

The Planning Act 2008

Section 55 Acceptance of Applications*

(Appendix 3 of [advice note six: Preparation and submission of application documents](#))

- (1) The following provisions of this section apply where the Secretary of State receives an application that purports to be an application for an order granting development consent.

- (2) The Secretary of State must, by the end of the period of 28 days beginning with the day after the day on which the Secretary of State receives the application, decide whether or not to accept the application.

- (3) The Secretary of State may accept the application only if the Secretary of State concludes -
 - (a) that it is an application for an order granting development consent,
 - (b) deleted
 - (c) that development consent is required for any of the development to which the application relates,
 - (d) deleted
 - (e) that the applicant has, in relation to a proposed application that has become the application, complied with Chapter 2 of Part 5 (pre-application procedure), and
 - (f) that the application (including accompaniments) is of a standard that the Secretary of State considers satisfactory.

- (4) The Secretary of State, when deciding whether the Secretary of State may reach the conclusion in subsection (3)(e), must have regard to -
 - (a) the consultation report received under section 37(3)(c),
 - (b) any adequacy of consultation representation received by the Secretary of State from a local authority consultee, and
 - (c) the extent to which the applicant has had regard to any guidance issued under section 50.

- (5) In subsection (4) -

“local authority consultee” means -

- (a) a local authority consulted under section 42(1)(b) about a proposed application that has become the application, or
- (b) the Greater London Authority if consulted under section 42(1)(c) about that proposed application;

“adequacy of consultation representation” means a representation about whether the applicant complied, in relation to that proposed application, with the applicant’s duties under sections 42, 47 and 48.

(5A) The Secretary of State when deciding whether the Secretary of State may reach the conclusion in subsection (3)(f) must have regard to the extent to which –

- a) the application complies with the requirements in section 37(3) (form and contents of application) and any standards set under section 37(5) and
- b) any applicable guidance given under section 37(4) has been followed in relation to the application.

(6) If the Secretary of State accepts the application, the Secretary of State must notify the applicant of the acceptance.

(7) If the Secretary of State is of the view that the application cannot be accepted, the Secretary of State must -

- (a) notify that view to the applicant, and
- (b) notify the applicant of the Secretary of State’s reasons for that view.

(8) If in response the applicant modifies (or further modifies) the application, subsections (2) to (7) then apply in relation to the application as modified.

* Section 55 of the Planning Act 2008 as amended by the Localism Act 2011

DISCLAIMER - This is for information only and is not a formal application document. It is a non-statutory checklist for the Planning Inspectorate (National Infrastructure Directorate) to complete. Completion or self assessment by the applicant does not hold weight at the acceptance stage.

NB: See DCLG Application Form Guidance for guidance on how the application form should be completed and what should be included with it

Section 55 Acceptance of Applications

Section 55 Application 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
		30 August 2018	27 September 2018	27 September 2018
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	Is the development a nationally significant infrastructure project ² (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 ³ (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)? If the development does not fall within the categories in	<p>Yes.</p> <p>The proposed development set out in Schedule 1 of the Draft Development Consent Order (Doc 3.1) is a Nationally Significant Infrastructure Project (NSIP), which is a development falling within the categories in ss14 and 22 of the PA2008.</p> <p>This is consistent with the summary provided in the Application Form (Doc 1.3) in Box 4 which concludes that the application is for an NSIP.</p> <p>Further details about how the scheme meets the criteria set out in s22 are given in paragraphs 2.4 - 2.5 of the Explanatory Memorandum (Doc 3.2).</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)

	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 consent is required?	
3	Summary – s55(3)(a) and s55(3)(c)	The Planning Inspectorate is satisfied that the application submitted is an application for an order granting development consent under the PA2008 and that development consent is required for the Proposed Development and associated matters described in Box 5 of the Application Form (Doc 1.3) and set out in Schedule 1 of the Draft Development Consent Order (Doc 3.1) .
s55(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 ⁴ , did the applicant (prior to carrying out consultation in accordance with s42) either (a) request the Secretary of State to adopt a screening opinion in respect of the development to which the application relates, or (b) notify the Secretary of State in writing that it proposed to provide an environmental statement in respect of that development?	Yes. On 10 August 2017 the Applicant notified the Planning Inspectorate in accordance with Regulation 8(1)(b) of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (2017 EIA Regulations) of its intention to provide an Environmental Statement in respect of the Proposed Development. The notification was received before the start of its statutory consultation on 29 January 2018. A copy of the letter is provided at Appendix C1 of the Consultation Report Appendices (Doc 5.2) .
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?	There are six host and neighbouring local authorities, of which four responded to the Inspectorate’s invitation to make an Adequacy of Consultation Representation (AoCR): <ul style="list-style-type: none"> • Cornwall Council (‘B’ authority) • Devon County Council (‘A’ authority)

⁴ Regulation 8 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (2017 EIA Regulations), or Regulation 6 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (2009 EIA Regulations) (where Regulation 37 of the 2017 EIA Regulations applies).

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"> West Devon Borough Council and South Hams District Council (joint 'A' authorities) <p>Cornwall Council, the host authority, provided a summary of its engagement with the Applicant during pre-application and concluded that the Applicant had complied with its duties under s42, 47 and s48 of the Planning Act 2008.</p> <p>Devon County Council confirmed that it received a copy of the s48 notice and had no further comments to make on the Applicant's Consultation Report.</p> <p>West Devon Borough Council and South Hams District Council submitted a joint response stating that the Proposed Development was a significant distance beyond their administrative boundaries and as such they did not consider that it would have an impact on them.</p> <p>All AoCR received have been carefully considered and are available to view on the project page of the National Infrastructure Planning website: https://infrastructure.planninginspectorate.gov.uk/projects/south-west/a30-chiverton-to-carland-cross-scheme/?ipcsection=docs</p> <p>The Planning Inspectorate is satisfied that the Applicant has acted reasonably in seeking to comply with Chapter 2 of Part 5 (pre-application procedure) of the PA2008.</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>Yes.</p> <p>A sample of the letter sent to s42(1)(a) consultees for the statutory consultation is provided at Appendix F1 of the Consultation Report Appendices (Doc 5.2).</p> <p>The Applicant has provided a list of persons consulted under s42(1)(a) on 29 January</p>

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

2018 at **Appendix E1** of the **Consultation Report Appendices (Doc 5.2)**.

The Planning Inspectorate has identified the following parties based on a precautionary interpretation of the regulations that have not been consulted by the applicant under s42:

- Energy Assets Networks Limited
- Energy Assets Power Networks Limited
- Fulcrum Energy Assets Limited
- Murphy Power Distribution Limited
- Vattenfall Networks Limited

It is noted that the licences held by the above parties all cover Great Britain. The operational areas of these bodies are not clear from information in the public domain. These parties 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)**.

Given the individual circumstances of this case, and taking a precautionary approach to ensure that all persons potentially affected by, or potentially likely to have an interest in, the application are given the opportunity to participate fully in the examination of the application, the Planning Inspectorate suggests that the Applicant may wish to include the above bodies amongst those on whom they serve notice of the accepted application under s56(2)(a) of PA2008 unless there is a specific justification why this is not necessary.

It is also noted that the list of persons consulted under s42(1)(a) at **Appendix E1** of the **Consultation Report Appendices (Doc 5.2)** includes two parties who have since changed the name they operate under: The Homes and Communities Agency (now Homes England) and Peel Electrical Networks Ltd (now Leep Electrical Networks Ltd).

Section 51 advice has been issued regarding this matter:

<https://infrastructure.planninginspectorate.gov.uk/document/TR010026-000528>

7	s42(1)(aa) the Marine Management Organisation ⁷ ?	Not applicable.
8	s42(1)(b) each local authority within s43 ⁸ ?	<p>Yes.</p> <p>Paragraphs 6.2.13 and 6.2.14 of the Consultation Report (Doc 5.1) identify the relevant local authorities that were consulted under s43 and s42(1)(b) of the PA2008.</p> <p>Figure 6-1 of the Consultation Report (Doc 5.1) illustrates how the relevant local authorities were identified.</p> <p>The host 'B' authority was consulted:</p> <ul style="list-style-type: none"> • Cornwall Council. <p>The boundary 'A' authorities were consulted:</p> <ul style="list-style-type: none"> • City of Plymouth Council. • West Devon Borough Council. • Torridge District Council. • South Hams District Council. • Devon County Council. <p>A sample of the letter sent to s42(1)(b) relevant authorities is provided at Appendix F1 of the Consultation Report Appendices (Doc 5.2).</p>
9	s42(1)(c) the Greater London Authority (if in Greater London area)?	Not applicable.

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

10	s42(1)(d) each person in one or more of s44 categories ⁹ ?	<p>Yes.</p> <p>Paragraph 6.2.22 of the Consultation Report (Doc 5.1) provides a summary of how the Applicant made diligent inquiry to identify and consult persons with an interest in the Order lands whilst a full account of the methodology is provided at Sections 4.4 to 4.8 of the Statement of Reasons (Doc 4.1).</p> <p>A list of the s42(1)(d) persons with an interest in the land (PIL) is provided at Appendix E3 of the Consultation Report Appendices (Doc 5.2). The PILs have been assigned an identification number for the purposes of the report.</p> <p>A sample of the letters sent to s42(1)(d) consultees is provided at Appendix F2 and F3 of the Consultation Report Appendices (Doc 5.2).</p> <p>Section 6.7 of the Consultation Report (Doc 5.1) sets out how additional ‘targeted’ consultation was warranted following further development and refinement of the scheme. Two rounds of targeted consultation took place to consult PILs identified following the amended plans: 29 May to 27 June 2018 and 13 July to 10 August 2018. Samples of the letters sent for these additional rounds have been provided at Appendix T1 and T5 of the Consultation Report Appendices (Doc 5.2).</p> <p>The Planning Inspectorate is therefore satisfied that the Applicant has sought to consult each person within one or more of the categories in s44 of the PA2008.</p>
s45: 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 starting with the day after receipt of the consultation documents?	<p>Yes.</p> <p>A sample of the letters sent to s42 consultees is provided at Appendices F1 to F3 of the Consultation Report Appendices (Doc 5.2).</p> <p>The letter dated 29 January 2018 confirmed a deadline of responses being 12 March</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

2018, which is more than 28 days after the date of the s42 notification letter.

s46: Duty to notify Secretary of State of proposed application

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 26 January 2018, three days before consultation commenced on 29 January 2018.</p> <p>A copy of the s46 notification letter is provided at Appendix G1 of the Consultation Report Appendices (Doc 5.2) and a copy of the s46 notification acknowledgement letter from the Inspectorate is provided at Appendix G2 of the Consultation Report Appendices (Doc 5.2).</p> <p>The s46 notification letter explained that the consultation materials would be available for the Inspectorate to access, via the project's webpage, from the 29 January 2018, the day consultation commenced.</p>
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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 authority and summarises the activities carried out by the Applicant in accordance with s47 of the PA2008.</p> <p>A copy of the finalised SoCC is provided at Appendix D5 of the Consultation Report Appendices (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	<p>Yes.</p> <p>The Applicant confirms in paragraph 5.4.1 of the Consultation Report (Doc 5.1) that, following informal discussions, Cornwall Council ("B" authority), were formally consulted on the content of the draft SoCC on 16 October 2017. A deadline of 13 November 2017 provided 28 days for responses to be received.</p>

	consultation documents?	<p>A copy of the notification email sent to Cornwall Council is provided in Appendix D2 of the Consultation Report Appendices (Doc 5.2).</p> <p>Paragraph 5.4.3 of the Consultation Report (Doc 5.1) acknowledges that the Applicant met with Cornwall Council during the 28 day period to discuss the content of the SoCC further. Details of the meeting are provided at Table 5-1 of the Consultation Report (Doc 5.1).</p> <p>Cornwall Council responded to the SoCC consultation on 11 November 2017. A copy of the response is provided in Appendix D3 of the Consultation Report Appendices (Doc 5.2).</p>
15	Has the applicant had regard to any responses received when preparing the SoCC?	<p>Yes.</p> <p>Table 5-2 of the Consultation Report (Doc 5.1) provides a summary of the consultation response from Cornwall Council in respect of the draft SoCC and demonstrates how regard was had to its content.</p> <p>Examples of changes from the draft SoCC to the final SoCC include:</p> <ul style="list-style-type: none"> • 'Newquay Voice' and 'St. Austell Voice' were added to the list of publications. • An additional event at Victory Hall, Indian Queens was added to the schedule. • The reference to the £500 cost for paper copies of the PEIR was removed. <p>The Planning Inspectorate is therefore satisfied that the Applicant had regard to Cornwall Council's response when preparing the SoCC.</p>
16	Has the SoCC been made available for inspection in a way that is reasonably convenient for people living in the vicinity of the land; and has a notice been published in a newspaper circulating in the vicinity of the land which states where and when the SoCC can	<p>Yes.</p> <p>Table 5-4 of the Consultation Report (Doc 5.1) lists the following publications within which the SoCC notice was published:</p> <ul style="list-style-type: none"> • West Briton – 18 and 25 January 2018.

	be inspected?	<ul style="list-style-type: none"> Western Morning News - 18 and 25 January 2018. <p>A copy of the SoCC notice is provided at Appendix D6 of the Consultation Report Appendices (Doc 5.2).</p> <p>Clippings of the published advertisements are provided at Appendix D7 of the Consultation Report Appendices (Doc 5.2).</p> <p>Table 5.3 of the Consultation Report (Doc 5-1) lists the following public libraries that printed copies of the SoCC were placed for inspection throughout the statutory consultation period:</p> <p>Newquay Library; Perranporth Library; Redruth Library; St. Agnes Library; County Hall, Truro; Truro Community Library.</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>Paragraph 5.1.4 of the finalised SoCC, provided at Appendix D5 of the Consultation Report Appendices (Doc 5.2), sets out that the development is EIA development and how the Applicant intends to publicise and consult on the preliminary environmental information.</p>
18	Has the applicant carried out the consultation in accordance with the SoCC?	<p>Yes.</p> <p>Section 6.4 and 6.5 of the Consultation Report (Doc 5.1) sets out how the Applicant's s47 consultation was carried out in line with the finalised SoCC.</p> <p>The Applicant has provided a table of compliance at Appendix D8 of the Consultation Report Appendices (Doc 5.2), which confirms how each commitment within the finalised SoCC has been carried out.</p> <p>Some examples include:</p> <ul style="list-style-type: none"> <i>'Sending letters and/or emails to elected representatives in the area</i>

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

including MPs, MEPs and Cornwall Council members'. **Table 6-1** of the **Consultation Report (Doc 5.1)** identifies the MPs and MEPs consulted and the letter sent to them is provided at **Appendix F4** of the **Consultation Report Appendices (Doc 5.2)**.

- *'During the consultation period we will hold a series of events, which anyone who is interested in the scheme can attend...'* **Table 6-2** of the **Consultation Report (Doc 5.1)** sets out the consultation events held in line with the SoCC. **Paragraph 6.5.6** of the **Consultation Report (Doc 5.1)** states that a total of 882 persons attended and **Appendix M2** of the **Consultation Report Appendices (Doc 5.2)** provides photos of some of the events.

The following observations are noted with regards to evidence provided to confirm how certain commitments have been carried out in line with the finalised SoCC:

- *'Writing to all residential and business addresses within at least 1.5km of the proposed route'*. The map illustrating the mail drop zone, provided at **Appendix H1** of the **Consultation Report Appendices (Doc 5.2)**, appears to indicate that residential and business addresses were consulted within the parishes surrounding the site as opposed to a perimeter 1.5km of the proposed site. These parishes extend further than 1.5km from the proposed route apart from at the northern end, where it appears that the 1.5km perimeter extends into St Enoder Parish Council, which is not indicated as an area that was consulted.
- *'Using Twitter, @HighwaysSWEST to send out updates during the consultation period'*. A list of the tweets posted during the consultation period, provided at **Appendix Q** of the **Consultation Report Appendices (Doc 5.2)**, appears to only list when other parties have tweeted about the scheme.

While these discrepancies are noted the Planning Inspectorate does not consider these undermine the overall conclusion that the consultation was adequate.

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) Regulations 2009?	<p>Yes.</p> <p>Paragraph 6.6.4 of the Consultation Report (Doc 5.1) states:</p> <p><i>“As per the requirements of Regulation 4 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended), the section 48 notice was published for two consecutive weeks...”</i></p> <p>Table 6-4 of the Consultation Report (Doc 5.1) displays the newspapers and dates of s48 publicity as set out below.</p> <p>A text copy of the s48 notice is provided at Appendix R1 of the Consultation Report Appendices (Doc 5.2).</p> <p>Clippings of the published notices set out below are provided at Appendix R2 of the Consultation Report Appendices (Doc 5.2).</p>
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	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;	<ul style="list-style-type: none"> • The West Briton • Western Morning News 	18 and 25 January 2018 18 and 25 January 2018
once in a national newspaper;	<ul style="list-style-type: none"> • The Times 	18 January 2018
once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and	<ul style="list-style-type: none"> • The London Gazette 	18 January 2018
where the proposed application relates to offshore development –	N/A	N/A

	(i) once in Lloyds List; and (ii) once in an appropriate fishing trade journal?				
20	Did the s48 notice include the required information set out in Regulation 4(3) of APFP Regulations?	Yes. The published s48 notice is supplied at Appendix R1 of the Consultation Report Appendices (Doc 5.2) and contains the required information as set out below.			
	Information	Paragraph		Information	Paragraph
a)	The name and address of the applicant.	Paragraph one	b)	A statement that the applicant intends to make an application for development consent to the Secretary of State	Paragraph one
c)	a statement as to whether the application is EIA development	Paragraph four	d)	a summary of the main proposals, specifying the location or route of the proposed development	Paragraph two
e)	a statement that the documents, plans and maps showing the nature and location of the proposed development are available for inspection free of charge at the places (including at least one address in the vicinity of the proposed development) and times set out in the notice	Paragraphs five and six	f)	the latest date on which those documents, plans and maps will be available for inspection	Paragraph five
g)	whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge	Paragraph nine	h)	details of how to respond to the publicity	Paragraph ten
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	Paragraph ten			

	published		
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 ¹¹ ?	<p>Yes.</p> <p>Paragraph 4.4.2 of the Consultation Report (Doc 5.1) states:</p> <p><i>“In accordance with the requirements of Regulation 13 of the EIA Regulations, a copy of the notice published under section 48 of the Act was sent to prescribed consultees as defined by section 42 of the Act, including consultation bodies listed by PINS under Regulation 11 of the EIA Regulations.”</i></p> <p>A copy of the letter is provided at Appendix C3 of the Consultation Report Appendices (Doc 5.2).</p>	
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>Chapter 7 of the Consultation Report (Doc 5.1) provides an overview of the responses received to the Applicant’s statutory consultation.</p> <p>Section 8.1 of the Consultation Report (Doc 5.1) summarises the design changes as a result of the statutory consultation process and Section 8.2 of the Consultation Report (Doc 5.1) summarises the matters raised during statutory consultation that did not result in design changes, and provides justification as to why.</p> <p>Table 8.1 of the Consultation Report (Doc 5.1) provides a summary of how the Applicant had regard to matters raised in responses from s42(1)(a) prescribed consultees.</p>	

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

		<p>Table 8.2 of the Consultation Report (Doc 5.1) provides a summary of how the Applicant had regard to matters raised in responses from persons with an interest in the land (PILs) identified under s42(1)(d).</p> <p>The Applicant has subdivided how regard was taken to responses to its consultation under s47 by the questions set out on the consultation response form.</p> <p>Tables 8.3 to 8.12 of the Consultation Report (Doc 5.1) provide a range of summaries setting out how the Applicant had regard to s47 responses relating to the following matters:</p> <p style="padding-left: 40px;">Scheme wide; Section A Chiverton to Chybucca; Section B Chybucca to Zelah; Section C Zelah to Carland Cross; PEIR; mitigation; existing A30; construction; other comments.</p> <p>The actions appear to be reflected in the final form of the application submitted, and where a response has not led to a change in the application, it is sufficiently clear that regard was had to it.</p>
Guidance about pre-application procedure		
24	To what extent has the applicant had regard to DCLG guidance 'The Planning Act 2008: Guidance on the pre-application process' ¹² ?	<p>Paragraph 9.1.4 of the Consultation Report (Doc 5.1) concludes that:</p> <p><i>"[the Applicant] has undertaken a consultation process which complies with Department for Communities and Local Government (DCLG, now Ministry of Housing, Communities and Local Government) Guidance on the pre-application process (March 2015), as well as relevant advice from the Planning Inspectorate (PINS), namely Advice Note 14 (2012)."</i></p> <p>Table 9-1 of the Consultation Report (Doc 5.1) sets out how the Applicant has had regard to MHCLG guidance (previously DCLG) on the Pre-application process.</p> <p>Table 9-2 of the Consultation Report (Doc 5.1) sets out how the Applicant has had regard to the Planning Inspectorate's Advice Note Fourteen: Compiling the</p>

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

		<p>Consultation Report.</p> <p>Having reviewed the application, it appears that the Applicant has had regard to the relevant MHCLG guidance.</p>
25	Summary - s55(3)(e)	The application as made by the Applicant has complied with Chapter 2 of Part 5 (pre-application procedure) of the PA2008. All relevant duties have been complied with.
<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>		
26	<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>Box 4 of the Application Form (Doc 1.3) explains why the development falls within the remit of the Secretary of State.</p> <p>Box 5 of the Application Form provides a brief non-technical description of the site, whilst Box 6 provides the location of the proposal. A Location Plan (Doc 2.1) has been provided.</p>
27	Is it accompanied by a consultation report?	<p>Yes.</p> <p>The application is accompanied by a Consultation Report (Doc 5.1) and Consultation Report Appendices (Doc 5.2).</p>
28	Where a plan comprises three or more separate sheets has a key plan been provided showing the relationship between the different sheets? ¹³	Yes.
29	Is it accompanied by the documents and information	Yes , the documents and information required by APFP regulation 5(2) are set out in

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

	set out in APFP Regulation 5(2)?	the documents and locations within the application as listed below:			
Information		Document	Information		Document
a)	Where applicable, the environmental statement required under the EIA Regulations ¹⁴ and any scoping or screening opinions or directions	Environmental Statement (Docs 6.1 - 6.4) The Scoping Opinion is included as Appendix 4.1 (Doc 6.4) .	b)	The draft proposed order	Doc 3.1
	Is this of a satisfactory standard?	Yes		Is this of a satisfactory standard?	Yes (with minor discrepancies as noted in Box 30).
c)	An explanatory memorandum explaining the purpose and effect of provisions in the draft order	Doc 3.2	d)	Where applicable, a book of reference (where the application involves any compulsory acquisition)	Doc 4.3
	Is this of a satisfactory standard?	Yes		Is this of a satisfactory standard?	Yes (with minor discrepancies as noted in Box 30).
e)	A copy of any flood risk assessment	Doc 6.4	f)	A statement whether the proposal engages one or more of the matters set out in section 79(1) of the Environmental Protection Act 1990 (statutory nuisances) and if so how the applicant proposes to mitigate or limit them	Doc 6.6

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

	Is this of a satisfactory standard?	Yes		Is this of a satisfactory standard?	Yes
h)	A statement of reasons and a funding statement (where the application involves any compulsory acquisition)	Statement of Reasons (Doc 4.1) Funding Statement (Doc 4.2)	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	(i) Land Plans (Doc 2.2) (ii) Land Plans (Doc 2.2) (iii) Rights of Way and Access Plans (Doc 2.5) (iv) Special Category Land Plan (Doc 2.3)
	Is this of a satisfactory standard?	Yes (with minor discrepancies as noted in Box 30)		Is this of a satisfactory standard?	Yes (with minor discrepancies as noted in Box 30)
j)	A works plan showing, in relation to existing features:- (i) the proposed location or (for a linear scheme) the proposed route and alignment of the development and works; and (ii) the limits within which the development and works may be carried out and any limits of deviation provided for in the draft order	(i) Works Plans (Doc 2.4) (ii) Works Plans (Doc 2.4)	k)	Where applicable, a plan identifying any new or altered means of access, stopping up of streets or roads or any diversions, extinguishments or creation of rights of way or public rights of navigation	Rights of Way and Access Plans (Doc 2.5) Traffic Regulation Measures Plans (Doc 2.7)

	Is this of a satisfactory standard?	Yes (with minor discrepancies as noted in Box 30)		Is this of a satisfactory standard?	Yes (with minor discrepancies as noted in Box 30)
l)	<p>Where applicable, a plan with accompanying information identifying:-</p> <p>(i) any statutory/non-statutory sites or features of nature conservation e.g. sites of geological/ 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>(i) Figures 7.2, 7.3, 7.4, 7.5, 7.6 (sheets 1-20), 8.1 (Environmental Statement Figures, Doc 6.3); (Environmental Features – Statutory or Non-Statutory Sites or Features of Nature Conservation) (Doc 2.9)</p> <p>(ii) Figures 8.1, 8.2 (sheets 1-8) (Environmental Statement Figures Doc 6.3); Plans (Doc 2.10-2.13)</p> <p>(iii) Figures 13.1-13.3: Figure 13.1 Surface Water Features and Existing Flood Risk (4 sheets); Figure 13.2 Proposed Highways Drainage</p>	m)	<p>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</p>	<p>Figures 6.1-6.2, and Figure 8.1 (Environmental Statement Figures, Doc 6.3) and (Environmental Statement, Doc 6.2)</p> <p>Heritage Designation Plans (Doc 2.12)</p>

		<p>Catchments (4 sheets); Figure 13.3 WFD Surface Water Bodies (4 sheets) (Environmental Statement Figures, Doc 6.3)</p> <p>Habitats of Protected Species, Important Habitats or Other Diversity Features and Water bodies in a River Basin Management Plan-Plans (Doc 2.10)</p> <p>Habitats of Protected Species: Location of Badger Setts Plans (Doc 2.11)</p>			
	Is this of a satisfactory standard?	Yes (with minor discrepancies)		Is this of a satisfactory standard?	Yes (with minor discrepancies as noted in Box 30)
n)	Where applicable, a plan with any accompanying information identifying any Crown land	Not applicable	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	<p>General Arrangement and Section Plans (Doc 2.6)</p> <p>Traffic Regulation</p>

			vehicular and pedestrian access, any car parking and landscaping	Measures Plans (Doc 2.7) De-trunking Plans (Doc 2.8) Trees and Hedgerows to be Removed or Managed Plans (Doc 2.13)
	Is this of a satisfactory standard?		Are they of a satisfactory standard?	Yes
p)	Any of the documents prescribed by Regulation 6 of the APFP Regulations:	General Arrangement and Section Plans (Doc 2.6) Provided under Regulation 6(2)(a)(i), (ii), (iii), (iv), (v) and (vi) and Regulation 6(2)(b).	q) Any other documents considered necessary to support the application.	Section 23 of the Application Form (Doc 1.3) lists other documents considered necessary to support the application.
	Are they of a satisfactory standard?	Yes	Are they of a satisfactory standard?	Yes
30	Are there any observations in respect of the documents provided above?			
	Brief summary of relevant observations made in Box 29 Regulation 5(2)(b) Schedule 1 of the Development Consent Order (Doc 3.1) , Work No. 1c refers to this being on Sheet 1 of the Works Plans (Doc 2.4) . It			

appears that this should also refer to Sheet 2 of the **Works Plans (Doc 2.4)**.

Schedule 1 of the **Development Consent Order (Doc 3.1)**, Work No. 4d, 4e, 4g and 4h do not refer to which sheet number of the Works Plan they can be viewed on. It appears that there should be reference to them being on Sheet 3 of the **Works Plans (Doc 2.4)**.

Schedule 4, Part 1 of the **Development Consent Order (Doc 3.1)** refers to '*Reference Z12, A length of new restricted byway on the realigned B3277 for a length of 747 metres.*' The proposed restricted byway is shown on Sheet 1 of the **Rights of Way and Access Plans (Doc 2.5)** on opposite sides of the carriageway, altering at the junction with the proposed restricted byway, Reference F, PR2, which suggests it may be two separate restricted byways.

Schedule 4, Part 2, Sheet 2, of the **Development Consent Order (Doc 3.1)** refers to the existing A3075 '*From a point on the existing Chiverton Cross Roundabout to where it meets the existing A3075 for a length of 810 metres, as shown on sheets 2 and 3 of the rights of way and access plans.*' It appears that the reference should be sheets 1 and 2 of the **Rights of Way and Access Plans (Doc 2.5)**.

In relation to a number of proposed rights of way, reference is made in Schedule 4 to the alignment '*...on...*' the realigned carriageway. This appears to be an erroneous description of a proposed separate public highway.

Regulation 5(2)(d)

Plot 1/9 is described in the **Book of Reference (Doc 4.3)** as being '*west of Silversprings Farm*'. Sheet 1 of the **Land Plans (Doc 2.2)** indicates that this plot is east of Silversprings Farm.

Plot 2/5a is described in the **Book of Reference (Doc 4.3)** as '*south east of Four Burrows Farm House*'. Sheet 1 of the **Land Plans (Doc 2.2)** indicates that this plot is south west of Four Burrows Farm House.

Plot 3/1b is described in the **Book of Reference (Doc 4.3)** as '*A right to construct, use, protect, inspect and maintain..*'. Sheet 3 of the **Land Plans (Doc 2.2)** indicates that this is land to be acquired, as does Table 1 of the **Statement of Reasons Appendix A (Doc 4.1)**.

Plot 6/11h is described in the **Book of Reference (Doc 4.3)** as '*Temporary possession and use of...*'. Sheet 6 of the **Land Plans (Doc 2.2)** indicates that this is temporary possession of land and permanent acquisition of rights. Table 2 of the **Statement of Reasons Appendix A (Doc 4.1)** indicates that the Applicant is seeking acquisition of rights.

Regulation 5(2)(h)

Statement of Reasons Appendix A (Doc 4.1) includes '*Table 1-1 Acquisition of Rights – by Plot Number*' however the sub-heading is

'Statement of Reasons – Table 1: Acquisition of Land – by Plot Number'.

There are a number of plots of land listed in Tables 1-1, 1-2 and 1-3 within **Statement of Reasons Appendix A (Doc 4.1)** with no corresponding Work No.

Regulation 5(2)(i)

On Sheet 1 of the **Land Plans (Doc 2.2)**, inset B, there is an unidentified plot between plots 1/16 and 1/16a.

On Sheet 3 of the **Land Plans (Doc 2.2)**, inset A, there is a small area of land in red between plots 3/t and 3/1u and it is unclear what it relates to.

On Sheet 5 of the **Land Plans (Doc 2.2)**, inset C indicates a plot of land which is off the Land Plan and not shown on the Key Plan. It does not appear to be shown on the **Works Plans (Doc 2.4)**.

On Sheet 10 of the **Land Plans (Doc 2.2)**, inset A, there is an unidentified plot between plots 10/1q and 10/1m.

On Sheet 10 of the **Land Plans (Doc 2.2)** plots 10/2, 10/2a and 10/3 would benefit from an inset.

On the **Special Category Land Plan (Doc 2.3)**, the legend states '*SPECIAL CATEGORY LAND – OPEN SPACE – TO BE PERMANENTLY*'. Should this state 'to be permanently acquired'?

On the **Special Category Land Plan (Doc 2.3)** plot 9/3 is indicated as '*SPECIAL CATEGORY LAND – OPEN SPACE – TO BE USED TEMPORARILY AND RIGHTS TO BE ACQUIRED PERMANENTLY*'. However Sheet 9 of the **Land Plans (Doc 2.2)**, the **Book of Reference (Doc 4.3)** and Table 1-3 of the **Statement of Reasons Appendix A (Doc 4.1)** indicates that the Applicant is seeking temporary possession of this plot.

On Sheet 1 of the **Works Plans (Doc 2.4)** it appears that parts of Work No. 49 are shown outside of the Development Consent Order boundary.

On Sheet 1 of the **Works Plans (Doc 2.4)** the location of Work No. 3k is not clearly identified.

On Sheet 7 of the **Works Plans (Doc 2.4)** it appears that part of Work No. 71 is shown outside of the Development Consent Order boundary.

On Sheet 8 of the **Works Plans (Doc 2.4)** there are two areas on the A39 identified as being within the Development Consent Order which do not have a Work No.

On Sheet 8 of the **Works Plans (Doc 2.4)** Work No. 5c is indicated in three locations however Work No. 5c in Schedule 1 of the Development Consent Order refers to '*two new overbridges...*'

The electronic version of the **Works Plans (Doc 2.4)** appear to show some of the construction compounds as outside of the Development Consent Order boundary. For clarity when drafting plans, the red line layer should be placed on top so it is clear what is within the Development Consent Order boundary.

Sheet 1 of the **Rights of Way and Access Plans (Doc 2.5)** shows a reference b, which relates to '*Private means of access to be stopped up reference label*' and 25, which relates to '*New private means of access reference label.*' There is no reference to either of these within Schedule 4, Part 4 of the **Development Consent Order (Doc 3.1)**.

Regulation 5(2)(l)

The **Habitats of Protected Species: Location of Badger Setts Plans (Doc 2.11)** are at a scale smaller than 1:2500 and no justification appears to have been provided for this.

Regulation 5(2)(m)

The **Heritage Designation Plans (Doc 2.12)**, the plan for **Designated Heritage Assets Within Outer 1km Study Area (Figure 6.1, Doc 6.3)**, the plan for **Designated Heritage Assets Within Inner 300m Study Area (Figure 6.2, Doc 6.3)**, and the plan for **Statutory Designated Sites and Non-Statutory Designated Sites (Figure 8.1, Doc 6.3)** are at a scale smaller than 1:2500 and no justification appears to have been provided for this.

Section 51 advice has been issued regarding these matters:

<https://infrastructure.planninginspectorate.gov.uk/document/TR010026-000528>

The Planning Inspectorate does not consider these matters amount to the application as a whole failing to be of a satisfactory standard.

31	Is the application accompanied by a report identifying any European site(s) to which regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 applies; or any Ramsar site(s), which may be affected by the proposed development, together with sufficient information that will enable the Secretary of	<p>Yes</p> <p>A Habitat Regulations Assessment Report is provided in the Statement to Inform an Appropriate Assessment Report (Doc 6.5).</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>
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	State to make an appropriate assessment of the implications for the site if required by regulation 48(1)? ¹⁵	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 required, it may not be possible to obtain this during the statutory timetable of the examination.
32	If requested by the Secretary of State, two paper copies of the application form and other supporting documents and plans ¹⁶	One paper copy was requested and received.
33	Has the applicant had regard to DCLG guidance 'Planning Act 2008: Application form guidance', and has this regard led to the application being prepared to a standard that the Secretary of State considers satisfactory?	The application appears to be in general conformity with the guidance subject to the following omission: Box 4 of the Application Form (Doc 1.3) does not include the capacity of the proposed development, as suggested in paragraph 14 of the guidance. However reference is made to the Explanatory Memorandum (Doc 3.2) which, at paragraph 2.5, states the area of development and the relevant threshold.
34	Summary - s55(3)(f) and s55(5A)	The Planning Inspectorate considers that the application as submitted is of a satisfactory standard. A number of discrepancies/ inconsistencies are evident upon inspection of the application documents and will need to be remedied in due course. However none are considered to significantly reduce the ability of prospective participants in the examination from appreciating the extent and effects of the application. Section 51 advice has been provided to the Applicant to remedy these matters.
The Infrastructure Planning (Fees) Regulations 2010 (SI106)		

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

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

Fees to accompany an application		
35	Was the fee paid at the same time that the application was made ¹⁷ ?	The Application Fee was received before submission of the application on 30 July 2018.

Electronic Signature	Name	Date
Case Leader	<i>Siân Evans</i>	27/9/2018
Acceptance Inspector	<i>Heidi Cruickshank</i>	27/9/2018

¹⁷ The Secretary of State must charge the applicant a fee in respect of the decision by the Secretary of State under section 55. If the applicant fails to pay the fee, the Secretary of State need not consider the application until payment is received by the Secretary of State. The fee must be paid at the same time that the application is made.