appendix 14.1 (Doc 6.3) (Water Framework Directive assessment and water bodies plan).
	Is this of a satisfactory	Yes.		Is this of a satisfactory standard?	Yes.

	standard?			
g)	Where applicable, a book of reference (where the application involves any compulsory acquisition)	Book of Reference (Doc 4.3).	h)	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
	Is this of a satisfactory standard?	No. <i>See box 32 of this checklist.</i>		Is this of a satisfactory standard?
i)	A copy of any flood risk assessment	ES Appendix 14.2 (Doc 6.3).	j)	Where applicable, a plan with any accompanying information identifying any Crown land;
	Is this of a satisfactory	Yes.		Is this of a satisfactory standard?
				ES Figures 2.3, 6.1 and 6.2 (Doc 6.2) (plans) and ES Chapter 6 (Doc 6.1) (assessment).
				Yes.
				Not applicable. Based on the information provided by the Applicant, there is no Crown land comprised within the Order lands.
				Not applicable.

	standard?				
k)	A statement whether the proposal engages one or more of the matters set out in section 79(1) of the Environmental Protection Act 1990 (statutory nuisances) and if so how the Applicant proposes to mitigate or limit them	Statement of Statutory Nuisances (Doc 6.4).	l)	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:	Section 23 of the Application Form (Doc 1.3) , lists the following: <ul style="list-style-type: none"> • Location Plan (Doc 2.1). • Permanent Speed Limit Orders Plan (Doc 2.5). • General Arrangement Plans (Doc 2.6). • Classification of Roads Plans (Doc 2.7). • Traffic Regulation Measures Plan (Doc 2.10). • Outline Drainage Works Plans (Doc 2.11). • Special Category Land Plans (Doc 2.12). • Red Line Boundary Plan (Doc 2.13). • Nationally Significant Infrastructure Project Definition Plan (Doc 2.14).
	Is this of a satisfactory standard?	Yes.		Are they of a satisfactory standard?	Yes.
m)	Any of the documents prescribed by Regulation 6 of the APFP Regulations:	<ul style="list-style-type: none"> • Engineering Section Drawings (Doc 2.9). 	n)	A statement of reasons and a funding statement (where the application involves any compulsory acquisition);	<ul style="list-style-type: none"> • Statement of Reasons (Doc 4.1). • Funding Statement (Doc 4.2).
	Are they of a satisfactory	Yes.		Is this of a satisfactory standard?	Yes.

	standard?				
o)	Any other documents considered necessary to support the application:	<p>Section 23 of the Application Form (Doc 1.3), lists the following:</p> <ul style="list-style-type: none"> • Introduction to the Application (Doc 1.1). • Covering Letter and Schedule of Compliance with Section 55 (Doc 1.2). • Copies of Newspaper Notices (Doc 1.4). • Consents and Agreements Position Statement (Doc 3.3). • Consultation Report (Doc 5.0). • Case for the Scheme (Doc 7.1). • Transport Assessment (Doc 7.2). • Contaminated Land Desk Study and Preliminary Interpretative Report (Doc 7.4). • Signing Strategy (Doc 7.5). 	p)	<p>A land plan identifying:- the land required for, or affected by, the proposed development; where applicable, any land over which it is proposed to exercise powers of compulsory acquisition or any rights to use land; any land in relation to which it is proposed to extinguish easements, servitudes and other private rights; and any special category land and replacement land</p>	<p>Land Plans (Doc 2.2).</p> <p>The plots annotated on the land plan appear to be consistent with the information within the Book of Reference (Doc 4.3) and the Draft DCO (Doc 3.1).</p>
	Are they of a satisfactory standard?	Yes.		Is this of a satisfactory standard?	Yes.
32	Are there any observations in respect of the documents provided above?				
	<p>Whilst the Environmental Statement (Doc 6.1) meets the minimum requirements set out in Schedule 4 Part 2 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) regarding the information for inclusion in environmental statements, the document provides limited information on the dimensions of the different elements of the proposed scheme. The Examining Authority may ask</p>				

questions about this document during the examination, and an appointed Examining Authority is not precluded from seeking further explanation in this regard during the course of the examination.

In respect of the **Works Plans (Doc 2.3)** the following issues have been identified:

- Work no. 3 - inconsistent/ incorrect labelling of works (a) to (f).
- Work no. 7 - inconsistent/ missing labels to signage locations.
- Work no. 29 - description of works in the draft DCO seems to go much wider than what is identified on the **Works Plans (Doc 2.3)**.
- Work no. 8 – what appear to be steps up to the new cycle/ footbridge are not labelled or identified in the key.
- Reference to 'indicative' features in the key (works centre line; attenuation ponds and noise bund boundaries; utility diversion works centrelines; and utility diversion works limit of deviation for the works; and site compound lay down area) does not provide a sufficient level of detail or certainty about the works proposed within the draft DCO boundary/limits of deviation for the works.

In respect of the **Book of Reference (Doc 4.3)** the following persons listed in Part 3 are not also identified in Part 1:

- Southern Gas Networks Plc;
- UK Power Networks Plc;
- BT Openreach;
- EDF Energy Plc;
- South East Water Ltd;
- Vodafone;
- Virgin Media Ltd; and
- Telent Technology Services Ltd.

The **Book of Reference (Doc 4.3)** also does not cross-refer to the relevant articles contained in the **Draft DCO (Doc 3.1)**.

For plots in the **Book of Reference (Doc 4.3)** in respect of which temporary possession with the permanent acquisition of rights is sought, in relation to the permanent acquisition of rights the proposed new rights to be created (or new restrictions to be imposed) are not identified either within the book of reference or in the **Draft DCO (Doc 3.1)**. Article 24(2) of and Schedule 5 to the draft DCO refer to 'purposes' for which such things may be created, but do not identify the actual nature or detail of them.

Section 51 advice has been issued to the Applicant alongside this checklist, which expands upon the areas of concern identified by the Planning Inspectorate above ([available here](#)). The Applicant is strongly recommended to consider and respond to that advice in its preparations

	for the examination of the application.	
33	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)?	<p>Yes.</p> <p>An Assessment of Implications on European Sites Habitat Regulations Assessment Report (Doc 6.6) is provided.</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><i>Note:</i> the Examining Authority may ask questions about this document during the examination. This may result in additional information being required to inform the HRA report and the competent authority. Depending upon the type and availability of information required, it may not be possible to obtain this during the statutory timetable of the examination.</p>
34	If requested by the Secretary of State, two paper copies of the application form and other supporting documents and plans	<p>Yes.</p> <p>On 15 July 2016 two full and identical paper copies of the application form, supporting documents and plans were provided, as requested by the Secretary of State.</p>
35	Summary - s55(3)(f) and s55(5A)	<p>In consideration of its observations made above, the Planning Inspectorate considers that the submitted application generally accords with the requirements of s55(3)(f) having regard to s55(5A) of the PA2008.</p> <p>None of the issues identified in the checklist are likely to prejudice any persons wishing to take part in the examination, or to prevent an appointed Examining Authority from examining the application within the statutory 6 month period. The overall conclusion therefore is that the application is of a satisfactory standard and can be accepted.</p> <p>However, the applicant is strongly recommended to consider and respond to the content of s51 advice issued alongside this checklist (available here).</p>
The Infrastructure Planning (Fees) Regulations 2010 (SI106)		
Fees to accompany an application		

36	Was the fee paid at the same time that the application was made ¹⁴ ?	The fee of £4,500 was paid by CHAPS and cleared on 19 July 2016, following the submission of the application on 15 July 2016.
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Electronic Signature	Name	Date
Case Leader	<i>Richard Price</i>	11 August 2016
Acceptance Inspector	<i>Mike Ebert</i>	11 August 2016

¹⁴ 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 payable is presently £4,500 and must be paid at the same time that the application is made

Section 55 Acceptance of Applications

Appendix One

Application Checklist

M20 Junction 10a

A Legal Advice

Withheld from publication as potentially falling within one or more of the following categories of information:-

- excepted internal communications and / or
- excepted because publication would adversely affect the course of justice and/or
- exempted information protected by legal professional privilege

B Habitats Regulation Assessment Checklist

Withheld from publication as potentially falling within one or more of the following categories of information:-

- excepted internal communications and / or
- excepted because publication would adversely affect the course of justice and/or
- excepted because its publication would adversely affect the protection of the environment to which the information relates