

## 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 Commission receives an application that purports to be an application for an order granting development consent.
- (2) The Commission must, by the end of the period of 28 days beginning with the day after the day on which it receives the application, decide whether or not to accept the application.
- (3) The Commission may accept the application only if the Commission concludes -
  - (a) that it is an application for an order granting development consent,
  - (b) that it complies with section 37(3) (form and contents of application) and with any standards set under section 37(5),
  - (c) that development consent is required for any of the development to which the application relates,
  - (d) that the application gives reasons for each respect in which any applicable guidance given under section 37(4) has not been followed in relation to it, and
  - (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).
- (4) The Commission, when deciding whether it 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 it 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(b) about a proposed application that has become the application, or
  - (b) the Greater London Authority if consulted under section 42(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.
- (6) If the Commission accepts the application, it must notify the applicant of the acceptance.
- (7) If the Commission is of the view that it cannot accept the application, it must -
  - (a) notify that view to the applicant, and
  - (b) notify the applicant of its 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.

**DISCLAIMER** - This is for information only and is not a formal application document. It is a non-statutory checklist for the IPC Secretariat and Commissioner to complete. Completion or self assessment by the applicant does not hold weight at the acceptance stage.

**NB: See CLG 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**

**Able Marine Energy Park (TR030001) - Section 55 Application Checklist**

<b>Section 55(2) Acceptance of Applications</b>			
Within 28 days (starting day after receipt) the Commission must decide whether or not to accept the application.	Date received	28 day due date	Date of decision
	<b>19 December 2011</b>	<b>16 January 2012</b>	<b>12 January 2012</b>
This document refers to the final portion of each documents reference number. For example the Application Form is given reference TR030001/APP/0b and therefore is referenced in this checklist as <b>Doc 0b</b> .			
<b>Section 55(3) – the Commission may <u>only</u> accept an application if it concludes that:-</b>		<b>Secretariat Comments</b>	<b>Commissioner Note</b>
<b>1. it is an application for an order granting development consent (s55(3)(a))</b>			
1.1 does the application state on the face of it that it is an application for a development consent order (DCO) under the 2008 Act, or equivalent words?	Yes – The <b>Application Form (Doc 0b Section 4)</b> states that: “The application is for a quay that will be capable of handling more than 5m tonnes of cargo per annum, and is therefore a nationally significant infrastructure project by virtue of s.14 and s.24 of the Planning Act 2008. Evidence to support this is provided by the project engineers, Hochtief, as document TR030001/APP/23c”		Agreed.
<b>Commissioner summary - s55(3)(a)</b>		<b>The application as submitted states that it is an application for an NSIP as defined under PA2008 and produces evidence to support this.</b>	
<b>2. it complies with section 37(3) (form and contents of application) and with any standards set under section 37(5) (s55(3)(b))<sup>1</sup></b>			
2.1 does the application specify the development to which it relates (i.e. which category or categories in sections 14-30 does the application scheme fall)?	Yes – The <b>Application Form (Doc 0b Section 4)</b> refers to s.14 and s.24 of the Planning Act 2008 (PA2008).		Agreed.
2.2 is it made in the prescribed form as set out in Schedule 2 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (“the APFP Regulations”)? and includes: a brief statement which explains why it falls within the remit of the Commission? a brief statement that clearly identifies the location of the application site, or the route if it is a linear scheme?	Yes - The <b>Application Form (Doc 0b)</b> is completed, signed and dated. The <b>Application form (Doc 0b Section 4)</b> gives details of why it falls within the remit of the Commission (see box 1.1 above for details of this text). The <b>Application form (Doc 0b Section 6)</b> clearly identifies the location of the application site.		Agreed.

<sup>1</sup> Although the IPC has now decided not to set such standards.

2.3 is it accompanied by the consultation report?	Yes – The application is accompanied by a <b>Consultation Report (Doc8a)</b> and relevant appendices.	Agreed.
2.4 is it accompanied by the documents and information set out in APFP Regulation 5(2) and listed below?:	Yes – Details on the documents and information set out in APFP Regulation 5(2) and listed below forms the application submitted. Details on the consistency of those documents is set out in this checklist.	Agreed.
(a) where applicable, the environmental statement required under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (“the EIA Regulations”) and any scoping or screening opinions or directions;	<p>Yes – an <b>Environmental Statement (Doc 14a)</b> (ES) was submitted with the application and includes those mandatory elements identified in Schedule 4 of the ‘EIA Regulations’. The ES is accompanied by a <b>Non-Technical Summary (Doc 14b)</b>. The Scoping Opinion is not included within the ES however it is provided as a separate report <b>(Doc 14b)</b>.</p> <p>At this stage the Commission has not considered the quality of the assessment, the type and relevance of baseline data, the methodology, the assessment or the proposed mitigation.</p>	<p>Agreed.</p> <p>We have noted representations made by Messrs DLA Piper representing C.GEN and Humber Sea Terminal/C.Ro on 10 January 2012 that the requirements of paragraph 4 of Schedule 4 of the EIA Regulations may not be met.</p> <p>We consider that it is for the applicant to decide at which point to conclude the environmental impact assessment and to compile the environmental information in the ES for submission with the application. On the basis of the ES as submitted we have no reason to conclude that the ES does not provide the information required in accordance with Schedule 4 EIA Regulations in order to be an ES. We do not consider therefore that there has been any procedural breach in relation to the requirement under APFP (5) (2) (a).</p> <p>We note also that the ES contains information about potential cumulative impacts arising in relation to the proposed application by C Gen for an IGCC power station adjoining the application site.</p>
(b) the draft proposed order;	Yes – <b>Draft Development Consent Order (Doc 9)</b>	Agreed.
(c) an explanatory memorandum explaining the purpose and effect of provisions in the draft order, including in particular any divergences from the model provisions (SI 2009 2265);	Yes – <b>Draft Explanatory Memorandum (Doc 10)</b>	Agreed.

(d) where applicable, the book of reference (where the application involves any compulsory acquisition);	Yes – <b>Book of Reference (Doc 13c)</b>	Agreed.
(e) a copy of any flood risk assessment;	Yes – a <b>Flood Risk Assessment (Doc 18)</b> was submitted with the application. This document confirms that two assessments were conducted, one for the south bank and one for the north bank. These are noted to be included within the <b>Environmental Statement (Doc 14a)</b> at <b>Annex 13.1</b> and <b>Annex 36.1</b> respectively.	Agreed.
(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;	Yes – a <b>Statutory Nuisance Assessment (Doc 19)</b> was submitted with the application. This states that the “statement addresses Section 79(1) Environmental Protection Act 1990 (Statutory nuisance and inspections therefore). Whilst it is not expected that the construction or operation of AMEP would engage that section, the draft development consent order (DCO) that accompanies the application contains a provision at Article 51 that would provide a defence to proceedings for statutory nuisance should they be initiated against Able or its successors as undertakers under the terms of the DCO.”	Agreed.
(g) any report identifying any European site to which regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 <sup>2</sup> applies, or any Ramsar site, which may be affected by the proposed development, together with sufficient information that will enable the Commission to make an appropriate assessment of the implications for the site if required by regulation 48(1)	<p>Yes – a <b>Habitat Regulations Assessment Report (Doc 15)</b> was submitted with the application.</p> <p>The report identifies the following European sites: Humber SAC, Humber SPA and Humber Estuary Ramsar Site. The applicant has concluded that no alternative solutions exist and that adverse impacts remain.</p> <p>On the evidence available it would be unreasonable to conclude at this stage that an appropriate assessment could not be carried out on the basis of the information submitted. Therefore, the report is considered adequate for acceptance purposes.</p>	<p>RSPB has made representations (5 December 2011) warning that in their view on the basis of the information presented to them during pre application consultation the application when submitted may potentially contain inadequate information to meet statutory requirements.</p> <p>We note that RSPB have not yet seen a copy of the report supplied with the application. We have also noted the position stated by Natural England (letter 5 January 2012) that as they have not seen the final documents submitted with the application they are unable to comment on the adequacy of information provided to support an appropriate assessment.</p> <p>We have considered these points. We have decided on balance that it would be unreasonable to conclude that the information submitted with the application is insufficient for a robust and efficient examination which would enable an appropriate assessment to</p>

<sup>2</sup> Now Regulation 61 of the [Conservation of Habitats and Species Regulations 2010 SI2010/490](#).

		be carried out. Thus agreed that the requirements of this Regulation have been met.
(h) a statement of reasons and a funding statement (where the application involves any compulsory acquisition);	Yes – a <b>Statement of Reasons (Doc 13a)</b> and a <b>Funding Statement (Doc 13b)</b> accompany the application.	Agreed.
(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	Yes - a land plan - <b>Land Plans (Doc TR030001/APP/11 consisting of a key plan and 14 sheets)</b> was submitted, identifying: (i) all of the land required for, or affected by, the proposed development; (ii) the land over which is proposed to exercise powers of compulsory acquisition or any rights to use land; (iii) the land (identified in blue hatching) over which easements, servitudes and other private rights are proposed to be extinguished; (iv) N/A as no special category land and replacement land included in the plans.	Noted.
(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;	Yes – a works plan - <b>Works Plans (Doc TR030001/APP/12 consisting of a key plan and 14 sheets)</b> was submitted, showing: (i) the proposed location of the works (the <b>Draft Development Consent Order Doc 9</b> identifies 1 NSIP work and 1 Associated Development work), identified by a blue line; (ii) the limits within which the development and works may be carried out., including the limits of deviation, identified by a pink line.	Noted.
(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;	Yes – a <b>Rights of Way Plans (Doc TR030001/APP/21 consisting of a key plan and 11 sheets)</b> was submitted identifying existing footpaths, including those to be extinguished, new rights of way to be provided and highway access points.	Noted.
(l) where applicable, a plan with accompanying information identifying:- (i) any statutory/non-statutory sites/ features of nature conservation e.g. sites of geological/ landscape importance; (ii) habitats of protected species, important habitats or other diversity features; and (iii) water bodies in a river basin management plan, together with an assessment of any effects on such sites, features, habitats or bodies likely to be caused by the proposed development;	Yes – an <b>Ecological Designation Plan (Doc TR030001/APP/16 consisting of a key plan and 14 sheets)</b> was submitted including: (i) <i>Statutory /non-statutory sites of nature conservation:</i> - Special Areas of Conservation; - Special Protection Areas; - Ramsar sites; - Sites of Special Scientific Interest; - Sites of Importance for Nature Conservation; - Local Wildlife Sites; - Tree Preservation Orders; - Historic Hedgerows.  Figure 11.1 of Chapter 11 (Terrestrial Ecology and Birds) of the <b>Environmental Statement (Doc 14a)</b> shows the locations of the	We have noted RSPB's representations (letter 5 December 2011) about the minimum level of information regarding protected species habitats, important habitats or other diversity features which should be provided to ensure compliance with this Regulation.  APFP Regulation 5 (2) (l) does not prescribe a minimum level of detail. We note that a plan and assessment of effects has been provided as required and consider that there is no

	<p>statutory designated sites within a 10km radius of the development. Note – this Figure is also labelled as Figure 5.2 ‘Extent and Location of European Designated Sites in relation to the Development Site Boundary’. Figure 11.2 of Chapter 11 (Terrestrial Ecology and Birds) shows the locations of the non-statutory designated sites within a 2km radius of the development. Non-statutory designated sites are listed in Table 11.4.</p> <p>Figure 20.1 of Chapter 20 (Landscape and Visual) of the <b>Environmental Statement (Doc 14a)</b> shows National Landscape Character Areas and Landscape Features within a 30km radius of the development site including:</p> <ul style="list-style-type: none"> <li>- Spurn Heritage Coast;</li> <li>- Lincolnshire Wolds AONB, and;</li> <li>- Registered Parks and Gardens.</li> </ul> <p><i>ii) habitats of protected species and important habitats and other diversity features:</i></p> <p>The <b>Ecological Designation Plan (Doc TR030001/APP/16)</b> shows the following features where appropriate:</p> <ul style="list-style-type: none"> <li>- Great Crested Newt Habitat;</li> <li>- Watervole Habitat.</li> </ul> <p>A Protected Species Survey Report is contained within Annex 35.3 of the <b>Environmental Statement (Doc 14a)</b>.</p> <p><i>(iii) Water bodies in a river basin management plan (RBMP):</i></p> <p>The <b>Ecological Designation Plan (Doc TR030001/APP/16)</b> shows the following features where appropriate:</p> <ul style="list-style-type: none"> <li>- Water bodies in the RBMP;</li> <li>- Coastal and Grazing Floodplain Marsh;</li> <li>- Mudflats.</li> </ul> <p>Information is contained within Chapter 9 (Water and Sediment Quality) and Annex 9.4 of the <b>Environmental Statement (Doc 14a)</b> on the Humber River Basin Management Plan. Figure 9.1 shows surface water bodies assessed under the Water Framework Directive.</p>	<p>procedural breach in relation to this Regulation.</p> <p>We note also that Natural England has now confirmed its view (letter 5 January 2012) that the compensation land proposed is capable of delivering the requisite compensation.</p> <p>Agreed that the requirements of this Regulation have been met.</p>
<p>(m) where applicable, a plan with accompanying information identifying any statutory/non-statutory sites or features of the historic environment, (e.g. scheduled monuments, World Heritage sites, listed buildings, archaeological sites and registered battlefields) together with an assessment of any effects on such sites, features or structures likely to be caused by the proposed development;</p>	<p>Yes – a <b>Heritage Designation Plan (Doc TR030001/APP/17 consisting of a key plan and 27 sheets)</b> was submitted identifying areas of land within 10km of the proposed AMEP DCO boundary.</p> <p>The Heritage Designation Plans Gazetteer lists the following features:</p> <ul style="list-style-type: none"> <li>- Listed Buildings (Grade I, II* and II);</li> <li>- Scheduled Monuments;</li> </ul>	<p>Noted.</p>

	<p>- Conservation Areas (Sunk Island, Thornton Curtis and Barrow upon Humber).</p> <p>Chapter 18 (Historic Environment) in the <b>Environmental Statement (Doc 14a)</b> includes:</p> <ul style="list-style-type: none"> <li>- The desk-based assessment for marine heritage assets at Annex 18.1. Figure 18.1 shows the location of recorded heritage assets within the study area including the marine environment;</li> <li>- The desk-based assessment for the terrestrial heritage assets of the proposed development is included in Annex 18.2. Figure 18.2 shows the location of Designated Heritage Assets;</li> <li>- The setting of heritage assets are shown on Figure 18.2. Table 18.1 identifies a Registered Park and Garden within 10km (Brocklesby Park shown on Figure 18.2). Annex 18.4 is the Assessment of Setting Effects on the Significance of Heritage Assets.</li> </ul> <p>All heritage assets within and adjacent to the AMEP site are summarised in Table 18.4</p>	
(n) where applicable, a plan with any accompanying information identifying any Crown land;	Yes – a <b>Crown Land Plan (Doc TR030001/APP/20 consisting of a key plan and 10 sheets)</b> was submitted.	Noted.
(o) any other plans, drawings and sections necessary to describe the development consent proposal showing details of design, external appearance, and the preferred layout of buildings/structures, drainage, surface water management, means of vehicular and pedestrian access, any car parking and landscaping;	Yes – additional plans, drawings and sections were submitted, including: <ul style="list-style-type: none"> <li>- <b>Planning Application Drawings (Doc TR030001/APP/23a);</b></li> <li>- <b>Design Drawings (Doc TR030001/APP/23b).</b></li> </ul>	Noted.
(p) any of the documents prescribed by Regulation 6 of the APFP Regulations.  <b>NB:-</b> These are documents which are relevant to specific types of project (generating stations, highway related development, railways, <b>harbour facilities</b> , pipelines, hazardous waste facilities, dam or reservoirs). Confirm in each case the type of project and the relevant documents which <b>must</b> be included with the application in each case.	Yes – Regulation 6(3) of the APFP Regulations applies in this instance.  The <b>Application Form (Doc 0b)</b> confirms that a statement under Reg 6(3)(a) is “not applicable”. A statement complying with Reg 6(3)(b) is provided setting out why the making of the order is desirable in the interests of facilitating the efficient and economic transport of goods or passengers by sea or in the interest of the recreational use of sea-going ships is submitted with the application; this is the <b>Regulation 6 Statement (Doc 22)</b>	Agreed.
(q) any other documents considered necessary to support the application; and	No – Box 23 of the <b>Application Form (Doc 0b)</b> confirms that no further information has been provided in support of the application beyond that explicitly required.	Noted.
(r) if requested by the Commission, three paper copies of the application form and other supporting documents and plans.	Yes – three copies of the application and supporting documents and plans were supplied with the submission on 19/12/11	Noted.



<p>2.5 Are the plans, drawings or sections submitted AO size or smaller, drawn to an identified scale (not smaller than 1:2500) and, in the case of plans, show the direction of north? APFP Regulation 5(3)</p> <p><b>NB:-</b> It is not intended that information provided in other documents, such as any Environmental Statement submitted, should be duplicated. It is possible therefore to cross refer to the location of relevant information – see CLG Guidance on application forms paragraphs 33 – 38.</p>	<p>Yes</p>	<p>Noted.</p>
<p>2.6 Where a plan comprises three or more separate sheets has a key plan been provided showing the relationship between the different sheets? APFP Regulation 5 (4)</p>	<p>Yes – key plans have been provided for the following plans:</p> <ul style="list-style-type: none"> <li>- Land Plans (Doc 11);</li> <li>- Works Plans (Doc 12);</li> <li>- Ecological Designation Plans (Doc 16);</li> <li>- Heritage Designation Plans (Doc17);</li> <li>- Crown Land Plans (Doc 20);</li> <li>- Rights of Way Plans (Doc 21).</li> </ul>	<p>Noted.</p>
<p><b>Commissioner summary - s55(3)(b)</b></p>	<p><b>Some minor inconsistencies have been noted in plans submitted, but none which indicate non-compliance or would prejudice a robust and efficient examination of the application.</b></p> <p><b>We have considered the specific concerns noted, and concluded that the application complies with the requirements of s.37(3).</b></p>	
<p><b>3. s55(3)(c) That development consent is required for any of the development to which the application relates</b></p>		
<p><b>NB:-</b> Development consent is required for development to the extent that the development is or forms part of a nationally significant infrastructure project (NSIP) (s31). NSIP is defined generally in s14 with the detailed thresholds for each of the specified categories being set out in ss15-30.</p>		
<p>3.1 Is the development an NSIP? Or does it form part of an NSIP?</p>	<p>At acceptance stage it is only necessary to consider whether or not any part of the development requires development consent.</p> <p>The works described in Schedule 1 to the <b>Draft Development Consent Order (Doc 9)</b> comprise the construction of “a quay of solid construction”. <b>Section 4</b> of the <b>Application Form (Doc 0b)</b> states that it “will be capable of handling more than 5m tonnes of cargo per annum”. <b>Nationally Significant Infrastructure Project Justification (Doc 23c)</b> provides justification that the proposed development is capable of handling the relevant quantity of material outlined in s.24 of PA2008.</p> <p>The proposed development therefore appears on the basis of the information submitted to meet the definition of an NSIP contained in s.14 and s.24 of the PA2008.</p> <p>The construction of a quay/harbour facility is development by the</p>	<p>Agreed.</p> <p>We have noted representations made by Messrs Osborne Clarke on behalf of Associated British Ports and DLA Piper on behalf of C.GEN to the effect that the proposed development does not constitute an NSIP.</p> <p>We note that the applicant has submitted evidence to support the applicant’s view that the proposed development is capable of meeting the test in s.24(3)(c).</p> <p>We have no reason to disagree with this evidence and therefore conclude</p>



	definition contained in s.32 of the PA2008. The proposed development therefore requires development consent (s.31 of the PA2008).	that the proposed development is an NSIP requiring examination under PA2008.
<b>Commissioner summary - s55(3)(c)</b>	<b>We have concluded that the proposed development is an NSIP which requires development consent and examination under PA2008 and that the requirement under s.55(3)(c) is met.</b>	
<b>4. s55(3)(d) That the application gives reasons for each respect in which any IPC guidance (under s37(4)) has not been followed</b>		
<b>NB:-</b> The relevant guidance under s37(4) is paragraphs 25-27 which deal with the applicant's Consultation Report in <b>IPC Statutory Guidance Note 1</b>		
4.1 Are the responses to the applicant's consultation under s.42, s.47 and s.48 listed and put into categories according to status eg statutory consultees?	Yes – The <b>Consultation Report (Doc 8a)</b> outlines the responses to consultation in a number of appendices which are presented as various categories.  Part 1 lists informal consultation; part 2 lists responses under s.42; part 3 lists responses under s47; part 4 lists responses from bodies other than statutory consultees or responses from community events.  As the three strands of consultation were conducted in parallel, it is not always possible to establish whether a submission is made in response to s.47 or s.48 consultation. Para 6.2 of <b>Doc 8a</b> comments on this.	Agreed.
4.2 Are the responses within those categories arranged to show whether they have led to changes or not?	Yes – As referenced above, appendices/parts 2, 3 and 4 provide details of s.42, s.47 and s.48 consultation. Each of these provides a summary of the comments made and where this has led to changes or reasons if no change has been made.  Part 2c (s.42 consultation responses) states that “in Annex 2.4 of the ES there is a table giving full details of how each response was addressed”. However, Annex 2.4 does not appear within the submitted documents. Despite this, it is considered that the detail within the parts referenced above is sufficient to show where consultation responses have led to changes to the proposals.	Agreed.
4.3 Have reasons been given where no changes have been made?	Yes - The tables referenced provide appropriate details where no changes have been made.	Agreed.
4.4 Has the applicant identified any responses received after its deadlines?	Para 2.8 of the <b>Consultation Report (Doc 8a)</b> states that “responses received after the deadline provided were taken into consideration”, though no further detail is given. Late responses are not specifically identified in the tables in the appendices. However, para 4.5 refers  In addition, para 4.5 ( <b>Doc 8a</b> ) notes that “following the commencement of the consultation some additional section 42 landowner consultees were identified...[and] the end date of their	Agreed.

	consultation was adjusted to ensure that they had at least 28 days to respond." Reference is also made to a late response from Hull City Council which is identified as such in table 2c.	
<b>Commissioner summary - s55(3)(d)</b>	<b>We have concluded that the application gives reasons for all substantive points in which IPC Guidance has not been followed, and note that the reference to Annex 2.4 is a typographical error and should read Annex 2.2. We have concluded that the application thus complies with s.55(3)(d).</b>	
<b>5. s55(3)(e) That the applicant in relation to the application made has complied with Chapter 2 of Part 5 (pre-application procedure)</b>		
5.1 <b>Did the applicant</b> before carrying out the s.42 consultation either (a) request the Commission to adopt a screening opinion in respect of the development to which the application relates, or (b) notify the Commission in writing that it proposed to provide an environmental statement in respect of that development? EIA Regulation 6	Yes – letter dated 13 <sup>th</sup> September 2010 from Able UK to the IPC gave notice under Regulation 6(1)(b) of the Infrastructure Planning (Environment Impact Assessment) Regulations 2009 of the intention to provide an environmental statement in respect of the proposed Able Marine Energy Park. This was before the commencement of s.42 consultation.	Noted.
<b>NB:</b> - The Commission must have regard to the Consultation Report, and any adequacy of consultation representations received.		
5.2 Have any adequacy of consultation representations been received from "A" and "B" authorities?	Yes – Responses have been received from the following 'B' and 'A' authorities:  'B' – North Lincolnshire Council (03/01/12) & East Riding of Yorkshire Council (23/12/11)  'A' – North Yorkshire County Council, Hull City Council, City of York Council, Selby District Council, Bassetlaw District Council, West Lindsey District Council, Doncaster Metropolitan Borough Council, Scarborough Borough Council, Nottinghamshire County Council.  Complaints were also received from third parties about the adequacy of consultation. These were received before the application was submitted (see paragraph 90 of DCLG pre application guidance)	Agreed.  Third party representations have been considered by us as noted below. We note the representations received from Messrs DLA Piper acting for C.GEN and Humber Sea Terminal/C.Ro on 10 January 2012, thus after the application was submitted.
5.3 If so, do they confirm whether the applicant has complied with the duties under s42, s47 and s48?	Those authorities noted above confirm that the applicant has complied with the duties under s.42, s.47 and s.48.	Agreed.
<b>s42: Duty to Consult</b>		
5.4 Did the applicant consult the following about the proposed application –		
a) person prescribed (statutory consultees set out in Schedule 1 of the APFP Regulations)	Yes – the <b>Consultation Report (Doc 8a)</b> Part 2 provides details of those persons Able consulted in accordance with s.42.  It is noted that correspondence received from DLA Piper on behalf of Humber Sea Terminal (HST) states that HST were not consulted	We have noted the correspondence between the applicant and Messrs DLA Piper representing HST as to the basis on which and extent to which HST has been consulted. We consider

	adequately as a statutory undertaker. The Consultation Report does not make clear whether the applicant considered if HST should be consulted as a relevant statutory undertaker because the application would be likely to affect their functions. It is noted however at para 7.12 that HST were nonetheless consulted (albeit “as a matter of courtesy”) although the tables within Appendix 2 of that report do not explicitly indicate whether or not HST were consulted as a statutory consultee. It is noted that a response was made by HST to the consultation as set out in Annex 2.2.	that it is for the applicant to decide, for example, whether an application is likely to affect the functions of a statutory undertaker and therefore whether a person is a person prescribed in Schedule 1.  There is nothing in any event to demonstrate that the applicant has failed in substance to consult HST although has not indicated in what capacity.
<p>b) each local authority within s43. <b>NB:-</b> Definition of “local authority” in s43(3). <b>NB:-</b> Check those listed in consultation report are correct in relation to land shown on the land plans</p> <p>c) the “B” authority where the application land is in the authority’s area.</p> <p>d) the “A” authority where any part of the boundary of A’s area is also a part of the boundary of B’s area</p>	<p>b) Yes – <b>Consultation Report (Doc 8a)</b> Part 2b (table 2b2) confirms those local authorities consulted.</p> <p>c) The ‘B’ authorities are noted as North Lincolnshire Council and East Riding of Yorkshire Council – both were consulted.</p> <p>d) The ‘A’ authorities are noted as:</p> <ul style="list-style-type: none"> <li>- Bassetlaw District Council;</li> <li>- City of York Council;</li> <li>- Doncaster Metropolitan Borough Council;</li> <li>- Kingston Upon Hull City Council;</li> <li>- North East Lincolnshire Council;</li> <li>- North Yorkshire County Council;</li> <li>- Nottingham County Council;</li> <li>- Ryedale District Council;</li> <li>- Scarborough Borough Council;</li> <li>- Selby District Council;</li> <li>- West Lindsey District Council.</li> </ul> <p>In addition, the applicant consulted more widely than those local authorities considered necessary by the IPC by consulting the Broads Authority.</p>	Agreed.
e) Greater London Authority (if in Greater London area)	N/A	Agreed.
f) each person in one or more of s44 categories		
<p>Category 1 – owner, lessee, tenant or occupier of land.</p> <p>Category 2 – person interested in the land or has power to sell</p>	Yes – The <b>Consultation Report (Doc 8a)</b> Para 4.6 confirms Part 2b (table 2b3) lists those persons identified as falling under each of the	Agreed. We have noted the concerns raised by

<p>and convey the land or to release the land.</p> <p>Category 3 – person entitled to make a relevant claim.</p> <p><b>NB:-</b> There is no requirement to check the accuracy of the list(s) or whether the applicant has made diligent inquiry</p>	<p>categories in s.44 of the PA2008. Additional persons are listed in the <b>Book of reference (Doc 13c)</b>. Whilst there are some discrepancies between the two lists, para. 4.6 of the <b>Consultation Report</b> confirms that this is because the applicant undertook “an exercise of refreshing the land ownership details in the Book of Reference immediately before making its application.”</p> <p>It is noted that C.GEN Killingholme Ltd (C.GEN) has not been consulted as a category 3 person. It is noted that HST has been consulted informally but not as a category 3 person.</p>	<p>Messrs DLA Piper on behalf of HST and C.GEN to the effect that the applicant has not recognised their clients’ interests in adjacent land on the basis of which they would or might be entitled to make a relevant claim. We have also exercised our right under Regulation 5(5) of the APFP regulations to see all the consultation responses.</p> <p>We note that the consultation report states that diligent enquiry was undertaken by the applicant to ascertain interests in land. We consider that the applicant’s non-statutory consultation with HST could reasonably be treated as consultation carried out substantially in accordance with s42 even though it was not made explicit.</p> <p>On the basis of the information provided in the consultation report it is not possible to exclude entirely the likelihood of a potential breach of s42. as C.GEN were not consulted as a s42(d) person. In the case of HST any breach would be a technical breach because it is reasonable to conclude that HST were nonetheless consulted although it was not explicit that this was in the capacity of a s42 (d) person. We note, however, that it is for the applicant to exercise judgment in assessing the interests of other parties, and the likely impacts on them and that for the purpose of judging whether the applicant has complied with s42 it would be reasonable to rely on the applicant’s view.</p> <p>On the basis of the Consultation Report, the consultation responses and correspondence arising from them and notwithstanding the applicant’s approach in not consulting HST and C.GEN under s.42 as category 3</p>
---	--	---

		persons we have concluded therefore that the applicant has in substance complied with s.42.
<b>s45: Timetable for s42 Consultation</b>		
5.5 Did the applicant notify s42 consultees of the deadline for receipt of consultation responses?	Yes - The cover letter issued to s.42 consultees (reproduced in <b>Consultation Report Doc 8a</b> at Appendix 2 part 2a) specifies the deadline for responses (19/3/11) at the penultimate paragraph.	Agreed.
5.6 Was the deadline notified by the applicant 28 days or more starting with the day after receipt of the consultation documents?	Yes - Paras 2.4 and 4.5 of the <b>Consultation Report (Doc 8a)</b> state that s.42 consultation ran from 31/01/11 to 20/03/1 (48 days). Appendix 2 part 2a of <b>Doc 8a</b> reproduces the letter issued to consultees. The penultimate paragraph specifies a deadline of Saturday 19 March 2011 for consultation responses. The sample covering letter provided appears to be dated 12 December in error. Irrespective of this, if a start date for s.42 consultation of 31/01/11 is used as the start point then the 28 day minimum would have been exceeded. Para. 2.5 of <b>Doc 8a</b> further confirms that s.44 landowners identified after the 31/01/11 start date were given individual deadlines to ensure that at least 28 days were given.	Agreed.
<b>s46: Duty to notify Commission of proposed application</b>		
5.7 Did the applicant supply information to notify Commission of proposed application?	Yes – Letter from Richard Cram (Able UK) dated 31/01/11 received at the IPC offices on 01/02/11. Subsequent email from Angus Walker (BDB) confirming Able’s intention that this letter be treated as notice under s.46 received on 02/02/11	Noted.
5.8 Was the information supplied to the Commission at the same as it was sent to the s42 consultees?	Yes - Para 4.8 of <b>Doc 8a</b> confirms all the materials sent to s.42 consultees: a covering letter; a description of the project; a CD of the Preliminary Environmental Information Report; a copy of the statement of community consultation; a copy of the s.48 notice. All of these documents were included in Able’s submission to the IPC dated 31/01/11.	Agreed.
5.9 Was this done on or before commencing consultation under s42?	Yes - Letter dated 31/01/11, formal consultation began on this date.	Noted.
<b>s47: Duty to consult local community</b>		
5.10 Did the applicant prepare a statement of community consultation on how it intended to consult people living in the vicinity of the land (“the SOCC”)?	Yes – Section 5 of the <b>Consultation Report (Doc 8a)</b> confirms that a SOCC was prepared detailing how it was intended to consult people living in the vicinity of the land.	Agreed.

5.11 Were all “B” authorities consulted about the content of the SOCC?	Yes - Para 5.1 of <b>Doc 8a</b> confirms that “Able consulted the relevant local planning authorities North Lincolnshire Council and East Riding of Yorkshire Council”.	Agreed.
5.12 Was the deadline for receipt of responses 28 days beginning with the day after the day “B” authorities received the consultation documents?	Uncertain - It is unclear from <b>Doc 8a</b> how much time was given for responses to consultation on the SOCC. It is noted that both authorities consulted have provided a response. See below for further details of draft SOCC consultation responses.	Both ‘B’ authorities responded and no complaint has been made. There is no reason to assume that they were not given the prescribed period of time.
5.13 Has the applicant had regard to any responses received when preparing the SOCC? <b>NB:</b> - Check consultation report and adequacy of consultation representation.	Yes - Para 5.3 of <b>Doc 8a</b> confirms that responses received were taken into account during the preparation of the SOCC. Figure 3a1 reproduces the response of East Riding of Yorkshire Council (dated 22/12/10) and Figure 3a2 that of North Lincolnshire Council (dated 22/10/10). Figure 3a3 reproduces the SOCC. A review of the Council’s responses suggests that Able did accept and incorporate some of the points raised and did therefore have regard to the views expressed.	Agreed.
5.14 Has the SOCC been published in a newspaper circulating in the vicinity of the land?	Yes - Para. 5.5 of <b>Doc 8a</b> confirms that the SOCC was published in the Hull Daily Mail, the Grimsby Telegraph and Scunthorpe Telegraph on 21/01/11 and in the Holderness Gazette on 20/01/11 and 27/01/11. <b>Newspaper Notices (Doc 8b)</b> also reproduces the published SOCC and confirms publication dates.	Agreed.
5.15 Has the applicant carried out the consultation in accordance with the SOCC?	Yes – There is nothing to suggest that s.47 consultation was not carried out in accordance with the published SOCC. Part 3b of <b>Doc 8a</b> provides details of the responses to the various methods adopted for s.47 consultation. The details provided would appear to further indicate that consultation was conducted in accordance with the SOCC.	Agreed. Confirmed by both B authorities and responding A authorities. We have considered representations which have been made by Messrs DLA Piper acting for C.GEN about consultation on the preliminary environmental information. We have no reason to conclude that the applicant has not carried out consultation on the preliminary environmental information in accordance with the SOCC and consider that there has been no procedural breach in this regard.
<i>Does the SOCC set out whether the development is EIA development?</i> EIA Regulation 10	Yes - the second paragraph of the published SOCC ( <b>Doc 3a3</b> ) under the heading ‘Planning Process’.	Agreed.
<i>Does the SOCC set out how the applicant intends to publicise and consult on the preliminary environmental information?</i>	Yes - under the heading ‘Documents for Inspection’ in the published SOCC ( <b>Doc 3a3</b> ), Able specify that the Preliminary Environmental Information will be available for inspection with the other consultation	Agreed.

	documents.	
<b>s48: duty to publicise the proposed application</b>		
5.16 Did the applicant publish a notice: (APFP Regulation 4(2))		
(a) for at least two successive weeks in one or more local newspapers circulating in the vicinity in which the proposed development would be situated;	Yes – the document <b>Newspaper Notices (Doc 8b)</b> provides copies of the notices placed under section 47 and 48 of the PA2008. This confirms that s.48 notices were published on 27/1/11 and 3/2/11 in the following local newspapers: - the Hull Daily Mail; - the Grimsby Telegraph; - the Scunthorpe Telegraph; - the Holderness Gazette.	Agreed.
(b) once in a national newspaper;	Yes - <b>Newspaper Notices (Doc 8b section g)</b> confirms that a copy of the notice was published in The Times on 27/1/11.	Agreed.
(c) once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and	Yes - <b>Newspaper Notices (Doc 8b section f)</b> confirms that a copy of the notice was published in the London Gazette on 27/1/11.	Agreed.
(d) where the proposed application relates to offshore development –		
(i) once in Lloyds List; and (ii) once in an appropriate fishing trade journal.	Yes - <b>Newspaper Notices (Doc 8b sections h &amp; m)</b> confirms that a copy of the notice was published in the Lloyd’s List and the Fishing Times on 27/1/11 and 28/1/11 respectively.	Noted that appropriate notices have been placed in these publications.
5.17 Did the notice include: (APFP Regulation 4(3))		
(a) the name and address of the applicant;	Yes – <b>Consultation Report (Doc 8a Appendix 4)</b> reproduces the notice: “Able UK Ltd, Able House, Billingham Reach Industrial Estate, Billingham, TS23 1PX”	Agreed.
(b) a statement that the applicant intends to make an application for development consent to the Commission;	Yes – <b>Consultation Report (Doc 8a Appendix 4)</b> reproduces the notice: ”Able UK Ltd...intends to apply to the Infrastructure Planning Commission (“IPC”) under section 37 of the Planning Act 2008 (“the Act”) for the above mentioned DCO (“the proposed application”).	Agreed.
(c) a statement as to whether the application is EIA development;	Yes – <b>Consultation Report (Doc 8a Appendix 4)</b> reproduces the notice: ”The proposed project is “EIA development” for the purposes of the Infrastructure Planning (Environmental Impact Assessment)	Agreed.



	Regulations 2009”.	
(d) a summary of the main proposals, specifying the location or route of the proposed development;	<p>Yes – <b>Consultation Report (Doc 8a Appendix 4)</b> reproduces the notice:</p> <p>”The centre of the Marine Energy Park site is at grid reference TA170183, and the centre of the compensatory habitat is at grid referenced TA220208.</p> <p>The proposed application would seek a DCO authorising, amongst other things:</p> <ul style="list-style-type: none"> <li>- the construction and operation of a 1320m quay and associated dredging and land reclamation;</li> <li>- the provision of onshore facilities for the manufacture, assembly and storage of wind turbines and related items;</li> <li>- the diversion or stopping up of a footpath that runs along the south shore of the Humber;</li> <li>- any necessary upgrade works to surrounding roads (Rosper Road, Eastfield Road, the A160 and the A180);</li> <li>- the conversion of a railway into a private siding;</li> <li>- the diversion of a sludge main and a drainage ditch;</li> <li>- the re-siting of apparatus;</li> <li>- the interference with rights of navigation;</li> <li>- the creation of a harbour authority;</li> <li>- deemed consent under section 34 of the Coast Protection Act 1949;</li> <li>- a deemed licence under Part 2 of the Food and Environmental Protection Act 1985;</li> <li>- the modification of public and local legislation;</li> <li>- the creation of a compensatory environmental habitat on the north bank of the Humber; and</li> <li>- the compulsory acquisition of land and rights in land and powers of temporary occupation of land to allow Able to carry out and operate the above development.</li> </ul>	Agreed.
(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;	<p>Yes – <b>Consultation Report (Doc 8a Appendix 4)</b> reproduces the notice:</p> <p>”The documents, plans and maps showing the nature and location of the proposed development, including information so far compiled about environmental impacts (“preliminary environmental information”), are available for inspection...”</p>	Agreed.

(f) the latest date on which those documents, plans and maps will be available for inspection (being a date not earlier than the deadline in sub-paragraph (i));	Yes – <b>Consultation Report (Doc 8a Appendix 4)</b> reproduces the notice: "...from Monday 31 <sup>st</sup> January 2011 until Saturday 19 <sup>th</sup> March 2011"	Agreed.
(g) whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge;	Yes – <b>Consultation Report (Doc 8a Appendix 4)</b> reproduces the notice: "Copies of the documents, plans and maps can be provided on request...and may be subject to a reasonable charge up to a maximum of £950 for a printed copy and £15 for an electronic copy on CD".	Agreed.
(h) details of how to respond to the publicity; and	Yes – <b>Consultation Report (Doc 8a Appendix 4)</b> reproduces the notice: "Any representation on the proposals should be made in writing to the Marine Energy Park Consultation Team, Able House, Billingham Reach Industrial Estate, Billingham, TS23 1PX, or by email to info@amep.co.uk."	Agreed.
(i) a deadline for receipt of those responses by the applicant, being not less than 28 days following the date when the notice is last published.	Yes – <b>Consultation Report (Doc 8a Appendix 4)</b> reproduces the notice: "The deadline for receipt of responses by Able is Saturday 19 <sup>th</sup> March 2011."	Agreed.
5.18 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 EIA Regulation 9(1)(c)? (EIA Regulation 11)	Yes – the <b>Consultation Report (Doc 8a Appendix 2)</b> includes details of the s.42 consultation material issued to consultees; this contained a copy of the notes published under s.48. Part 2b contains tables indicating the recipients of this.	Agreed.
<b>s49: Duty to take account of responses to consultation and publicity</b>		
5.19 Has the applicant had regard to any relevant responses to the s42, s47 and s48 consultation? <b>NB:-</b> Check the Consultation Report for responses and whether they have led to changes to the application or not	Yes - All three strands of statutory consultation ran in parallel. The primary consultation documents were the Preliminary Environmental Information Report and a bespoke consultation document. Tables 2c, 3b1, 3b2, 3b3 and 4b of the <b>Consultation Report (Doc 8a)</b> provide summaries of all individual responses and the changes made or reasons for not accepting proposed changes. There are numerous examples of changes being made as a result of consultation responses. At the point of consultation the scheme was already relatively well defined following informal consultation. This is reflected in the types of responses which led to changes (e.g. siting of buildings to avoid interference with adjacent infrastructure, commitment to undertake various assessment, commitment to include public footpath through the compensation site).  In addition to formal consultation, <b>Doc 8a</b> provides details of informal consultation, both prior to and following the close of the formal s.42/47/48 consultation.	Agreed.  We have noted the representations made by Messrs Winckworth Sherwood on behalf of the Harbour Master Humber in correspondence up to 17 October 2011 that the Harbour Master Humber did not consider that there had been adequate consultation with him as to aspects of the development which might affect his duties and responsibilities.  We have considered these concerns. On the basis of the Consultation Report, the consultation responses

	<p>Informal consultation led to the removal of the proposed biomass plant and helipad, a reduction of the proposed dredging depth and a reduction in the length of the quay from 1630 metres to 1320 metres. Para 3.10 states that these were made 'in light of the responses received'. Part 1C further confirms additional assessments were undertaken as a result of informal consultation. These are detailed in the Environmental Statement Annexes (<b>Doc 2.2</b>) where changes to the application are listed against responses and reasons are given where no changes were made.</p> <p>Able also engaged with consultees after the statutory consultation period on various unresolved issues (see chapter 7 of <b>Doc 8a</b> and meetings detailed in Appendix 5). Where a consultee's views were incompatible with the proposals details have been given for the reasons of how the matter has been determined.</p>	<p>and the correspondence arising we have concluded that there is nothing to indicate that the applicant has disregarded the duty under s49. We consider that the interests of the Harbour Master Humber or any other parties would not be prejudiced by the acceptance of the application for examination...</p> <p>We have noted the representations made by Messrs DLA Piper acting for C.GEN and Humber Sea Terminal/C.Ro on 10 January 2012 to the effect that there have been material and significant changes to the project since consultation was carried out on the PEIR. As noted above we do not think that this indicates any procedural breach. We note also that Messrs DLA Piper notified specific impacts to the applicant on 30 September and that Annex 2.2 shows that similar issues have been identified and responded to by the applicant .</p> <p>We consider that it would be unreasonable to conclude that the applicant has not met their duty to take account of responses.</p>
<p><b>Guidance about pre-application procedure</b></p>		
<p>5.20 To what extent has the applicant had regard to CLG Guidance, The Planning Act 2008: Guidance on pre-application consultation and IPC Guidance Note 1 on Pre-application Consultation?</p> <p><b>NB:-</b> The Commission must have regard to the extent to which the applicant has had regard to guidance issued under s.50</p>	<p>The application documents do not explicitly state the extent to which guidance issued under s.50 of the Planning Act 2008 has been followed.</p> <p>It is considered that advice set out in CLG Guidance on pre-application consultation and IPC Guidance Note 1 on Pre-application Consultation has been followed.</p> <p>It is noted that prior to the submission of the application the IPC received correspondence from a number of parties. This correspondence raised concerns about the pre-application consultation carried out by the applicant. In some instances this correspondence ranged over a number of months. The IPC provided s.51 advice to these parties advising that consideration should be given as to whether it would be appropriate to make a "complaint to the relevant local authority...the IPC, or both" about the adequacy of the consultation, as per para 90 of CLG guidance.</p>	<p>We have considered the representations made by these four parties about compliance with guidance, alongside the reports received from both 'B' and a significant number of 'A' authorities.</p> <p>There has been significant informal consultation before and beyond the statutory period, and although we note the continuing concerns about the level of detail we have decided that it would be unreasonable to conclude that the information provided for the consultation was inadequate or that the applicant has failed to engage with</p>

	<p>The following parties made such complaints and the IPC confirmed in reply that the complaint, and previous correspondence received during the pre-application period, would be made available to the Commissioner at the point of submission. The key points made are noted here for completeness (all references are to CLG guidance).</p> <p><i>Winckworth Sherwood for the Harbour Master, Humber</i> - substantive comments made in correspondence dated 3/10/11. This made a complaint that the pre-application consultation had failed on the following points - no iterative process of consultation as set out in paragraphs 73 and 74, insufficient information was provided as per paragraph 81 and there was a lack of feedback to the comments of consultees by the promoter (paragraph 98). A further complaint was made that insufficient time was allowed for comments to be made on information although this is noted to have been outside of the formal s.42 period.</p> <p><i>DLA Piper for Humber Sea Terminal</i> - IPC cc'd into a letter to North Lincolnshire Council dated 30/11/11. This letter raised concerns about the extent and adequacy of consultation, specifically that inadequate information was provided for the purposes of meaningful consultation and inadequate time provided to respond.</p> <p><i>DLA Piper for C.GEN</i> - IPC cc'd into a letter to North Lincolnshire Council dated 30/11/11. This stated that the applicant had failed to consult their client. A letter dated 26/07/11 from DLA Piper to the IPC also stated that "Guidance cannot be deemed to have been satisfied by consulting HST alone." This stems from concerns that C.GEN has not been consulted independently of HST.</p> <p><i>Osborne Clarke for Associated British Ports</i> – comments made in a letter date 21/11/11. The complaints raised include concerns about the sufficiency, nature and manner of the pre-submission consultation and insufficient level of detail. It is stated that the consultation has failed to adhere to paragraph 49 of CLG Guidance which discusses the need for consultation to be positive and legitimate. In addition it is stated that paragraphs 74 and 75 have not been followed due to there being a single round of consultation rather than an iterative approach. Finally, it is suggested that paragraph 78 has not been followed due to a lack of consultation following elements of the project being removed during the pre-application process.</p>	<p>consultees. We note the views of the local authorities on the applicant's compliance.</p> <p>We conclude that the applicant has had substantial regard to CLG Guidance and IPC Guidance and advice even though not all parties involved are satisfied as to the outcome.</p>
<p><b>Commissioner summary - s55(3)(e)</b></p>	<p>We have noted the representations as to the adequacy of the consultation made by RSPB and by Messrs DLA Piper on behalf of C.GEN, DLA Piper on behalf of Humber Sea Terminal, Osborne Clarke on behalf of Associated British Ports and Winckworth Sherwood on behalf of the Harbour Master Humber.</p> <p><b>We have concluded that the applicant has complied substantially with the procedural steps in Chapter</b></p>	

	2 of Part 5. We have had regard to the representations from the local authorities confirming the adequacy of consultation, the representations from third parties to the extent that they complain about the adequacy of consultation and whether this might affect our conclusion, the Consultation Report, the consultation responses and subsequent correspondence and the applicant's compliance, on balance, with DCLG and IPC Guidance Note 1e and we consider that it is reasonable to conclude that the applicant has complied with Chapter 2 of Part 5.	
<b>The Infrastructure Planning (Fees) Regulations 2010 (SI106)</b>		
<b>Fees to accompany an application</b>		
<b>NB:</b> - The Commission must charge the applicant a fee in respect of the decision by the Commission under section 55. If the applicant fails to pay the fee, the Commission need not consider the application until payment is received by the Commission. The fee payable is presently £4,500 and must be paid at the same time that the application is made.		
<i>Was the fee paid at the same time that the application was made?</i>	The application fee was paid in advance of the application being submitted. See below.	Noted.
<i>Date the fee received and confirmed as bankable</i>	The IPC Finance team confirmed on 25/11/11 that: on 24/11/11: "An amount of £4,500 paid by Able UK Ltd has reached our accounts."	Noted.

**Commissioner**

Robert Upton

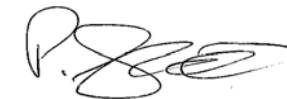


**Signed**

**Date:** 12 January 2012

**Commissioner**

Peter Widd



**Signed**

**Date:** 12 January 2012

**Case Leader**

Mike Harris



**Signed**

**Date:** 12 January 2012

## **Section 55 Acceptance of Applications**

### **Application Checklist**

#### **Appendices**

#### **Able Marine Energy Park**

##### **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