

M20 Junction 10a

TR010006

Summary Table of Responses to s51 Advice and s55 Checklist

Revision A
Planning Act 2008
Infrastructure Planning (Applications: Prescribed Forms and
Procedure)
Regulations 2009



Volume 9.2
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Infrastructure Planning (Applications: Prescribed Forms
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Issue and revision record

Revision	Date	Originator	Checker	Approver	Description
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1 Applicant's response to Section 51 Advice and Section 55 Acceptance of Applications Checklist

Item No.	Planning Inspectorate Comments	Applicant's Response	Document Reference
	Section 42(1)(a) persons prescribed		
1.1	<p>As the published Checklist sets out, it appears on the basis of the information provided by the Applicant that the below listed potentially relevant bodies were not consulted at the pre-application stage:</p> <ul style="list-style-type: none"> • Thurrock Council ('D' authority); • Smeeth Parish Council ('B' parish council); • The Crown Estate; • The Secretary of State for Defence (The Ministry of Defence); • Network Rail Infrastructure Ltd; • High Speed 1 Ltd; • Highways England Historical Railways Estate; • Energy Assets Pipelines Ltd; • ESP Connections Ltd; • Indigo Pipelines Ltd; • Harlaxton Energy Networks Ltd; • Peel Electricity Networks Ltd; and • UK Power Distribution Ltd. <p>Unless there is a good reason in each case on the basis of which the Applicant is confident that</p>	<p>We confirm that the listed relevant bodies have been written to under the section 56 notification process.</p>	

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	these bodies are not relevant to the proposed development, the Applicant is advised to include these bodies, or their appropriate successors, in its s56 notification exercise, or to otherwise draw their attention to the relevant representation period.		
	Section 42(1)(d) persons		
1.2	<p>To ensure all those with an interest in the Order lands have the opportunity to make their views on the application known, we advise the Applicant to either include the following persons in its s56 notification, or otherwise draw their attention to the relevant representation period:</p> <ul style="list-style-type: none"> • William James Mitchell in respect of Category 1 and Category 3 interests; and • Phillip Batt in respect of Category 1 and Category 3 interests. <p>Any notification or other form of correspondence with the above named persons should highlight the opportunities for them to become involved in the examination of the application. In particular, it should explain the process by which they may make relevant representations during the advertised period.</p>	We confirm that the listed persons have been written to under the section 56 notification process.	
	Environmental Statement		
1.3	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	We consider that the Environmental Statement (ES) adequately describes the likely significant environmental effects of the scheme. The assessments in the ES are based on scheme	

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	<p>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 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.</p>	<p>layouts which are general arrangement drawings that reflect the scheme that is shown in greater detail on the Works Plans. Therefore, the ES has assessed the scheme that is shown on the Works Plans and described in Schedule 1 of the draft DCO.</p>	
	<p>Works Plans</p>		
<p>1.4</p>	<p>In respect of the Works Plans (Doc 2.3) the following issues have been identified:</p> <ul style="list-style-type: none"> • 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) 	<p>This has been amended.</p> <p>Amendments to all drawings as stated below:</p> <ul style="list-style-type: none"> • Works No. 3: (a) to (d) letters added as specified in Draft DCO Schedule 1 • Signage location added to all drawings, labelling removed from key plan drawing and symbols added to key to all drawings • Steps symbol added to key to all drawings • Word 'indicative' has been removed from the key where not applicable. Irrespective of whether or not the Works are described as indicative on the Works Plans the Applicant will be able to deviate from the 	<p>HA514442-MMGJV-GEN-SMW-DE-Z-2301</p> <p>Revision B</p> <p>to</p> <p>HA514442-MMGJV-GEN-SMW-DE-Z-2306</p> <p>Revision B</p> <p>and</p> <p>HA514442-MMGJV-GEN-SMW-DE-Z-3100</p>

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	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.	Scheme design shown on them subject to compliance with Requirement 11 of Draft DCO.	Revision B
	Book of Reference		
1.5	<p>In respect of the Book of Reference (Doc 4.3) the following persons listed in Part 3 are not also identified in Part 1:</p> <ul style="list-style-type: none"> • 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. <p>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</p>	<p>This has been amended.</p> <p>Amendments to Book of Reference as stated below:</p> <ul style="list-style-type: none"> • Amendments to Part 1: <ul style="list-style-type: none"> Plot Ref 2/5/a - Occupiers Plot Ref 2/6/a - Owners Plot Ref 2/7/a - Lessees or Tenants, Occupiers Plot Ref 3/18/a - Owners, Lessees or Tenants, Occupiers Plot Ref 4/11/a - Owners, Occupiers Plot Ref 4/11/b - Owners, Occupiers Plot Ref 4/11/c - Owners, Occupiers Plot Ref 4/11/d - Owners, Occupiers Plot Ref 4/12/a - Owners, Occupiers Plot Ref 4/19/a - Category 2 Plot Ref 2/1/f - Category 2 Plot Ref 2/1/g - Category 2 Plot Ref 2/3/a - Extent, description and situation of the land right, Lessees or Tenants, Category 2 Plot Ref 2/4/a - Category 2 Plot Ref 2/4/b - Extent, description and situation of the land right, Category 2 	<p>HA514442-MMGJV-GEN-SMW-RE-Z-4301</p> <p>Revision B</p>

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	<p>draft DCO refer to 'purposes' for which such things may be created, but do not identify the actual nature or detail of them.</p>	<p>Plot Ref 2/5/a - Category 2 Plot Ref 3/1/c - Category 2 Plot Ref 3/1/e - Category 2 Plot Ref 3/1/f - Category 2 Plot Ref 3/1/g - Category 2 Plot Ref 3/1/i - Category 2 Plot Ref 3/2/b - Category 2 Plot Ref 3/14/a - Extent, description and situation of the land right, Category 2 Plot Ref 3/14/b - Category 2 Plot Ref 3/15/a - Lessees or Tenants and Occupiers Plot Ref 3/16/b - Category 2 Plot Ref 3/16/d - Extent, description and situation of the land right Plot Ref 3/16/e - Category 2 Plot Ref 3/16/f - Category 2 Plot Ref 3/16/g - Extent, description and situation of the land right, Category 2 Plot Ref 3/18/a - Category 2 Plot Ref 4/1/a - Category 2 Plot Ref 4/1/b - Category 2 Plot Ref 4/1/c - Category 2 Plot Ref 4/1/d - Extent, description and situation of the land right, Category 2 Plot Ref 4/1/e - Category 2 Plot Ref 4/1/g - Category 2 Plot Ref 4/10/a - Category 2 Plot Ref 4/11/b - Category 2 Plot Ref 4/11/d - Category 2 Plot Ref 4/16/a - Extent, description and situation of the land right Plot Ref 4/16/b - Extent, description and situation</p>	

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		<p>of the land right Plot Ref 4/16/e - Extent, description and situation of the land right Plot Ref 4/19/a - Category 2</p> <ul style="list-style-type: none"> • Amendments to Part 2: <p>Changes to existing Category 3 persons New Category 3 persons added</p> <ul style="list-style-type: none"> • Amendments to Introduction (cross-references to draft DCO and Statement of Reason added) • Amendments to Part 3: <p>Changes to Plot Reference column -amendments to plot numbers</p>	

2 Applicant's Response to Book of Reference Schedule of Observations

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	Introduction			
2.1	Para 1.1.1 to 1.1.4	Subject to examination in tandem with examining need for the 'Alternative Scheme'.	Noted. The need for the Scheme is addressed in the Case for the Scheme.	
2.2	Para 1.1.6	<p>a) Article 32 of the draft DCO also appears to be relevant, but is not listed.</p> <p>b) Distinction between compulsory acquisition powers (articles 21 and 24) and temporary possession powers (articles 31 and 32) needs to be precise and certain.</p>	<p>a) Paragraph 1.1.6 has been amended to include a reference to Article 32.</p> <p>b) Paragraph 1.1.6 has been amended to make this distinction clear.</p>	<p>HA514442-MMGJV-GEN-SMW-RE-Z-4301</p> <p>Revision B</p> <p>and</p> <p>HA514442-MMGJV-GEN-SMW-DE-Z-3100</p> <p>Revision B</p>
2.3	Para 1.1.12, 1.1.13 and 1.1.19	a) Reference to 'people' should be to 'persons', otherwise implies only human beings, without also including other legal persons (e.g.	<p>a) Paragraphs 1.1.12, 1.1.13 and 1.1.19 have been amended to change the references to 'people' to 'persons'.</p> <p>b) The paraphrasing in paragraphs 1.1.12 and 1.1.13 is accurate and does not detract from</p>	<p>HA514442-MMGJV-GEN-SMW-RE-Z-4301</p> <p>Revision B</p>

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		<p>corporations).</p> <p>b) Paraphrasing of legislation not appropriate.</p> <p>c) Are these paragraphs needed?</p>	<p>the understanding of the legislation. Nonetheless, these paragraphs have been amended to include direct quotes from section 57 of the Planning Act 2008. Paragraph 1.1.19 has been amended to state: "<i>Part 3 of the BoR contains the names of all such persons.</i>"</p> <p>c) Paragraphs 1.1.12 and 1.1.13 are considered to be useful as they explain the references to persons within Categories 1 and 2 in the preceding paragraph 1.1.11 and the subsequent paragraph 1.1.14. Paragraph 1.1.19 ensures that the explanation of Part 3 is consistent with the explanation of the other parts of the BoR in stating the information that each part contains.</p>	
2.4	Para 1.1.17	<p>a) Who is the 'Land Valuer'?</p> <p>b) Why is he/she/it not an external valuer or a single employee of the Applicant?</p> <p>c) Is this paragraph needed?</p>	<p>a) The Land Valuer is currently Mr Nicholas Coote of the Valuation Office Agency.</p> <p>b) The Applicant uses the Valuation Office Agency to provide valuation services.</p> <p>c) Yes. It helps to explain the basis on which persons have been included in Part 2 of the BoR.</p>	<p>HA514442-MMGJV-GEN-SMW-RE-Z-4301</p> <p>Revision B</p>

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'Schedule of documents included in this application document'				
2.5	'Introduction' and 'Schedule of documents included in this application document'	<p>a) As the Book of Reference (BoR) is provided in five parts, the presence of two numbered chapters confusing. Suggest 'A' and 'B', or no numbering/lettering at all.</p> <p>b) Regarding the title of 'chapter 2'; the document itself is the BoR. The title implies the BoR is a schedule to the document.</p>	<p>a) This has been amended to delete chapter 2, move the 'notes' text to the end of the introduction.</p> <p>b) This has been addressed by the deletion of chapter 2.</p>	<p>HA514442-MMGJV-GEN-SMW-RE-Z-4301</p> <p>Revision B</p>
Part 1				
2.6	Part 1	<p>a) Some entries (e.g. in the 5th column) say 'N/A', but much of the 7th column is simply left blank. Would it be better if the word 'None' was used instead of both 'N/A' and blank cells (as in Part 4)?</p> <p>b) Some entries say 'all interests', which would allow outright ownership to be acquired. Some say 'temporary possession and</p>	<p>a) This has been amended so that the word 'None' is used consistently.</p> <p>b) The wording that is used is considered to clearly distinguish between where compulsory acquisition powers are sought (the acquisition of all interests and rights, or of permanent rights), where temporary possession powers are sought (temporary possession and use), and where both powers are sought (temporary possession and use with rights acquired permanently).</p>	<p>HA514442-MMGJV-GEN-SMW-RE-Z-4301</p> <p>Revision B</p> <p>and</p> <p>HA514442-MMGJV-GEN-SMW-DE-Z-2204</p> <p>Revision B</p>

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		<p>use', and some say 'temporary possession with rights acquired permanently'. Distinction between compulsory acquisition powers (articles 21 and 24) and temporary possession powers (articles 31 and 32) needs to be precise and certain.</p> <p>c) In relation to acquisition of permanent rights, contrary to paragraph 10 of Annex D to <i>DCLC: Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land, September 2013</i>, the proposed new rights to be created (or new restrictions to be imposed) are not identified either in the BoR or in the wording of the draft DCO.</p> <p>d) 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 i.e. they do not e.g. explain</p>	<p>c) This has been addressed.</p> <p>d) This has been addressed. HE has sought to minimise the amount of land that is subject to outright acquisition by seeking permanent rights where possible and appropriate.</p> <p>e) Noted. The plots that are included in Schedule 5 are the plots that the Applicant is confident at this stage it does not need to acquire outright. Should it ultimately transpire that any other plot(s) could be subject to the acquisition/creation of rights instead of outright acquisition then this will allow the Applicant the flexibility to acquire a right in said plot(s), rather than acquiring them outright. This flexibility is considered to be of benefit to those persons with an interest in the land.</p> <p>f) (i)Plot 3/16/f was included in the BoR for the sake of completeness, as it was identified as a separate plot on the Land Plans. It has been deleted from Part 1 of the BoR.</p> <p>(ii)No. Plot 3/16/f will only be required if the Alternative Scheme is to be constructed, which is why the Applicant does not seek powers of compulsory acquisition over it. Any property interests that the Applicant requires in order to construct, operate and maintain the Scheme on this plot will be conferred by</p>	<p>and</p> <p>HA514442-MMGJV-GEN-SMW-DE-Z-3100</p> <p>Revision B</p>

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		<p>whether they would be access rights, rights to do works, rights to keep apparatus, etc. Difficult therefore to determine whether or not such powers are needed or whether or not there is a compelling case in the public interest for them to be granted.</p> <p>e) Note that as currently drafted, whilst the draft DCO seems to limit the plots listed in Schedule 5 to compulsory acquisition of both existing wayleaves and easements and the creation of new rights or restrictions only (to the exclusion of outright land ownership), it does not limit other plots to compulsory acquisition of outright land ownership only (to the exclusion of lesser interests, including creation of new rights or restrictions).</p> <p>f) (i) In e.g. plot 3/16/f the words 'land not subject to compulsory acquisition' appear. So, why is it in the BoR?</p>	<p>private agreement with the landowner.</p> <p>(iii) This has been resolved by the deletion of this plot from Part 1.</p> <p>(iv) Plot 3/16/f is within the DCO boundary as the Applicant is seeking authorisation to construct, operate and maintain part of the Alternative Scheme on it. The DCO boundary is illustrated consistently across all of the application plans. Since this parcel of land is within the DCO boundary, the Applicant considered that it would be helpful to allocate it its own reference number, so that it could be easily identified and referred to during the examination. That this parcel of land is not referred to in the BoR. It therefore will not fall within the definition of 'Order land'.</p> <p>g) The word 'commercial' is relevant to the description of the land. It is not considered to be essential however and has been deleted.</p> <p>h) No. This has been amended.</p>	

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		<p>(ii) Will it come under <i>The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009</i>, regulation 7(1)(a)(ii) or (iii)?</p> <p>(iii) In addition, what relevance do those words have to the title of the column they appear in?</p> <p>(iv) Further, if the plot is to be excluded from compulsory acquisition powers, why is it shown in the plans referred to in the definition of 'Order land' in the draft DCO? Should it not be expressly excluded from articles 21 and 24 of the draft DCO?</p> <p>g) In e.g. plot 4/9/a what relevance does the word 'commercial' have to the title of the column it appears in? Also, does the term have any utility here?</p> <p>h) In plot 3/17/a, should 'Highways England,</p>		

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		Company Limited' have a comma in it?		
	Part 2			
2.7	Page 38	Should the narrative above the table end with 'Category 3'? The words after that imply that Part 2 shows only a subset of Category 3 persons, rather than all Category 3 persons.	This has been amended.	HA514442-MMGJV-GEN-SMW-RE-Z-4301 Revision B
	Part 3			
2.8	Page 45	Is paraphrasing in the narrative above the table appropriate? Is the narrative required at all?	As the other parts have narratives, it is considered that this narrative should be retained. It has however been amended so that it does not paraphrase Regulation 7(1)(c).	HA514442-MMGJV-GEN-SMW-RE-Z-4301 Revision B
2.9	Final column	There are some typos e.g. should 'maintenance' be 'maintaining'?	The typos have been corrected.	HA514442-MMGJV-GEN-SMW-RE-Z-4301 Revision B

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2.10	Part 3	Some persons listed in Part 3 do not also appear in Part 1. This is contrary to paragraph 8 of Annex D to <i>DCLC: Planning Act 2008: Guidance related to procedures for the compulsory acquisition of land</i> , September 2013.	This has been addressed.	HA514442-MMGJV-GEN-SMW-RE-Z-4301 Revision B
	Part 4			
2.11	Part 4	Why is article 43 of the draft DCO needed if Part 4 is empty?	Article 43 (Crown rights) of the draft DCO has been deleted.	HA514442-MMGJV-GEN-SMW-RE-Z-4301 Revision B
	Part 5			
2.12	Page 51	The narrative above the table could cause confusion, particularly the use of '(i)', '(ii)' and '(iii)' as those are not in turn used in the table itself.	This has been amended so that it does not paraphrase Regulation 7(1)(e).	HA514442-MMGJV-GEN-SMW-RE-Z-4301 Revision B