

PLANNING ACT 2008
INFRASTRUCTURE PLANNING
(APPLICATIONS: PRESCRIBED FORMS AND PROCEDURE) REGULATIONS
2009 REGULATION 5 (2) (q)

PROPOSED PORT TERMINAL AT
FORMER TILBURY POWER STATION

TILBURY2

TRO30003

VOLUME 5

CONSULTATION REPORT: APPENDIX 6 CONSULTATION COMPLIANCE CHECKLIST

DOCUMENT REF: 5.2 APPENDIX 6



Consultation Compliance Checklist

Reference to statutory provision relevant paragraph in guidance/advice note	Requirement	Action Taken	Date Undertaken
Planning Act 2008			
<u>Section 42</u> Duty to consult	The Applicant must consult the following about the proposed application:		
	(a) such persons as maybe prescribed;	The prescribed consultees were consulted at the commencement of the statutory consultation period. See Chapter 6 for more detail.	Letters and consultation documents were sent on 16 June 2017.
	(aa) the Marine Management Organisation;	The MMO were consulted at the commencement of the statutory consultation period. See Chapter 6 for more detail.	Letters and consultation documents were sent on 16 June 2017.
	(b) each Local Authority that is within Section 43;	Local authorities identified under section 43 of the Planning Act 2008 were consulted at the commencement of the statutory consultation period. The local authorities are identified in Chapter 6.	Letters and consultation documents were sent on 16 June 2017.
	(c) the Greater London Authority if the land is	Whilst the land to which the	Letters and consultation

	in Greater London; and	proposed development relates is outside Greater London (and as such there was no <i>requirement</i> for the Greater London Authority to be consulted), given the reasonable proximity of the proposed development to London, it was considered good practice for the Greater London Authority to be consulted at the commencement of the statutory consultation period at the same time as the other local authorities. See Chapter 6 for more detail.	documents were sent on 16 June 2017.
	(d) each person who is within one or more of the categories set out in Section 44.	Persons with an interest in land were consulted at the commencement of the statutory consultation period. See Chapter 6 for more detail.	Letters and consultation documents were sent on 16 June 2017. There were some exceptions to this and this is explained in Chapter 6.
Section 45 Timetable for consultation under Section 42	(1) The Applicant must, when consulting a person under Section 42, notify the person of the deadline for the receipt by the Applicant of the person's response to the consultation.	All persons consulted pursuant to section 42 of the Planning Act 2008 were notified of the deadline for receipt of responses to the consultation. For persons identified pursuant to section 42(a), (aa), (b) and (c) this date was included in the covering letter and in the enclosed section 48 notice.	The consultation period commenced on 19 June 2017 and closed at 23.59 on 28 July 2017. In a limited number of circumstances, some persons were consulted or corresponded with outside of the consultation period. This is further explained in Chapter 6.

		For persons identified under section 42(d) this date was included in the letter.	
	(2) A deadline notified under subsection (1) must not be earlier than the end of the period of 28 days that begins with the day after the day on which the person receives the consultation documents.	The consultation period commenced on 19 June 2017 and closed on at 23.59 on 28 July 2017. This period was in excess of the statutory minimum of 28 days. See Chapter 6.	
<u>Section 46</u> Duty to notify Secretary of State of proposed application	(1) The Applicant must supply the Secretary of State with such information in relation to the proposed application as the Applicant would supply to the Secretary of State for the purpose of complying with section 42 if the Applicant were required by that section to consult the Secretary of State about the proposed application.	<p>PINS was notified by a letter dated 16 June 2017. The following documents were included with the notification:</p> <ul style="list-style-type: none"> • Section 46 letter to the Secretary of State; • a copy of the covering letter sent to consultees identified pursuant of section 42(1)(a) to (c); • a copy of the covering letter sent to consultees identified pursuant to section 42(1)(d); • a copy of the notice being published in accordance with section 48 of the Act; and • a copy of a USB stick 	Letters and documents were sent on 16 June 2017.

		which included (a) the consultation booklet; (b) copies of various plans; and (c) the PEIR.	
	(2) The Applicant must comply with subsection (1) on or before commencing consultation under section 42.	The letters sent pursuant to section 42 of the Planning Act 2008 were also sent on 16 June 2017, therefore the Secretary of State was notified at the same time as consultees pursuant to section 42.	16 June 2017
<u>Section 47</u> Duty to consult local community	(1) The Applicant must prepare a statement setting out how the Applicant proposes to consult, about the proposed application, people living in the vicinity of the land	PoTLL did prepare a Statement of Community Consultation. This was published in accordance with the terms of the Planning Act 2008.	1 June 2017
	(2) Before preparing the statement, the Applicant must consult each local authority that is within section 43(1) about what is to be in the statement.	PoTLL carried out consultation on the Statement of Community Consultation with Thurrock Council, Gravesham Borough Council, Kent County Council and Essex County Council, thus consulting more widely than required. See chapter 5 for further detail and Appendix 4.12 for correspondence sent to the authorities.	Consultation took place 25 April 2017 to 23 May 2017.

	(3) The deadline for the receipt by the Applicant of a local authority's response to consultation under subsection (2) is the end of the period of 28 days that begins with the day after the day on which the local authority receives the consultation documents.	The consultation period lasted the statutory minimum period of 28 days. The local authorities were provided with the documents on 25 April 2017, with the deadline for comments being the end of 23 May 2017. Therefore a period of 28 days elapsed, which began with the day after the day the documents were received by the local authority (i.e. 26 April 2017)	The documents were provided to the local authorities on 25 April 2017 and the deadline for comments was the end of 23 May 2017.
	(5) In preparing the statement, the Applicant must have regard to any response to consultation under subsection (2) that is received by the Applicant before the deadline imposed by subsection (3).	Comments during the consultation period were received from Thurrock Council, Gravesham Borough Council and Essex County Council. PoTLL had regard to these comments. Chapter 5 includes PoTLL's response to the comments received and explains the changes made to the SoCC as a result.	Comments were taken into account when finalising the SoCC.
	<p>(6) Once the Applicant has prepared the statement, the Applicant must —</p> <p>(za) make the statement available for inspection by the public in a way that is reasonably convenient for people living in the vicinity of the land,</p> <p>(a) publish, in a newspaper circulating in the</p>	<p>The SoCC was made available for inspection at six deposit locations, as well as at various exhibitions held by PoTLL during the statutory consultation period. See paragraph Chapters 5 and 6.</p> <p>A notice was published in</p>	<p>The SoCC was available for inspection from 1 June 2017 until 28 July 2017.</p> <p>The newspaper notices were published between 20 May 2017 and 1 June 2017.</p>

	<p>vicinity of the land, a notice stating here and when the statement can be inspected, and</p> <p>(b) publish the statement in such manner as may be prescribed).</p>	<p>three local press titles explaining where and when the SoCC could be inspected. Further information is included in Chapters 5 and 6 and the notices are included at Appendix 1.3 Part 5.</p>	
	<p>(7) The Applicant must carry out consultation in accordance with the proposals set out in the statement.</p>	<p>PoTLL has undertaken its consultation in accordance with the proposals in the SoCC. This is explained in Chapter 6.</p>	<p>19 June 2017 to 28 July 2017.</p>
<p>Section 48</p> <p>Duty to publicise</p>	<p>(1) The applicant must publicise the proposed application in the prescribed manner.</p> <p>(2) Regulations made for the purposes of subsection (1) must, in particular, make provision for publicity under subsection (1) to include a deadline for receipt by the Applicant of responses to the publicity.</p>	<p>PoTLL publicised the proposed application in accordance with the requirements of section 48 of the Planning Act 2008 and Regulation 4 of the APFP Regulations. The notice was published for two consecutive weeks in three local newspapers (Thurrock Gazette, Thurrock Enquirer and Kent Messenger Extra: Gravesend and Dartford) and for one week in the London Gazette and the Times.</p> <p>In addition, taking a precautionary approach, PoTLL published the notice in Lloyd's List and Fishing News in accordance with regulation</p>	<p>The section 48 notice was published between 13 and 22 June 2017.</p>

		<p>4(3)(d), which is required for 'offshore development'.</p> <p>For further details see Chapter 6.</p>	
<p>Section 49</p> <p>Duty to take account of responses to consultation and publicity</p>	<p>1) Subsection (2) applies where the Applicant—</p> <p>(a) has complied with sections 42, 47 and 48, and</p> <p>(b) proposes to go ahead with making an application for an order granting development consent (whether or not in the same terms as the proposed application).</p> <p>(2) The Applicant must, when deciding whether the application that the Applicant is actually to make should be in the same terms as the proposed application, have regard to any relevant responses.</p> <p>(3) In subsection (2) “relevant response” means—</p> <p>(a) a response from a person consulted under section 42 that is received by the Applicant before the deadline imposed by section 45 in that person’s case,</p> <p>(b) a response to consultation under section 47(7) that is received by the Applicant before</p>	<p>The Consultation Report details how account has been taken of consultation responses received. See Chapters 9 to 26 and Appendix 5.</p>	

	<p>any applicable deadline imposed in accordance with the statement prepared under section 47, or</p> <p>(c) a response to publicity under section 48 that is received by the Applicant before the deadline imposed in accordance with section 48(2) in relation to that publicity.</p>		
<p><u>Section 50</u></p> <p>Duty to take into account guidance issued by the Secretary of State</p>	<p>(3) The applicant must have regard to any guidance under this section.</p>	<p>Please see the section below detailing how the relevant guidance has been taken into account by PoTLL.</p>	
<p>The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009</p>			
<p><u>Reg 3</u></p> <p>Prescribed consultees</p>	<p>The persons prescribed for the purposes of section 42(a) (duty to consult) are those listed in column 1 of the table in Schedule 1 to these Regulations, who must be consulted in the circumstances specified in relation to each such person in column 2 of that table.</p>	<p>The prescribed consultees were consulted at the commencement of the statutory consultation period.</p> <p>The process that PoTLL adopted to identify all prescribed consultees is included in Chapter 6.</p>	
<p><u>Reg 4</u></p>	<p>(2) The Applicant must publish a notice, which must include the matters prescribed by</p>	<p>PoTLL publicised the proposed application in</p>	<p>The section 48 notice was published between 13 and 22 June</p>

	<p>paragraph (3) of this regulation, of the proposed application—</p> <p>(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;</p> <p>(b) once in a national newspaper;</p> <p>(c) once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and</p> <p>(d) where the proposed application relates to offshore development— (i) once in Lloyd's List; and (ii) once in an appropriate fishing trade journal</p>	<p>accordance with the requirements of section 48 of the Planning Act 2008 and Regulation 4 of the APFP Regulations. The notice was published for two consecutive weeks in three local newspapers (Thurrock Gazette, Thurrock Enquirer and Kent Messenger Extra: Gravesend and Dartford) and for one week in the London Gazette and the Times.</p> <p>In addition, taking a precautionary approach, PoTLL published the notice in Lloyd's List and Fishing News in accordance with regulation 4(3)(d), which is required for 'offshore development'.</p> <p>For further details see Chapter 6.</p>	<p>2017.</p>
	<p>(3) The matters which the notice must include are:</p> <p>(a) the name and address of the Applicant;</p> <p>(b) a statement that the Applicant intends to make an application for development consent to the Secretary of State;</p>	<p>A copy of the section 48 notice is included at Appendix 1.3 Part 6. It includes those matters listed in paragraph 3 of Regulation 4.</p>	

	(c) a statement as to whether the application is EIA development;		
	(d) a summary of the main proposals, specifying the location or route of the proposed development;		
	(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;		
	(f) the latest date on which those documents, plans and maps will be available for inspection being date not earlier than the deadline in subparagraph (l));		
	(g) whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge;		
	(h) details of how to respond to the publicity; and		
	(l) 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.		

The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 ¹			
Reg 6 Procedure for establishing whether environmental impact assessment is required	<p>(1) A person who proposes to make an application for an order granting development consent must, before carrying out consultation under section 42 (duty to consult) either—</p> <p>(a) request the Secretary of State to adopt a screening opinion in respect of the development to which the application relates; or</p> <p>(b) notify the Secretary of State in writing that the person proposes to provide an environmental statement in respect of that development.</p> <p>(3) A request or notification under paragraph (1) must be accompanied by—</p> <p>(a) a plan sufficient to identify the land;</p> <p>(b) a brief description of the nature and purpose of the development and of its possible effects on the environment;</p> <p>(c) such other information or representations as the person making the request may wish to provide or make.</p>	<p>PoTLL notified PINS that it would be providing an environmental statement with its application for development consent.</p> <p>The notification was accompanied by a report which included the matters set out at paragraph (3).</p>	<p>PoTLL notified PINS under Regulation 6(1)(b) on 24 March 2017, prior to consultation under Section 42 of the Planning Act 2008 which took place between 19 June 2017 and 28 July 2017.</p>

¹ It should be noted that the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) have been followed in respect of consultation requirements. Whilst the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017, implementing Directive 2014/52/EU, came into force on 16 May 2017, the result of the transitional provisions of these Regulations is that they do not apply to the Tilbury2 proposals.

Reg 10 Consultation statement requirements	<p>The consultation statement prepared under section 47 (duty to consult local community) must set out —</p> <p>(a) whether the development for which the Applicant proposes to make an application for an order granting development consent is EIA development; and</p> <p>(b) if that development is EIA development, how the Applicant intends to publicise and consult on the preliminary environmental information.</p>	<p>The Statement of Community Consultation is included at Appendix 2.7. At paragraph 2.20 of that document there is a statement that confirms that an Environmental Statement will be provided with the application. Paragraphs 2.23 and 2.24 explain how the PEIR will be published for consultees to view and comment on.</p>	
Reg 11 Pre-application publicity under section 48 (duty to publicise)	<p>Where the proposed application for an order granting development consent is an application for EIA development, the Applicant must, at the same time as publishing notice of the proposed application under section 48(1), send a copy of that notice to the consultation bodies and to any person notified to the Applicant in accordance with regulation 9(1)(c).</p>	<p>A copy of the section 48 notice was sent to the consultation bodies and those persons identified in the Regulation 9 list provided by PINS as part of the statutory consultation 'pack'.</p> <p>Further information is included in Chapter 6.</p>	<p>The notice accompanied the statutory consultation letters sent on 16 June 2017.</p>
DCLG Guidance²			
Paragraph 25	Consultation should be thorough, effective and	Chapter 5 of this Consultation	

² https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418009/150326_Pre-Application_Guidance.pdf

	<p>proportionate. Some applicants may have their own distinct approaches to consultation, perhaps drawing on their own or relevant sector experience, for example if there are industry protocols that can be adapted. Larger, more complex applications are likely to need to go beyond the statutory minimum timescales laid down in the Planning Act to ensure enough time for consultees to understand project proposals and formulate a response.</p> <p>Many proposals will require detailed technical input, especially regarding impacts, so sufficient time will need to be allowed for this. Consultation should also be sufficiently flexible to respond to the needs and requirements of consultees, for example where a consultee has indicated that they would prefer to be consulted via email only, this should be accommodated as far as possible.</p>	<p>Report sets out the broad principles adopted by PoTLL during the statutory consultation process. This Consultation Report also touches upon how PoTLL was able to use some of its 'business as usual' engagement techniques and knowledge as part of the engagement and consultation undertaken.</p> <p>PoTLL has endeavoured to be as flexible as possible in terms of consultation materials provided, etc., where notified.</p> <p>The guidance was also taken into account by PoTLL in scheduling the consultation, and an iterative phased approach to the non-statutory and statutory consultation adopted as a result.</p>	
<u>Paragraph 26</u>	<p>The Planning Act requires certain bodies and groups of people to be consulted at the pre-application stage, but allows for flexibility in the precise form that consultation may take depending on local circumstances and the needs of the project itself. Sections 42 – 44 of the Planning Act and Regulations¹¹ set out</p>	<p>Statutory Consultation was undertaken in accordance with the Planning Act 2008 and the APFP/EIA Regs.</p> <p>Further details are included above and in Chapters 5 and</p>	

	<p>details of who should be consulted, including local authorities, the Marine Management Organisation (where appropriate), other statutory bodies, and persons having an interest in the land to be developed.¹² Section 47 in the Planning Act sets out the applicant's statutory duty to consult local communities. In addition, applicants may also wish to strengthen their case by seeking the views of other people who are not statutory consultees, but who may be significantly affected by the project.</p>	<p>6.</p> <p>PoTLL has undertaken a range of non-statutory consultation and engagement, as set out in Chapter 4.</p>	
<u>Paragraph 27</u>	<p>The Planning Act and Regulations set out the statutory consultees and prescribed people who must be consulted during the pre-application process. Many statutory consultees are responsible for consent regimes where, under Section 120 of the Planning Act, decisions on those consents can be included within the decision on a Development Consent Order. Where an applicant proposes to include non-planning consents within their Development Consent Order, the bodies that would normally be responsible for granting these consents should make every effort to facilitate this. They should only object to the inclusion of such nonplanning consents with good reason, and after careful consideration of reasonable alternatives. It is therefore important that such bodies are consulted at an early stage. In addition, there will be a range of national and other interest groups who could</p>	<p>PoTLL explains the consultation it undertook with the relevant statutory consultees, including those responsible for consent regimes under S.120 of the Act in Chapters 4 and 6.</p> <p>PoTLL undertook stakeholder engagement activities in addition to non-statutory consultation, in order to promote wider awareness of the proposal and encourage input from stakeholders. Further detail is in Chapter 4.</p>	

	make an important contribution during consultation. Applicants are therefore encouraged to consult widely on project proposals.		
<u>Paragraph 28</u>	From time to time a body may cease to exist but, for legislative timetabling reasons, may still be listed as a statutory consultee. In such situations the Secretary of State will not expect strict compliance with the statutory requirements. Applicants should identify any successor body and consult with them in the same manner as they would have with the original body. Where there is no obvious successor, applicants should seek the advice of the Inspectorate, who may be able to identify an appropriate alternative consultee. Whether or not an alternative is identified, the consultation report should briefly note any cases where compliance with statutory requirements was impossible and the reasons why.	Chapter 6 explains how consultees have been identified under section 42 of the Act.	
<u>Paragraph 29</u>	Applicants will often need detailed technical input from expert bodies to assist with identifying and mitigating the social, environmental, design and economic impacts of projects, and other important matters. Technical expert input will often be needed in advance of formal compliance with the pre-application requirements. Early engagement with these bodies can help avoid unnecessary	PoTLL has undertaken a range of stakeholder engagement activities in accordance with this advice, and in order that issues of concern could be discussed and resolved where possible. See Chapter 4 for further detail.	

	delays and the costs of having to make changes at later stages of the process. It is equally important that statutory consultees respond to a request for technical input in a timely manner. Applicants are therefore advised to discuss and agree a timetable with consultees for the provision of such inputs.		
<u>Paragraph 35</u>	The applicant has a duty under section 47 of the Planning Act to prepare a Statement of Community Consultation, and then to conduct its consultation in line with that statement. Before doing so, the applicant must consult on their Statement of Community Consultation with each local authority in whose area the proposed development is situated. This may require consultation with a number of different local authorities, particularly for long, linear projects. In this situation, the local authorities in question should, as far as practicable, co-ordinate their responses to the applicant. This will ensure that the consultation proposals set out in the Statement are coherent, effective, and work across local authority boundaries.	Chapter 5 details the preparation of the Statement of Community Consultation and the involvement of the local authorities in that process. Chapter 6 details how the consultation was undertaken in accordance with the Statement of Community Consultation.	
<u>Paragraph 36</u>	Even where it is intended that a development would take place within a single local authority area, it is possible that its impacts could be significantly wider than just that local authority's area - for example if the development was located close to a neighbouring authority. Where an applicant decides to consult people living in a wider area	Following comments from local authorities on the draft SoCC, PoTLL sought to undertake a range of consultation activities beyond Thurrock to encompass the wider Kent and Essex areas.	

	who could be affected by the project (e.g. through visual or environmental impacts, or through increased traffic flow), that intention should be reflected in the Statement of Community Consultation.		
<u>Paragraph 37</u>	In its role as a consultee on the Statement of Community Consultation, the local authority should focus on how the applicant should consult people in its area. The comments that a local authority provides on the Statement of Community Consultation are separate from any views that authority may have on the merits of the proposals. They are also distinct from 'adequacy of consultation' responses. The Planning Act requires local authorities to respond to the applicant's consultation on their proposed Statement of Community Consultation within 28 days of receipt of the request. However, prior to submitting their draft Statement of Community Consultation applicants may wish to seek to resolve any disagreements or clarifications about the public consultation design. An applicant is therefore likely to need to engage in discussions with local authorities over a longer period than the minimum requirements set out in the Act.	<p>PoTLL involved the relevant local authorities in the development of the SoCC, and facilitated an extensive series of meetings and engagement with those authorities (including on a pre-draft SoCC), in addition to the statutory consultation.</p> <p>PoTLL consulted with the host authority (and nearby local authorities) in the preparation of the Statement of Community Consultation, in order to give the authorities an opportunity to provide feedback on the proposed methods of consultation. Further detail of this exercise is in Chapter 5, including how PoTLL has taken into account responses from the local authorities.</p>	
<u>Paragraph 38</u>	The role of the local authority in such discussions should be to provide expertise	PoTLL consulted with the local authorities in the preparation	

	<p>about the make-up of its area, including whether people in the area might have particular needs or requirements, whether the authority has identified any groups as difficult to reach and what techniques might be appropriate to overcome barriers to communication. The local authority should also provide advice on the appropriateness of the applicant's suggested consultation techniques and methods. The local authority's aim in such discussions should be to ensure that the people affected by the development can take part in a thorough, accessible and effective consultation exercise about the proposed project.</p>	<p>of the Statement of Community Consultation (including on a 'pre-draft' with Thurrock Council), in order to give the them an opportunity to provide feedback on the proposed method of consultation. Further detail of this exercise is in Chapter 5.</p>	
<u>Paragraph 39</u>	<p>Topics for consideration at such pre-consultation discussions might include:</p> <ul style="list-style-type: none"> • the size and coverage of the proposed consultation exercise (including, where appropriate, consultation which goes wider than one local authority area); • the appropriateness of various consultation techniques, including electronic-based ones; • the design and format of consultation materials; • issues which could be covered in consultation materials; • suggestions for places/timings of public events as part of the consultation; • local bodies and representative groups who should be consulted; and 	<p>PoTLL consulted with the local authorities in the preparation of the SoCC (including on a 'pre-draft'). in order to give the them an opportunity to provide feedback on the proposed method of consultation. Further detail of this exercise is in Chapter 5, including on the nature of comments received.</p>	

	timescales for consultation.		
<u>Paragraph 41</u>	Where a local authority raises an issue or concern on the Statement of Community Consultation which the applicant feels unable to address, the applicant is advised to explain in their consultation report their course of action to the Secretary of State when they submit their application.	Chapter 5 sets out the responses of the local authorities to consultation on the Statement of Community Consultation, and includes PoTLL's response detailing what action was taken, or an explanation if no action was taken.	
<u>Paragraph 42</u>	Where a local authority decides that it does not wish to respond to a consultation request on the Statement of Community Consultation, the applicant should make reasonable efforts to ensure that all affected communities are consulted. If the applicant is unsure how to proceed, they are encouraged to seek advice from the Inspectorate. However, it is for the applicant to satisfy themselves that their consultation plan allows for as full public involvement as is appropriate for their project and, once satisfied, to proceed with the consultation. Provided that applicants can satisfy themselves that they have made reasonable endeavours to consult with all those who might have a legitimate interest or might be affected by a proposed development, it would be unlikely that their application would be rejected on grounds of inadequate public consultation.	PoTLL did not receive any comments on the SoCC from Kent County Council. However, PoTLL considered it undertook appropriate consultation with communities south of the river Thames that might be interested in the proposed Scheme.	
<u>Paragraph 43</u>	Local authorities are also themselves statutory consultees for any proposed major	PoTLL consulted and engaged with the local	

	infrastructure project which is in or adjacent to their area. Applicants should engage with them as early as possible to ensure that the impacts of the development on the local area are understood and considered prior to the application being submitted to the Secretary of State.	authorities from an early stage. Further detail of this exercise is in Chapter 4.	
<u>Paragraph 49</u>	Applicants will also need to identify and consult people who own, occupy or have another interest in the land in question, or who could be affected by a project in such a way that they may be able to make a claim for compensation. This will give such parties early notice of projects, and an opportunity to express their views regarding them.	PoTLL identified and consulted people with an interest in the land that might be affected by the Scheme as defined by section 44 of the Act. The process by which it did this is explained in Chapter 6.	
<u>Paragraph 52</u>	Applicants should explain in the consultation report how they have dealt with any new interests in land emerging after conclusion of their statutory consultation having regard to their duties to consult and take account of any responses.	In Chapter 6, PoTLL addresses how it has consulted with section 42 consultees identified during and after the statutory consultation period. In most cases, such consultees were provided at least 28 days to respond to the consultation.	
<u>Paragraph 53</u>	Local people have a vital role to play at the pre application stage. People should have as much influence as is realistic and possible over decisions which shape their lives and communities. It is therefore critical that they are engaged with project proposals at an early stage. Because they live, work and socialise in	Chapter 4 explains PoTLL's actions in seeking to engage a wide range of stakeholder groups in order to raise awareness and maximise stakeholder participation as part of the non-statutory	

	the affected area, local people are particularly well placed to comment on what the impact of proposals on their local community might be; or what mitigating measures might be appropriate; or what other opportunities might exist for meeting the project's objectives.	consultation. Chapter 6 sets out how the statutory consultation was undertaken, including in respect of local communities.	
<u>Paragraph 54</u>	In consulting on project proposals, an inclusive approach is needed to ensure that different groups have the opportunity to participate and are not disadvantaged in the process. Applicants should use a range of methods and techniques to ensure that they access all sections of the community in question. Local authorities will be able to provide advice on what works best in terms of consulting their local communities given their experience of carrying out consultations in their area.	PoTLL utilised a variety of methods and techniques during the consultation, as explained in Chapter 6.	
<u>Paragraph 55</u>	Applicants must set out clearly what is being consulted on. They must be careful to make it clear to local communities what is settled and why, and what remains to be decided, so that expectations of local communities are properly managed. Applicants could prepare a short document specifically for local communities, summarising the project proposals and outlining the matters on which the view of the local community is sought. This can describe core elements of the project and explain what the potential benefits and impacts may be. Such documents should be written in clear, accessible, and non-technical language.	Chapter 5 explains the materials utilised as part of the statutory consultation, including a consultation booklet drafted in non-technical language. Chapter 6 gives further detail as to how this range of measures was utilised in relation to statutory consultation and what information was provided to consultees. Chapter 6 also	

	Applicants should consider making it available in formats appropriate to the needs of people with disabilities if requested. There may be cases where documents may need to be bilingual (for example, Welsh and English in some areas), but it is not the policy of the Government to encourage documents to be translated into non-native languages.	explains how the variety of measures was taken on board in the preparation of the Statement of Community Consultation.	
<u>Paragraph 56</u>	Applicants are required to set out in their Statement of Community Consultation how they propose to consult those living in the vicinity of the land. They are encouraged to consider consulting beyond this where they think doing so may provide more information on the impacts of their proposals (e.g. through visual impacts or increased traffic flow).	See Chapters 5 and 6 for the information on the development of the SoCC and how the measures included in it were implemented. PoTLL was mindful of needing to consult beyond the immediate area surrounding the proposed Scheme.	
<u>Paragraph 57</u>	The Statement of Community Consultation should act as a framework for the community consultation generally, for example, setting out where details and dates of any events will be published. The Statement of Community Consultation should be made available online, at any exhibitions or other events held by applicants. It should be placed at appropriate local deposit points (e.g. libraries, council offices) and sent to local community groups as appropriate.	Chapters 5 and 6 set out how the finalised Statement of Community Consultation was published and made available to the public. It was available in hard copy at certain locations or by request and also online.	
<u>Paragraph 58</u>	Applicants are required to publicise their proposed application under section 48 of the Planning Act and the Regulations and set out	PoTLL arranged for the s48 notice to first appear in a local newspaper title the week	

	<p>the detail of what this publicity must entail. This publicity is an integral part of the public consultation process. Where possible, the first of the two required local newspaper advertisements should coincide approximately with the beginning of the consultation with communities. However, given the detailed information required for the publicity in the Regulations, aligning publicity with consultation may not always be possible, especially where a multi-stage consultation is intended.</p>	<p>before the start of its statutory consultation, which was being undertaken pursuant to s.42 and s.47 of the Act, from 19 June 2017. The notices published under s.48 of the Act stipulated that the deadline for responses was 28 July 2017, also consistent with the consultation being undertaken pursuant to s.42 and s.47 of the Act.</p> <p>Publicity under section 48 is detailed in Chapter 6 and it includes a table listing the dates and titles in which PoTLL's s48 notice was publicised.</p>	
<u>Paragraph 69</u>	<p>Applicants will often also require detailed technical advice from consultees and it is likely that their input will be of the greatest value if they are consulted when project proposals are fluid, followed up by confirmation of the approach as proposals become firmer. In principle, therefore, applicants should undertake initial consultation as soon as there is sufficient detail to allow consultees to understand the nature of the project properly.</p>	<p>PoTLL has had regard to the guidance in relation to its early engagement activities it undertook, as set out in Chapter 4, which allowed PoTLL to attempt to maximise stakeholder input.</p>	
<u>Paragraph 70</u>	<p>To manage the tension between consulting early, but also having project proposals that are firm enough to enable consultees to comment, applicants are encouraged to</p>	<p>PoTLL concluded that there should be two stage pre-application consultation – one non-statutory and one</p>	

	consider an iterative, phased consultation consisting of two (or more) stages, especially for large projects with long development periods. For example, applicants might wish to consider undertaking non-statutory early consultation at a stage where options are still being considered. This will be helpful in informing proposals and assisting the applicant in establishing a preferred option on which to undertake statutory consultation.	statutory. See chapters 4 and 6 for further information on this.	
<u>Paragraph 71</u>	Where an iterative consultation is intended, it may be advisable for applicants to carry out the final stage of consultation with persons who have an interest in the land once they have worked up their project proposals in sufficient detail to identify affected land interests.	PoTLL identified and consulted people with an interest in the land that might be affected by the scheme as defined by section 44 of the Act. Chapter 6 explains how these parties were consulted as part of the statutory consultation.	
<u>Paragraph 72</u>	The timing and duration of consultation will be likely to vary from project to project, depending on size and complexity, and the range and scale of the impacts. The Planning Act requires a consultation period of a minimum of 28 days from the day after receipt of the consultation documents. It is expected that this may be sufficient for projects which are straightforward and uncontroversial in nature. But many projects, particularly larger or more controversial ones, may require longer consultation periods than this. Applicants should therefore set consultation deadlines	PoTLL's took this into account and its statutory consultation period was in excess of the statutory minimum of 28 days, which it considered appropriate. Some responses were received after the deadline, but were taken into account by PoTLL given the nature of the person providing it (e.g. Highways England). The timing of the consultation was considered appropriate,	

	that are realistic and proportionate to the proposed project. It is also important that consultees do not withhold information that might affect a project, and that they respond in good time to applicants. Where responses are not received by the deadline, the applicant is not obliged to take those responses into account.	as it was at this stage that the proposals were sufficiently developed following non-statutory consultation and engagement.	
<u>Paragraph 73</u>	Applicants are not expected to repeat consultation rounds set out in their Statement of Community Consultation unless the project proposals have changed very substantially. However, where proposals change to such a large degree that what is being taken forward is fundamentally different from what was consulted on, further consultation may well be needed. This may be necessary if, for example, new information arises which renders all previous options unworkable or invalid for some reason. When considering the need for additional consultation, applicants should use the degree of change, the effect on the local community and the level of public interest as guiding factors.	It was not necessary to repeat any consultation rounds.	
<u>Paragraph 77</u>	Consultation should also be fair and reasonable for applicants as well as communities. To ensure that consultation is fair to all parties, applicants should be able to demonstrate that the consultation process is proportionate to the impacts of the project in the area that it affects, takes account of the	PoTLL considers that the consultation it has undertaken is proportionate to the impacts of the proposed Scheme, and has responded to anticipated levels of local interest. As detailed in the SoCC,	

	anticipated level of local interest, and takes account of the views of the relevant local authorities.	community consultation was designed to try and reach a wider geographical area than just the immediate surroundings of the proposals.	
<u>Paragraph 78</u>	Applicants are required under section 37 of the Planning Act to produce a consultation report alongside their application, which details how they have complied with the consultation requirements set out in the Act.	A Consultation Report has been prepared to support PoTLL's application for development consent and as required by Section 37(3)(c) of the Act.	
<u>Paragraph 80</u>	<p>Therefore, the consultation report should:</p> <ul style="list-style-type: none"> • provide a general description of the consultation process undertaken, which can helpfully include a timeline; • set out specifically what the applicant has done in compliance with the requirements of the Planning Act, relevant secondary legislation, this guidance, and any relevant policies, guidance or advice published by Government or the Inspectorate; • set out how the applicant has taken account of any response to consultation with local authorities on what should be in the applicant's statement of community consultation; • set out a summary of relevant responses to consultation (but not a complete list of responses); • provide a description of how the application was informed and 	<p>Dealing with each point in turn:</p> <ul style="list-style-type: none"> - An overview of the consultation is included in Chapter 2 - Chapter 5 explains how PoTLL has consulted the relevant local authorities about the SoCC and taken into account the comments received. - Chapters 9 – 26 of this Consultation Report detail what issues were raised in the statutory consultation and what account PoTLL took of these. PoTLL established a process to ensure that every issue raised in the statutory consultation would be considered. - The Consultation Report 	

	<p>influenced by those responses, outlining any changes made as a result and showing how significant relevant responses will be addressed;</p> <ul style="list-style-type: none"> • provide an explanation as to why responses advising on major changes to a project were not followed, including advice from statutory consultees on impacts; • where the applicant has not followed the advice of the local authority or not complied with this guidance or any relevant Advice Note published by the Inspectorate, provide an explanation for the action taken or not taken; and • be expressed in terms sufficient to enable the Secretary of State to understand fully how the consultation process has been undertaken and significant effects addressed. However, it need not include full technical explanations of these matters. 	<p>provides, from Chapters 9-26, a summary of the issues raised by respondents to the statutory consultation and explains how PoTLL has taken account of these.</p> <ul style="list-style-type: none"> - Where PoTLL has not followed advice given by a local authority it has provided a clear explanation for this in the Consultation Report. - PoTLL has complied with DCLG Guidance and relevant Advice Notes in the preparation of the consultation report, and the document is expressed in a way that is sufficient for the Secretary of State's purposes. 	
<u>Paragraph 81</u>	<p>It is good practice that those who have contributed to the consultation are informed of the results of the consultation exercise; how the information received by applicants has been used to shape and influence the project; and how any outstanding issues will be addressed before an application is submitted to the Inspectorate.</p>	<p>PoTLL did not write to respondents specifically, but considered it appropriate to notify people of the end of the consultation (and setting out the next steps) by way of press releases in local publications and online.</p>	

<u>Paragraph 83</u>	The consultation report may not be the most appropriate format in which to respond to the points raised by various consultee groups and bodies. Applicants should therefore consider producing a summary note in plain English for the local community setting out headline findings and how they have been addressed, together with a link to the full consultation report for those interested. If helpful, this could be supplemented by events in the local area.	This is included in Chapter 1.	
<u>Paragraph 84</u>	A response to points raised by consultees with technical information is likely to need to focus on the specific impacts for which the body has expertise. The applicant should make a judgement as to whether the consultation report provides sufficient detail on the relevant impacts, or whether a targeted response would be more appropriate. Applicants are also likely to have identified a number of key additional bodies for consultation and may need to continue engagement with these bodies on an individual basis.	As Chapter 4 touches upon, PoTLL is involved with on-going engagement with a number of key statutory bodies who can offer technical input – this engagement has gone beyond the statutory consultation period.	
<u>Paragraph 88</u>	It is important to stress that pre-application consultation is a statutory duty for applicants, and it should, as this guidance makes clear, be carried out to a certain standard. Issues about the adequacy of consultation should be considered prior to the Inspectorate (on behalf of the Secretary of State) accepting an application for examination. Where any interested party feels that consultation was	PoTLL considers it has complied with all statutory requirements, Advice Notes and statutory guidance with respect to its pre-application consultation, as evidenced by this Consultation Report.	

	<p>inadequately carried out, they should approach the applicant in the first instance. If consultees remain unsatisfied, they can complain to the relevant local authority (who can consider this complaint as part of their representation to the Secretary of State on the adequacy of consultation), or the Secretary of State (through the Inspectorate). Any concerns should be raised promptly during or immediately following the consultation, to enable the applicant to address the issues if appropriate. In all cases, the final decision as to whether pre-application consultation was adequately carried out rests with the Secretary of State.</p>		
<u>Paragraph 93</u>	<p>For the pre-application consultation process, applicants are advised to include sufficient preliminary environmental information to enable consultees to develop an informed view of the project. The information required may be different for different types and sizes of projects. It may also vary depending on the audience of a particular consultation. The preliminary environmental information is not expected to replicate or be a draft of the environmental statement. However, if the applicant considers this to be appropriate (and more cost-effective), it can be presented in this way. The key issue is that the information presented must provide clarity to all consultees. Applicants should be careful not to assume that non-specialist consultees would</p>	<p>PoTLL confirmed in its Statement of Community Consultation that an environmental statement for the purposes of the EIA Regulations would be provided with the application. PoTLL set out in the Statement of Community Consultation how it would be publicising and consulting on the Preliminary Environmental Information Report, as part of the statutory consultation undertaken. Further information in respect of how the PEIR was</p>	

	not be interested in any technical environmental information. It is therefore advisable to ensure access to such information is provided during all consultations. The applicant's Statement of Community Consultation must include a statement about how the applicant intends to consult on preliminary environmental information.	publicised and consulted upon is included in chapter 6.	
<u>Paragraph 96</u>	It is the applicant's responsibility to consult with the relevant statutory bodies and, if they consider it necessary, with any relevant non-statutory nature conservation bodies, in order to gather evidence for such a report (to support a Habitats Regulations Assessment). This consultation should take place as early as possible in the pre-application process. One way of doing this is for an applicant to agree an evidence plan. The Planning Inspectorate can also comment on the applicant's draft report in advance of formal submission of the application if it is provided in good time. Further advice on Habitats Regulations Assessments for major infrastructure projects is available from the Inspectorate's Advice Note.	As part of its consultation undertaken pursuant to section 42 of the Act, PoTLL consulted Natural England and the Environment Agency. On-going engagement took place with these bodies. PoTLL also consulted the Essex Wildlife Trust.	

Advice Note 14 - Compiling the consultation report	Chapter reference
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	<p>An application must be accompanied by the applicant's consultation report prepared under section 37 of the 2008 Act. That report should draw together:</p> <ul style="list-style-type: none"> a. an account of the statutory consultation, publicity, deadlines set, and community consultation activities undertaken by the applicant at the pre-application stage under s42, s47 and s48 b. A summary of the relevant responses to the separate strands of consultation; and c. The account taken of responses in developing the application from proposed to final form, as required by s49(2). 	<p>Chapter 6 of this Consultation Report provides an account of the Statutory consultation under sections 42, 47 and 48 of the Planning Act 2008.</p> <p>A summary of the responses to consultation and account taken of the responses received is included at Chapters 9 to 26.</p>	6
	<p>The primary purpose of the report is to capture and reflect upon all of the responses received from these three distinct pre-application consultee groups and explain how the developer has met its duty (s49 of the Act) in the preparation of the application to have regard to the views expressed. The consultation itself should be carried out in a way that allows the submission of a robust and detailed report at application stage.</p>	<p>Chapters 9 to 26 include a response from PoTLL in respect of consultees' responses. The response explains how PoTLL has had regard to the comment raised and explained what changes, if appropriate, has been made to the Scheme. There is also a specific column which explains whether the consultee response has resulted in a change to the Scheme.</p>	6, 9-26
	<p>The report can also capture non-statutory or 'informal' consultation that takes place</p>	<p>Chapter 4 details the non-statutory pre-application consultation that has taken</p>	4

	outside the requirements of the Planning Act 2008 so that the Secretary of State has a comprehensive picture of all the consultation activity relevant to a particular project.	place.	
	Explain where DCLG guidance has not been followed in terms of the pre-application consultation.	PoTLL has complied with DCLG Guidance and relevant Advice Notes in the preparation of the consultation report. This compliance checklist details how.	
	Provision of a quick reference guide, summarising the all the consultation activity in chronological order.	Chapters 4 to 6 outline the consultation and engagement activity undertaken by PoTLL. Given the extent and scale of consultation undertaken by PoTLL, a quick reference guide was considered unnecessary.	4-6
	Explanatory text should set the scene and provide an overview and narrative of the whole pre-application stage as it relates to the particular project.	Chapters 1 to 3 of this consultation report 'set the scene' for the scheme. Chapters 5 and 6 of this consultation report include a description of the overall approach to statutory pre-application consultation.	All
	Set out the wider historical context where national infrastructure projects have evolved over an extended period of time, perhaps with previous incarnations not coming to fruition for one reason or another. Give a brief description of any historic consultation activity including any information available about the scale and nature of the response at that time.	Given the nature of the Scheme, it was not possible or appropriate for PoTLL to do this, although reference to historical engagement is included in chapter 4 of the consultation report.	

	A full list of prescribed consultees should be provided as part of the Consultation Report. Explain where the prescribed consultees have been consulted on multiple occasions. Justify any instance where the applicant's list of prescribed consultees varies from the list of organisations set out in Schedule 1 of the APFP Regs 2009.	Appendix 4.2 of this consultation report lists the prescribed consultees that have been consulted. Where a particular consultee has been consulted multiple times this is also noted in the appendix. Variations between the applicant's list of prescribed consultees and Schedule 1 of the APFP Regulations is explained in Appendix 4.2	6
	The list of organisations set out in schedule 1 of the APFP should be followed in terms of the order in which the consultees are presented.	Appendix 4.2, which lists the prescribed consultees is set out in the same order as Schedule 1 of the APFP Regulations.	6
	A short description of how s43 of the Act has been applied in order to identify the relevant local authorities should be included. This could be supported by a map showing the site and identifying the boundaries of the relevant local authorities.	The application of Section 43 of the Planning Act 2008 and A and B authorities contacted during statutory consultation is described in Chapter 6 of this consultation report.	6
	Section 44 parties to be identified as a distinct element of the wider section 42 consultation.	Section 44 parties were identified as persons with an interest in land. Appendix 4.9 provides a list of the people consulted under section 42 of the Planning Act 2008.	6
	Where compulsory acquisition forms part of the draft DCO the consultees who are	Appendix 4.9 has been annotated so that those prescribed consultees that	6

	also included in the book of reference for compulsory acquisition purposes should be highlighted in the consolidated list of prescribed consultees.	also appear in the book of reference are highlighted green.	
	Provide a summary of the rationale behind the SoCC methodology.	Chapter 5 of this Consultation Report provides a summary of the rationale behind the SoCC.	5
	Evidence should be submitted as part of the consultation report which shows which local authorities were consulted about the content of the draft SoCC; what the local authorities' comments were; confirmation that they were given 28 days to provide their comments and a description about how the applicant had regard to the local authorities' comments.	Chapter 5 of this Consultation Report details that Thurrock Council, Gravesham Borough Council, Kent County Council and Essex County Council were consulted on the draft SoCC content. Chapter 5 includes additional information, including the time scales of the informal discussion and the formal consultation undertaken. It also details how PoTLL took into account the consultees' comments	5
	Copies of the published SoCC as it appeared in the local press should be provided along with confirmation of which local newspapers it was published in and when.	It is no longer a requirement that the SoCC is published in full in the local press. A copy of the section 47 notices publicising where and when the SoCC can be inspected are included at Appendix 1.3 Part 5. Chapter 5 confirms the local newspapers in which the section 47 notice was published and the corresponding dates.	5

	<p>Explain/justify where there were any inconsistencies with the SoCC, for example where additional activities took place that were not included in the SoCC.</p>	<p>All of the activities specified in the SoCC were delivered. Chapter 6 lists the commitments contained in the SoCC and an explanation as to how PoTLL met each of these.</p> <p>Chapter 6 provides an explanation and rationale for additional activities PoTLL undertook in respect of consultation under s47 that were not specified in the SoCC.</p>	6
	<p>Set out the relevant local authorities' views about any changes made to the consultation methodology that were not dealt with by way of review of the SoCC</p>	<p>PoTLL did not receive comments from the local authorities about the additional activities undertaken to promote consultation with the local community.</p>	
	<p>A copy of the s48 notice as it appeared in the local and national newspapers, together with a description of where the notice was published and confirmation of the time period given for responses should be included in the report. Applicants should also provide confirmation that the s48 notice was sent to the prescribed consultees at the same time as the notice was published. A description of the consultation material used and how the prescribed consultees were able to access it would also be useful.</p>	<p>A copy of the Section 48 notice is included at Appendix 1.3 Part 6. Chapter 6 of this consultation report explains where the notice was published and the timescales for consultation responses to be provided.</p> <p>Chapter 6 also confirms that a copy of the Section 48 notice was sent to the consultation bodies and all persons identified on the Regulation 9 list.</p> <p>The consultation materials are described in Chapters 5 and 6.</p>	
	<p>Indicate and identify separately in the report any consultation undertaken outside of the requirements of the Act.</p>	<p>The non- statutory consultation is explained in Chapter 4 of this Consultation Report.</p>	Chapter 4

	Include a description of the consultation undertaken as part of the EIA regime as a separate part of the report.	The consultation undertaken pursuant to the EIA regime is explained in Chapter 6 of the Consultation Report.	
	If appropriate, group responses under headline issues. Where this approach has been adopted identify and explain this approach, including any safeguards and cross checking.	The responses have been grouped into themes and sub themes. Themes provide the chapter structure and sub themes allow PoTLL to respond to several specific responses together. These themes were assembled with care for the individual comments and are stated in Chapters 9-26.	6.3.0 and fully in chapter 8 (still working through with consultants)
	A list of the individual responses received should be provided and categorised in an appropriate way.	Appendix 5.3 includes tables which list all of the issues raised in the statutory consultation and identifies which respondents raised each of these. Responses from individuals have been anonymised for Data Protection purposes.	6.8.1 and appendices
	<p>Advise that applicants group responses under three strands of consultation:</p> <ul style="list-style-type: none"> • section 42 prescribed consultees (including sections 43 and 44) • section 47 community consultees • section 48 responses to statutory publicity <p>Make a further distinction within those categories by sorting responses according to whether they contain comments which</p>	Chapters 9 to 26 summarise the issues raised by respondents to the statutory consultation and identifies under which strand of consultation they were received. They also identify where changes were made (or, indeed, not made) as a result of the comments. Given that PoTLL received so few responses from community consultees for certain themes, it was considered more appropriate to group all strands together. However, where there are	Chapter 8 and appendices

	have led to changes to matters such as siting, route, design, form or scale of the scheme itself, or to mitigation or compensatory measures proposed, or have led to no change.	sufficient numbers of responses, the strands have been separated.	
	A summary of responses by appropriate category together with a clear explanation of the reason why responses have led to no change should also be included, including where responses have been received after deadlines set by the applicant.	Chapters 9 to 26 summarise the issues raised by respondents to the statutory consultation and identifies whether PoTLL's consideration of each issue had led to a change to the Scheme. Where PoTLL was not able to change the Scheme as requested by a respondent, this is also explained in these chapters.	Chapter 8
	Where a resolution has not been reached in areas of disagreement a summary should be provided.	Chapters 9 to 26 summarise the issues raised by respondents to the statutory consultation and identifies whether PoTLL's consideration of each issue had led to a change to the Scheme. Where PoTLL was not able to change the Scheme as requested by a respondent, this is also explained in these chapters.	Chapter 8
	Ensure that the addresses and other contact information of private individuals are treated appropriately within the context of this statutory process e.g. ensure it has been fully redacted.	Each public respondent to the consultation was provided with a unique number reference for identification purposes. These references are used to ensure personal information is not published. Respondents have been classified according to the way they responded e.g email, letter, questionnaire, non-statutory questionnaire (during the statutory	Chapter 8 and appendices

		consultation period). Where respondents submitted emails and letters they have been categorised under only one and these are not duplicated.	
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