



The Planning Act 2008 Section 55 Acceptance of Applications*

(Appendix 2 of [advice note six: Preparation and submission of application documents](#))

- (1) The following provisions of this section apply where the Secretary of State receives an application that purports to be an application for an order granting development consent.
- (2) The Secretary of State must, by the end of the period of 28 days beginning with the day after the day on which the Secretary of State receives the application, decide whether or not to accept the application.
- (3) The Secretary of State may accept the application only if the Secretary of State concludes -
 - (a) that it is an application for an order granting development consent,
 - (b) deleted
 - (c) that development consent is required for any of the development to which the application relates,
 - (d) deleted
 - (e) that the applicant has, in relation to a proposed application that has become the application, complied with Chapter 2 of Part 5 (pre-application procedure), and
 - (f) that the application (including accompaniments) is of a standard that the Secretary of State considers satisfactory.
- (4) The Secretary of State, when deciding whether the Secretary of State may reach the conclusion in subsection (3)(e), must have regard to -
 - (a) the consultation report received under section 37(3)(c),
 - (b) any adequacy of consultation representation received by the Secretary of State from a local authority consultee, and
 - (c) the extent to which the applicant has had regard to any guidance issued under section 50.
- (5) In subsection (4) -

“local authority consultee” means -

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

“adequacy of consultation representation” means a representation about whether the applicant complied, in relation to that proposed application, with the applicant’s duties under sections 42, 47 and 48.
- (5A) The Secretary of State when deciding whether the Secretary of State may reach the conclusion in subsection (3)(f) must have regard to the extent to which -
 - a) the application complies with the requirements in section 37(3) (form and contents of application) and any standards set under section 37(5) and
 - b) any applicable guidance given under section 37(4) has been followed in relation to the application.
- (6) If the Secretary of State accepts the application, the Secretary of State must notify the applicant of the acceptance.
- (7) If the Secretary of State is of the view that the application cannot be accepted, the Secretary of State must -
 - (a) notify that view to the applicant, and
 - (b) notify the applicant of the Secretary of State’s reasons for that view.
- (8) If in response the applicant modifies (or further modifies) the application, subsections (2) to (7) then apply in relation to the application as modified.

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

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

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

Section 55 Acceptance of Applications

Section 55 Application Checklist¹

Section 55(2) Acceptance of Applications			
Within 28 days (starting day after receipt) the Secretary of State must decide whether or not to accept the application.	Date received	28 day due date	Date of decision
	28 February 2013	28 March 2013	27 March 2013
Section 55(3) – the Secretary of State may <u>only</u> accept an application if the Secretary of State concludes that:-		Case Officer Comments	Acceptance Inspector Notes
1. s55(3)(a) It is an application for an order granting development consent			
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?	<p>Yes.</p> <p>The application form (Doc 1.2) states that the project is “an NSIP within the ambit of the 2008 Act. Accordingly, this application is an application under the 2008 Act for an order granting development consent in respect of the project”.</p> <p>The covering letter (Doc 1.1) states that it is an “application for an order granting development consent pursuant to section 37 of the Planning Act 2008”.</p> <p>References to the relevant numbered documents submitted as part of the application are indicated throughout this document as ‘Doc’.</p>		Agreed
Acceptance Inspector Summary - s55(3)(a)	The application as submitted states that it is an application for a development consent order under the Planning Act 2008 (the Act).		
2. s55(3)(c) That development consent is required for any of the development to which the application relates			
NB:- 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 s15-30.			
2.1 Is the development an NSIP. Or does it form part of an NSIP.	<p>Yes</p> <p>On 23 June 2012, SI 2012/1645 (<i>The Infrastructure Planning (Waste Water Transfer and Storage) Order 2012</i>) incorporated infrastructure for the transport or storage of waste water, subject to thresholds, into the definition of Nationally Significant Infrastructure Projects in the Planning Act 2008.</p> <p>The project appears to meet the thresholds for such projects in S29(1A)</p>		<p>Agreed</p> <p>The application form (Doc 1.2) at box 4 of that form sets out that:</p> <p>“On 23 June 2012 the <i>Infrastructure Planning (Waste Water Transfer and Storage) Order 2012 (the ‘Order’)</i> came into force. The Order was made by the Secretary of State under sections 14(3) and (4) and 232(3) of the <i>Planning Act 2008 (the ‘2008 Act’)</i>. The</p>

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

	<p>of the 2008 Act, in that it is:</p> <p>1) In England</p> <p>2) To Transfer waste water</p> <p>And has a capacity over 350,000 cubic metres (Engineering Design Statement, Doc 7.18, Paragraph 3.34)</p>	<p><i>effect of Article 2 of the Order was to add to the categories of Nationally Significant Infrastructure Project (NSIP) under section 14(1) of the 2008 Act projects that consist of infrastructure for the transfer and storage of wastewater. An infrastructure project falls within this new category of NSIP only if: (a) the infrastructure will be wholly in England; (b) its main purpose will be the transfer of wastewater for treatment or the storage of wastewater prior to treatment (or both); and (c) the infrastructure will have a storage capacity exceeding 350,000 cubic metres.</i></p> <p><i>Thames tideway tunnel project will be within England, its main purpose will be the transfer of wastewater for treatment, and it will have a storage capacity of 1,250,000 cubic metres. The capacity of the Thames Tideway Tunnel will therefore be greater than 350,000 cubic metres. The project is therefore an NSIP within the ambit of the 2008 Act. Accordingly, this application is an application under the 2008 Act for an order granting development consent in respect of the project."</i></p> <p>The Explanatory Memorandum (Doc 3.2) also confirms this at paragraph 1.2.</p> <p>The cover letter (Doc 1.1) states : <i>The project is an NSIP under sections 14(1)(o) and 29(1A) of the 2008 Act , as amended by the Infrastructure Planning (Waste Water Transfer and Storage) Order 2012 which came into force on 23 June 2012</i></p>
<p>Acceptance Inspector Summary - s55(3)(c)</p>	<p>The application as described and submitted is on the face of it an NSIP under sections 14(1)(o) and 29(1A) of the Planning Act 2008 and therefore development consent is required for the development to which the application relates.</p>	
<p>3. s55(3)(e) That the applicant in relation to the application made has complied with Chapter 2 of Part 5 (pre-application procedure)</p> <p>Article 3 of SI 2012/1645 provides that for the purpose of any requirement of Chapter 2 of Part 5 of the 2008 Act, the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (EIA Regulations) or the Infrastructure Planning (Application: Prescribed Forms and Procedure) Regulations 2009 (APFP) the Secretary of State may treat anything done before 23 June 2012 as complying with that requirement if it would have complied with that requirement had it been done after that date. Where applicable therefore, where a step has been taken by the applicant before 23 June 2012 as though the project were an NSIP, an assessment has been made as to whether that step would have met the requirements identified in paragraphs 3.1 to 3.20 if it had been taken after 23 June 2012 under the EIA Regulations, 2008 Act and APFP.</p>		
<p>3.1 Did the applicant before carrying out the s.42 consultation either (a) request the Secretary of State to adopt a screening opinion in respect of the development to which the</p>	<p>The Environmental Statement (Doc 6.2) Volume 1 Table 1.3.1 "2009 EIA Regulations requirements" states that before carrying out phase one consultation and phase two consultation, the Infrastructure Planning Commission (IPC) (as it then was) was notified in writing that an</p>	<p>Agreed</p> <p>On the basis that Article 3 of SI 2012/1645 provides that for the purpose of any requirement of Chapter 2</p>

<p>application relates, or (b) notify the Secretary of State in writing that it proposed to provide an environmental statement in respect of that development. EIA Regulation 6</p>	<p>Environmental Statement would be provided in respect of the project. These notifications were provided by letters dated 9 September 2010 (in the case of phase one consultation) and 2 November 2011 (in the case of phase two consultation). The notifications would have complied with the requirements of Regulations 6(1)(b) and 6(3) of the 2009 EIA Regulations, had they been issued after the Section 14(3) Order came into force (see below).</p> <p>By letter dated 9 December 2011, the IPC confirmed that the content and timing of the notifications reflected the relevant statutory requirements.</p> <p>Thames Water did not reissue the Regulation 6(1)(b) of the 2009 EIA Regulations notice prior to the commencement of post phase two targeted consultation relying on the provisions of SI 2012/1645.</p>	<p>Part 5 of the 2008 Act, the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (EIA Regulations) or the Infrastructure Planning (Application: Prescribed Forms and Procedure) Regulations 2009 (APFP) the Secretary of State may treat anything done before 23 June 2012 as complying with that requirement if it would have complied with that requirement had it been done after that date.</p>
<p>NB:- The Secretary of State must have regard to the Consultation Report, and any adequacy of consultation representations received.</p>		
<p>3.2 Have any adequacy of consultation representations been received from “A”, “B”, “C” and “D” authorities.</p>	<p>Yes</p> <p>Adequacy of Consultation Representations have been received from the following local authorities:</p> <p>Host (“B”) Authorities</p> <ul style="list-style-type: none"> • City of London Corporation • London Borough of Ealing • London Borough of Hammersmith and Fulham • London Borough of Hounslow • Royal Borough of Kensington and Chelsea • London Borough of Lambeth • London Borough of Lewisham • London Borough of Richmond upon Thames • London Borough of Southwark • London Borough of Tower Hamlets • City of Westminster • London Borough of Wandsworth <p>Neighbouring (“A”) Authorities</p> <ul style="list-style-type: none"> • London Borough of Bexley • London Borough of Bromley • London Borough of Camden • London Borough of Croydon 	<p>Noted and agreed</p> <p>Representations from local residents and others have also been considered by us as noted adjacent.</p>

	<ul style="list-style-type: none"> • London Borough of Hillingdon • London Borough of Merton • Spelthorne Borough Council <p>A Local Authority Consultee by virtue of S55(5)(b) of the PA2008</p> <ul style="list-style-type: none"> • The Greater London Authority <p>Other correspondence</p> <ul style="list-style-type: none"> • Representations were also received from local residents and others about the adequacy of consultation. These were received both before and after the application was submitted. 	
<p>3.3 If so, do they confirm whether the applicant has complied with the duties under s42, s47 and s48.</p>	<p>To improve legibility, citations to application documents within this section of the checklist are not always identified in bold text.</p> <p>Requests under Regulation 5(5)</p> <p>The applicant was asked to provide a copy of all consultation responses received in response to the following consultation stages under s42, s47 and s48 carried out either before 23 June 2012 relying on the provisions of SI2012/1645 or after this date under the Planning Act 2008:</p> <ul style="list-style-type: none"> • 04/11/11 to 10/02/12 (Phase 2 consultation carried out as though it were under s42 and s47) • 06/06/12 to 04/07/12 (Consultation and Targeted Consultation carried out as though it were under s42 and s47 and also under the Planning Act post 23 June 2012) • 16/07/12 to 05/10/12 (Publicity under s48) • 02/08/12 to 05/10/12 (Consultation under s42) • 26/10/12 to 26/11/12 (Consultation under s42) <p>The applicant explains in para 3.5.7 of the Consultation Report (Doc 5.1)</p> <p><i>“At phase one consultation, we did not notify all persons prescribed under Schedule 1 to the 2009 APFP Regulations. This is because the primary focus of phase one consultation was to undertake consultation consistent with the requirements of Section 47 of the 2008 Act.”</i></p> <p>The applicant does not maintain therefore that Phase 1 consultation (in reliance on SI2012/1645) is consultation carried out under s42 and responses to Phase 1 consultation were not requested. It is noted however that this would appear to be inconsistent with paragraph 3.5.7 (Consultation Report, Doc 5.1) in relation to the purported s.47 consultation undertaken at Phase 1. There appears to be an element of ambiguity in the Consultation Report with regard to the status of the Phase 1 consultation, despite the applicant’s apparent certainty that it was undertaken on a non statutory basis.</p>	<p>As reported and set out adjacent.</p> <p>In addition, it appears from the local authority and other adequacy of consultation responses that there was a lack of clarity between statutory and non statutory consultation undertaken by the applicant and understanding of the legislative tests at the acceptance stage under the Planning Act 2008.</p> <p>The applicant in reporting does set out the timeline and consultation phases undertaken at Figure 1.1 of the executive summary of the consultation report.</p> <p>The test being considered is whether the applicant has complied with the duties under s42, s47 and s48 only.</p> <p>In the light of the local authority adequacy of consultation representations and other correspondence relating to adequacy of consultation, and to gain greater understanding and certainty, a request under APFP regulation 5(5) was made to the applicant for all responses to the consultation carried out under part 5 of the Act. On a sample review, the issues identified in the consultation report appear consistent with matters raised in representations received even though the verbatim text is not repeated and matters are reported as thematic issues.</p>

	<p>Given the numbers of responses it was considered that a reasonable and proportionate approach was, to take a sample of responses only, to check whether the response reflected the summary set out in the Consultation Report. The sample check did not reveal any significant discrepancy between the raw data response and the relevant summary in the Consultation Report.</p> <p>Adequacy of consultation representations</p> <p>Summaries of the local authority adequacy of consultation representations made are set out below. Full copies of the representations are available on the Planning Portal:</p> <p>HOST AUTHORITIES</p> <p>City of London Corporation</p> <p>S42 – considers the applicant has complied</p> <p>S47 – considers the applicant has complied</p> <p>S48 – considers the applicant has complied</p> <p>London Borough of Ealing</p> <p>S42 – considers the applicant has undertaken adequate consultation</p> <p>S47 – considers the applicant has undertaken adequate consultation</p> <p>S48 – considers the applicant has undertaken adequate consultation</p> <p>London Borough of Hammersmith and Fulham</p> <p>S42 – consider s42 inadequate. Consultation did not include alternative approaches. Comparable studies of options were not undertaken. Changes between Phase 1 and 2 “very substantial” and Phase 2 should have been repeated.</p> <p>Applicant asserts that s42 consultation did include alternatives and presentation of options (Consultation Report, Doc 5.1)</p> <p>S47 – consider that the SoCC did not provide sufficient information on the project. Consider that commitments in the SoCC to put all comments received on the website were not met.</p> <p>The SoCC is reproduced in appendix D of the Consultation Report (Doc 5.1). The SoCC says that “a feedback report” which will record all comments received will be placed on the website, which the applicant asserts was done. (Table 5.1, Consultation Report, Doc 5.1).</p> <p>S48 – consider that the applicant conducted s48 publicity after the consultation process and whilst suggesting that the scheme was finalised, and that this may have discouraged responses.</p> <p>The applicant addresses this point in paragraph 3.4.20 of the Consultation Report (Doc 5.1).</p>	<p>It's for the applicant to judge when sufficient environmental information (describing the development and likely significant effects etc as defined in Schedule 4) has been compiled to support effective consultation and it is noted that concerns have been raised about the adequacy of the Preliminary Environmental Information Report made available in Phase 2. However although a view must be taken about the applicant's compliance with pre application procedure it is not a requirement of s55 to reach a view about the adequacy of PEI.</p>
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	<p>London Borough of Hounslow</p> <p>S42 – considers the applicant has complied</p> <p>S47 – considers the applicant has complied</p> <p>S48 – considers the applicant has complied</p> <p>Royal Borough of Kensington and Chelsea</p> <p>S42 – considers the applicant has complied</p> <p>S47 – considers the applicant has complied</p> <p>S48 – considers the applicant has complied</p> <p>London Borough of Lambeth</p> <p>S42 – considers the applicant has complied</p> <p>S47 – considers the applicant has complied</p> <p>S48 – considers the applicant has complied</p> <p>London Borough of Lewisham</p> <p>S42 – considers the applicant has complied with s42(b) No comment on other statutory duties under s42.</p> <p>S47 – considers that the applicant has not had proper regard to their response to consultation on the SoCC. This is addressed further in section 3.13 of the checklist. Consider that consultation was not carried out in accordance with the SoCC, because the aims of the consultation set out in the SoCC were not achieved. Consider that the consultation was supported by inadequate information. Also consider that their responses were incorrectly summarised in the Consultation Report (Doc 5.1)</p> <p>The applicant's summary of and comments in respect of responses to consultation on the SoCC are set out in section 4 of the Consultation Report (Doc 5.1). The applicant asserts that sufficient information was supplied. (Consultation Report. Doc 5.1)</p> <p>S48 – no comment on statutory duty.</p> <p>London Borough of Richmond upon Thames</p> <p>S42 – considers the applicant has complied</p> <p>S47 – considers the applicant has complied</p> <p>S48 – considers the applicant has complied</p> <p>London Borough of Southwark</p> <p>S42 – acknowledges consultation under s42, but considers inadequate information was supplied.</p> <p>The applicant asserts that sufficient information was supplied. (Consultation Report. Doc 5.1)</p>	
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	<p>S47 – considers inadequate information was supplied. Considers that consultation was not carried out on the site selection methodology.</p> <p>Applicant asserts that consultation did include alternatives and presentation of options and that adequate information was supplied (Consultation Report, Doc 5.1).</p> <p>S48 – consider that the applicant conducted s48 publicity after the consultation process. Suggest that the impression was given on the documentation that the scheme was finalised, and therefore this may have discouraged responses.</p> <p>The applicant addresses this point in paragraph 3.4.20 of the Consultation Report (Doc 5.1).</p> <p>London Borough of Tower Hamlets</p> <p>S42 – considers the s42 consultation was inadequate because sufficient information was not provided, particularly in relation to alternative sites at phase 2, and attaches copy correspondence to that effect.</p> <p>The applicant asserts that sufficient information was supplied. (Consultation Report. Doc 5.1)</p> <p>S47 – no specific reference to s47. Considers inadequate information was supplied generally.</p> <p>The applicant asserts that sufficient information was supplied. (Consultation Report. Doc 5.1)</p> <p>S48 – consider that the applicant conducted s48 publicity after the consultation process and whilst suggesting that the scheme was finalised, and that this may have discouraged responses.</p> <p>The applicant addresses this point in paragraph 3.4.20 of the Consultation Report (Doc 5.1).</p> <p>City of Westminster</p> <p>S42 – considers the applicant has complied</p> <p>S47 – considers the applicant has complied</p> <p>S48 – considers the applicant has complied</p> <p>London Borough of Wandsworth</p> <p>S42 – considers the applicant has complied</p> <p>S47 – considers the applicant has complied</p> <p>S48 – considers the applicant has complied</p>	
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	<p>NEIGHBOURING AUTHORITIES</p> <p>London Borough of Bexley S42 – acknowledges consultation under s42 S47 – acknowledges consultation on SoCC S48 – considers the applicant has complied</p> <p>London Borough of Bromley S42 – no comment on statutory duty S47 – no comment on statutory duty S48 – no comment on statutory duty</p> <p>London Borough of Camden S42 – no comment on statutory duty S47 – no comment on statutory duty S48 – no comment on statutory duty</p> <p>London Borough of Croydon S42 – no comment on statutory duty S47 – no comment on statutory duty S48 – no comment on statutory duty</p> <p>London Borough of Hillingdon S42 – no comment on statutory duty S47 – no comment on statutory duty S48 – no comment on statutory duty</p> <p>London Borough of Merton S42 – considers the applicant has complied S47 – no comment on statutory duty S48 – considers the applicant has complied</p> <p>Spelthorne Borough Council S42 – no comment on statutory duty S47 – no comment on statutory duty S48 – no comment on statutory duty</p> <p>OTHER CONSULTEES</p> <p>The Greater London Authority S42 – no comment on statutory duty</p>	
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	<p>S47 – no comment on statutory duty</p> <p>S48 – requested additional information, which was supplied.</p>	
s42: Duty to Consult		
3.4 Did the applicant consult the following about the proposed application –		
s42(1)(a) person prescribed (statutory consultees set out in Schedule 1 of the APFP Regulations)	<p>The applicant has provided a list of the bodies they have identified as prescribed bodies in Appendix A of the consultation report (Doc 5.1)</p> <p>This list has been compared to those bodies identified by the Planning Inspectorate as statutory parties based on a precautionary interpretation of the regulations.</p> <p>The applicant consulted these bodies in November 2011 (Consultation report, Doc 5.1, Appendix A) before 23 June 2012. However as the applicant consulted the required prescribed persons (and see also paragraphs 3.5 and 3.6 below) the Secretary of State can treat the consultation as being in compliance with this provision of Chapter 2 of Part 5.</p>	Agreed
<p>s42(1)(b) each local authority within s43. NB:- Definition of “local authority” in s43(3).</p> <p>NB:- Check those listed in consultation report are correct in relation to land shown on the land plans</p> <p>the “B” authority where the application land is in the authority’s area.</p> <p>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>the “C” authority (upper tier) where the application land is in that authority’s area</p> <p>the “D” authority where such authority shares a boundary with a “C” authority</p>	<p>The applicant consulted each local authority within s43 in November 2011 (Consultation report, Doc 5.1, Appendix A)</p> <p>This was before 23 June 2012. However as the local authority consultation would have complied with s42(1)(b) had it been carried out under the 2008 Act, the Secretary of State can treat it as being in compliance with this provision of Chapter 2 of Part 5.</p>	Agreed
s42(1)(c) the Greater London Authority (if in Greater London area)	<p>The applicant consulted the Greater London Authority in November 2011. (Consultation report, Doc 5.1, Appendix A)</p> <p>This was before 23 June. However as it is considered that consultation with the GLA would have complied with s42(1)(c) had it been carried out under the 2008 Act the Secretary of State can treat it as being in compliance with this provision of Chapter 2 of Part 5.</p>	Agreed
s42(1)(d) each person in one or more of s44	The applicant states that all those with relevant land interests were	Agreed

<p>categories</p> <p>Category 1 – owner, lessee, tenant or occupier of land.</p> <p>Category 2 – person interested in the land or has power to sell and convey the land or to release the land.</p> <p>Category 3 – person entitled to make a relevant claim.</p> <p>NB:- There is no requirement to check the accuracy of the list(s) or whether the applicant has made diligent inquiry.</p>	<p>consulted in November 2011 in Section 5.4.10 and Table 5.6 of the Consultation Report (Doc 5.1)</p> <p>The approach is consistent with the Secretary of State’s “Guidance on the Pre-Application Process”, paragraph 57.</p> <p>Consultation with persons interested in land was carried out before 23 June 2012. However identification and consultation of those with relevant land interests would have complied with the requirements of s42(1)(d) had the consultation been carried out under the 2008 Act and therefore the Secretary of State can treat the consultation as being in compliance with this provision of Chapter 2 of Part 5.</p> <p>The applicant also identified landowners that they considered may be affected by changes to parts of the proposed development after that date, and consulted them on those changes (Consultation Report, Doc 5.1) under the 2008 Act.</p>	
s45: Timetable for s42 Consultation		
<p>3.5 Did the applicant notify s42 consultees of the deadline for receipt of consultation responses.</p>	<p>Yes</p> <p>The developer’s letters to consultees in November 2011 (“Phase 2”) are reproduced in Appendix J of the Consultation Report (Doc 5.1)</p> <p>These letters give a deadline of 10 February 2012</p>	<p>Agreed</p>
<p>3.6 Was the deadline notified by the applicant 28 days or more starting with the day after receipt of the consultation documents.</p>	<p>Yes</p> <p>Table J.2 of Appendix J of the Consultation Report (Doc 5.2) gives the dates of the letters to consultees.</p> <p>The dates are between 3 and 5 November 2011, which is more than 28 days before 10 February 2012.</p>	<p>Agreed</p>
s46: Duty to notify Secretary of State of proposed application		
<p>3.7 Did the applicant supply information to notify Secretary of State of proposed application.</p>	<p>Yes</p> <p>The applicant wrote to the Infrastructure Planning Commission on 9 September 2010 and 2 November 2011 notifying it of the proposed application. The functions of the Infrastructure Planning Commission were passed to the Secretary of State when the Commission was abolished by the Localism Act 2011.</p> <p>Notification of the proposed application was made before 23 June 2012. However as the notification would have complied with s46(1) (see paragraph 3.8 to 3.9 below) had it been made under the 2008 Act the Secretary of State can treat it as being in compliance with this provision of Chapter 2 of Part 5.</p>	<p>Agreed</p>
<p>3.8 Was the information supplied to the Secretary of State the same as was sent to</p>	<p>Yes</p> <p>The applicant wrote to the Infrastructure Planning Commission on 2</p>	<p>Agreed</p>

the s42 consultees.	November 2011 notifying it of the proposed application; Appendix J.2.1 of the Consultation Report (Doc 5.1) confirms that the material supplied to consultees was the same as was supplied to the Commission.	
3.9 Was this done on or before commencing consultation under s42.	Yes The applicant wrote to the Infrastructure Planning Commission on 2 November 2011 notifying it of the proposed application; consultation purporting to be S42 consultation took place between 5 November 2011 and 10 February 2012. (Consultation Report, Doc 5.1). Further statutory consultation under s42 of the 2008 Act was carried out from 2 August 2012 to 5 October 2012, and 26 October 2012 to 26 November 2012.	Agreed
s47: Duty to consult local community		
3.10 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. The applicant produced a statement described as a Statement of Community Consultation (SOCC) in September 2010, and another statement described as a revised Statement of Community Consultation in November 2011. (Consultation Report, Doc 5.1, Chapter 4)	In considering the duty to consult the local community under s47 it should be noted that steps taken by the applicant to comply with s47 were taken before 23 June 2012. However as the statement described as a statement of community consultation would have complied with: <ul style="list-style-type: none"> ▪ s47(1) had it been made under the 2008 Act; and ▪ the EIA Regulations (see paragraphs 3.12 to 3.17 below) had those steps been taken under the 2008 Act The statement can be treated as having been prepared in compliance with this provision of Chapter 2 of Part 5 and as noted below the steps taken in relation to it would have complied with s47 (2), (3), (5), (6) and (7).
3.11 Were "B" and (where relevant) "C" authorities consulted about the content of the SOCC.	Yes. The applicant conducted 2 rounds of consultation with host local authorities and others on the SOCC, (11 December 2009 and 21 May 2010) and a further round of consultation on the proposed revisions to the SOCC (15 June 2011) (Consultation Report, Doc 5.1, Chapter 4 and Appendix B)	Agreed
3.12 Was the deadline for receipt of responses 28 days beginning with the day after the day that "B" and (where applicable) "C" authorities received the consultation documents.	Yes The first consultation period ran from 11 December 2009 to 25 February 2010, and the second from 21 May to 18 June 2010, which are equal to or longer than 28 days. (Consultation Report, Doc 5.1, paragraph	Agreed

	<p>4.3.39) The final consultation period was between 15 June 2011 and 18 July 2011, which is more than 28 days (Consultation Report, Doc 5.1, paragraph 4.3.84)</p>	
<p>3.13 Has the applicant had regard to any responses received when preparing the SOCC. NB:- Check consultation report and adequacy of consultation representation.</p>	<p>Yes The applicant has provided a report of feedback received on the SOCC, including summaries of responses received and their comments upon them, along with actions taken in response, in Appendix C of the Consultation Report (Doc 5.1)</p>	<p>Agreed In addition we have noted in particular the London Borough of Lewisham response to adequacy in section 3 of their letter setting out the position with regard to the duty to consult the local community (Section 47). In considering the duty under s47 the applicant must:</p> <ul style="list-style-type: none"> ▪ prepare a statement setting out how they propose to consult. This was undertaken by the applicant; ▪ before preparing the statement, the applicant must consult each authority (within s43(1)) about what is to be in the statement. This was undertaken by the applicant; ▪ the deadline for the receipt of a response from the relevant local authorities should be at least 28 days. The applicant provided two opportunities and the time period exceeded 28 days; ▪ consultation documents are to be provided. The documents were provided by the applicant; ▪ in preparing the statement, the applicant must have regard to any response from the local authorities. The applicant has evidently had regard to matters raised. The applicant has not adopted wholesale all suggestions put forward by the local authorities, but this is not the test; ▪ make the statement available and publish. The applicant having prepared the statement made it available for inspection and published the statement; ▪ carry out consultation in accordance with the proposals set out in the statement. As reported and set out in the consultation report, in substance the applicant has undertaken the consultation set out in the statement. <p>Overall, although the applicant has not agreed with and adopted all matters raised in the consultation response from the local authorities, given the applicants substantial compliance with s47 it is not of itself grounds for reaching the view that the applicant has</p>

		<p>not complied with pre application procedure.</p> <p>In coming to this view, (within the context of an administrative acceptance stage), the consultation report and adequacy of consultation responses received from relevant local authorities and other correspondence has been considered with regard to the legislative requirements and other matters set out in CLG Guidance on the pre-application process.</p>
<p>3.14 Has the SOCC been made available for inspection in a way that is reasonably convenient for people living in the vicinity of the land and has a notice been published in a newspaper circulating in the vicinity of the land which states where and when the SOCC can be inspected.</p>	<p>Yes</p> <p>The first SOCC was published in full on 13 September 2010 in the Evening Standard, and the second SOCC on 4 November 2011 in the Evening Standard. (Consultation Report, Doc 5.1, Appendix I)</p> <p>Although the Localism Act 2011 amended S47(6) of the 2008 Act on 1 April 2012 to reduce the publicity requirements, at the time the SOCC was published the obligation was to publish the SOCC in full in a newspaper circulating in the vicinity of the site.</p>	<p>Agreed and see above</p>
<p>3.15 Has the applicant carried out the consultation in accordance with the SOCC.</p>	<p>The applicant has set out the actions taken in compliance with the SOCC and revised SOCC in chapter 5 of the Consultation Report (Doc 5.1)</p> <p>Table 5.1 of the Consultation Report (Doc 5.1) sets out how the applicant has carried out consultation in accordance with the SOCC, and Table 5.2 of the Consultation Report (Doc 5.1) sets out how the applicant has carried out consultation in accordance with the revised SOCC.</p> <p>The tables correctly describe the SOCC as reproduced in Appendix D of the Consultation Report (Doc 5.1), and the actions described are supported by the material submitted elsewhere in the report.</p>	<p>Agreed and see above</p>
<p>3.16 Does the SOCC set out whether the development is EIA development EIA Regulation 10.</p>	<p>Yes</p> <p>The SOCC and revised SOCC are reproduced at appendix D of the Consultation Report (Doc 5.1). Both set out that the developer will undertake an Environmental Impact Assessment</p>	<p>Agreed and see above</p>
<p>3.17 Does the SOCC set out how the applicant intends to publicise and consult on the</p>	<p>Yes</p>	<p>Agreed and see above</p>

preliminary environmental information.	Preliminary Environmental Information is specifically referenced to the revised SOCC. The initial form of the SOCC makes reference to "written information" and how it will be consulted upon. (Consultation Report, Doc 5.1, Appendix D)	
s48: Duty to publicise the proposed application		
3.18 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 S48 Notice was published in the London Evening Standard on 13 July 2012 and 20 July 2012 Copies of these notices are supplied in the Newspaper Notices (Doc 1.3, sections 6.1 and 6.16)	Agreed
(b) once in a national newspaper;	Yes The S48 Notice was published in the Times on 14 July 2012. A copy of this notice is supplied in the Newspaper Notices (Doc 1.3, section 6.2)	Agreed
(c) once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and	Yes The S48 Notice was published in the London Gazette on 23 July 2012. A copy of this notice is supplied in the Newspaper Notices (Doc 1.3, section 6.17)	Agreed
(d) where the proposed application relates to offshore development –	The applicants' view is that they do not consider that the project relates to "offshore development" for the purposes of Regulation 4(2)(d) of the APFP regulations. (Table 3.2 of the Consultation Report (Doc 5.1)) The applicant had previously provided the Planning Inspectorate with their justification for this approach (see advice of 1 June 2013.) Taking an interpretation of "offshore development" as meaning development that is to be undertaken offshore it is noted that although certain elements of the project involve development beyond the mean low water mark (which is not itself a definition of "offshore development") the project will principally be carried out in an urban environment.	In the absence of any definition of "offshore development" or legal authority as to its meaning it is considered that it would be unreasonable to conclude that failure to publicise the application as relating to "offshore development" in accordance with Regulation 4 (2) (d) (given the characteristics of this particular project) amounts to a procedural breach. Any conclusion reached under s55 (3) (e) on this procedural point does not however imply that there are no significant environmental effects in the marine and tidal environment which should be matters for the examination of the application if the application is accepted
(i) once in Lloyds List; and (ii) once in an appropriate fishing trade journal.		See above
3.19 Did the notice include: (APFP Regulation 4(3))		

<p>(a) the name and address of the applicant;</p>	<p>Yes</p> <p>The notice is reproduced in Appendix T of the Consultation Report (Doc 5.1)</p> <p>The notice gives the name and address of the applicant as</p> <p><i>“Thames Water Utilities Limited (‘Thames Water’), whose registered office is at Clearwater Court, Vastern Road, Reading, Berkshire RG1 8DB”</i></p>	<p>Agreed</p>
<p>(b) a statement that the applicant intends to make an application for development consent to the Secretary of State;</p>	<p>Yes</p> <p>The notice is reproduced in Appendix T of the Consultation Report (Doc 5.1)</p> <p>The notices states:</p> <p><i>[The applicant] intends to make an application (the ‘proposed application’) to the Secretary of State for a development consent order to authorise the construction, operation and maintenance of the Thames Tideway Tunnel project (the ‘Project’).</i></p>	<p>Agreed</p>
<p>(c) a statement as to whether the application is EIA development;</p>	<p>Yes</p> <p>The notice is reproduced in Appendix T of the Consultation Report (Doc 5.1)</p> <p>The notice states:</p> <p><i>“The project is an Environmental Impact Assessment development.”</i></p>	<p>Agreed</p>
<p>(d) a summary of the main proposals, specifying the location or route of the proposed development;</p>	<p>Yes</p> <p>The notice is reproduced in Appendix T of the Consultation Report (Doc 5.1)</p> <p>The notice describes the project and contains a list of the elements of the scheme.</p> <p>The notice was published before the applicant consulted on changes to the scheme at Albert Embankment Foreshore and King George's Park. However, the applicant confirms at paragraphs 16.4.9 and 22.4.41 of the Consultation Report (Doc 5.1) that the publicised scheme incorporated those changes.</p>	<p>Agreed</p>
<p>(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>	<p>Yes</p> <p>The notice is reproduced in Appendix T of the Consultation Report (Doc 5.1)</p> <p>The notice states:</p> <p><i>“The documents, plans and maps showing the nature and location of the proposed development are available for inspection from 16 July to 5 October 2012 at the locations specified in Table 2 during their published</i></p>	<p>Agreed</p> <p>However, it is considered that the omission does not mean that the notice is a nullity and that it would be unreasonable to conclude as a result of the omission that the applicant has failed to comply with Chapter 2 of Part 5.</p>

	<p><i>opening hours.”</i></p> <p>It is noted that the notice is not explicit that the documents are available free of charge and that it does not therefore comply strictly with APFP Regulation 4(3)(e).</p>	
<p>(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));</p>	<p>Yes</p> <p>The notice is reproduced in Appendix T of the Consultation Report (Doc 5.1)</p> <p>The notice states:</p> <p><i>“The documents, plans and maps showing the nature and location of the proposed development are available for inspection from 16 July to 5 October 2012 at the locations specified in Table 2 during their published opening hours.”</i></p>	<p>Agreed</p>
<p>(g) whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge;</p>	<p>Yes</p> <p>The notice is reproduced in Appendix T of the Consultation Report (Doc 5.1)</p> <p>The notice states:</p> <p><i>“A CD or hard copies of these documents, plans and maps are available on request and copies can be made available in large print, Braille or audio format.”</i></p> <p>It is noted that the notice does not state whether a charge will be made and that it does not therefore comply strictly with APFP Regulation 4 (3) (g).</p>	<p>Agreed</p> <p>However, it is considered that the omission does not mean that the notice is a nullity and that it would be unreasonable to conclude as a result of the omission that the applicant has failed to comply with Chapter 2 of Part 5.</p>
<p>(h) details of how to respond to the publicity; and</p>	<p>Yes</p> <p>The notice is reproduced in Appendix T of the Consultation Report (Doc 5.1)</p> <p>The notice states:</p> <p><i>“Only written responses can be accepted. They should be submitted as follows:</i></p> <ul style="list-style-type: none"> • <i>By post to: Thames Tunnel, Thames Water, Freepost SCE 9923, PO Box 522, Swindon SN2 8LA</i> • <i>By email to: thames.tunnel@thameswater.co.uk</i> • <i>Online via the project website: www.thamestunnelconsultation.co.uk.”</i> 	<p>Agreed</p>
<p>(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.</p>	<p>Yes</p> <p>The notice is reproduced in Appendix T of the Consultation Report (Doc 5.1)</p>	<p>Agreed</p>

	<i>"All responses to the publicity of the proposed application must be submitted by 5 pm on 5 October 2012."</i>	
3.20 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 – A copy of letter sent to EIA consultation bodies attaching the s48 Notice is supplied at appendix T of the Consultation Report (Doc 5.1) Neither the IPC nor the Inspectorate have identified any 9(1)(c) bodies.	
s49: Duty to take account of responses to consultation and publicity		
3.21 Has the applicant had regard to any relevant responses to the s42, s47 and s48 consultation. NB:- Check the Consultation Report for responses and whether or not they have led to changes to the application.	<p>The applicant undertook a mixture of statutory (pursuant to ss.42, 47 and 48) and non statutory consultation over the course of the pre application consultation period.</p> <p>Figure 1.1 in the Executive Summary of the Consultation Report (Doc 5.1) identifies which periods of consultation were undertaken for the purposes of compliance with statutory requirements, in particular the duty to have regard to the responses received under s49.</p> <p>Engagement on the site selection methodology paper was undertaken at Round 1, Round 2 and Round 3 on a non statutory basis. The Interim Engagement took place between Phase 1 and Phase 2, also on a non statutory basis. The responses to these periods of engagement were summarised and included in the Consultation Report although s37 (7) only requires the Consultation Report to give details of what has been done in compliance with s 42, 47 and 48.</p> <p>The applicant has set out a summary of responses received to s42, 47 and 48 consultation in sections 7 to 36 of the Consultation Report (Doc 5.1), whether or not the consultation was carried out before 23 June 2012 or under the 2008 Act with responses coded by the site they principally relate to, and accompanied by the applicant's comments on each response and any actions taken having regard to the response.</p> <p>As reported in Section 3.3 of the checklist above, a review of the accuracy of those summaries has been undertaken.</p> <p>The applicant also carried out targeted consultation intended to address changes to parts of the proposed development after their phase 2 consultations. (Consultation Report, Doc 5.1)</p> <p>The approach is consistent with the Secretary of State's "Guidance on the Pre-Application Process", paragraph 57.</p> <p>Responses to that consultation are summarised and reported upon in appendices X, Y and Z of the Consultation Report (Doc 5.1)</p> <p>The duty under s49 to take account of responses to consultation and publicity is engaged where the applicant has complied with s42, 47 and 48 and exercises judgment about whether to make an application "in the same terms as the proposed application" or not; in other words decides</p>	<p>Agreed</p> <p>In addition, it is clear from the local authority responses and other correspondence referenced above that there are a number of detailed matters that are identified as not having been accurately reported in adequate detail or not adopted by the applicant following submissions by s42, s47 and s48 responses.</p> <p>Whilst the applicant reports on how account was taken of responses to consultation and publicity, it is noted that where responses did <u>not</u> lead to changes this is not reported with as much detail and explanation as when changes were made following representations and responses that were accepted.</p> <p>Overall, although the applicant has not agreed with and adopted all matters raised in the consultation response from the local authorities, given the applicants substantial compliance with the duty to take account of responses to consultation and publicity it is not of itself grounds for reaching the view that the applicant has not complied with pre application procedure.</p> <p>In coming to this view, in the circumstances of the acceptance stage of the process, the consultation report and adequacy of consultation responses received from relevant local authorities and other correspondence has been considered with regard to the legislative requirements and other matters set out in CLG Guidance on the pre-application process in accordance with s50.</p>

	<p>whether to make changes to the application before submitting it. When making this decision the applicant must have regard to responses to consultation under s42 and 47 and publicity under s48. As noted above, the Consultation Report indicates that changes were made to the project as a result of both statutory and non statutory consultation before the application was submitted.</p>	
Guidance about pre-application procedure		
<p>NB:- The Secretary of State must have regard to the extent to which the applicant has had regard to guidance issued under s.50.</p> <p>3.22 To what extent has the applicant had regard to DCLG Guidance, The Planning Act 2008: Guidance on pre-application consultation.</p>	<p>Section 4 of the Covering Letter (Doc 1.1) and section 3.4 of the of the Consultation Report (Doc 5.1) asserts that the applicant has complied with guidance which holds statutory weight under s50 PA2008. Paragraph 3.4.6 of the Consultation Report (Doc 5.1) states that “As we have undertaken the pre-application process for the project, we have had regard to all relevant guidance and advice”.</p> <p>The acceptance stage checks have not indicated that the developer has failed to have regard to CLG guidance in force at the time.</p> <p>The Secretary of State updated his guidance on pre-application consultation in January 2013, but the acceptance stage checks have not indicated any conflict between the approach adopted and the revised CLG guidance.</p>	<p>Agreed and as set out above</p>
<p>Acceptance Inspector Summary - s55(3)(e)</p>	<p>The consultation responses and reasoning are reported by the applicant in the submitted consultation report for both statutory and non statutory consultation phases of the pre-application process. A number of matters raised by local authorities and others have been reported with specific responses and changes as an outcome to that consultation response whereas other matters have been dealt with by response that “no new information was highlighted in feedback from any subsequent stage of consultation or publicity that changed the conclusions of the site selection process.”</p> <p>In concluding whether the applicant has complied with pre application procedure we must have regard to the matters in s55 (4) (a) to (c) – including representations about whether the applicant’s duties under s42, s47 and s48 have been met. For the purposes of s55, there is no statutory requirement for us to reach a judgment as to whether the applicant has complied with s49 and local authority consultees are not required to make representations about this duty. However, (amongst other things) we must have regard to the applicant’s consultation report which is the applicant’s statement of the account taken of responses. In this case, there is nothing to suggest a flagrant disregard by the applicant of responses to consultation under s42 and s47 and publicity under s48 and no evidence to undermine substantively the applicant’s assertion that the duty under s49 has been met.</p> <p>Notwithstanding any concerns that the applicant has not had sufficient regard to responses a conclusion that the applicant has complied with pre application procedure does not turn on whether the statutory duty under s49 has been met. In view also of the above points, it is considered that it would be unreasonable therefore to conclude that the applicant has not complied with Chapter 2 of Part 5. However, the concerns raised by local authorities may nonetheless indicate issues which have not been adequately addressed by the applicant and will be important and relevant to the Secretary of State’s decision and therefore any examination of the application and ultimately whether to grant or refuse development consent.</p>	

4. s55(3)(f) and s55(5A) The application (including accompaniments) achieves a satisfactory standard having regard to the extent to which it complies with section 37(3) (form and contents of application) and with any standards set under section 37(5) and follows any applicable guidance under section 37(4)		
4.1 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).	<p>Yes.</p> <p>The Cover Letter (Doc 1.1) states : <i>The project is an NSIP under sections 14(1)(o) and 29(1A) of the 2008 Act , as amended by the Infrastructure Planning (Waste Water Transfer and Storage) Order 2012 which came into force on 23 June 2012</i></p> <p>The Application Form (Doc 1.2) Section 4 states: <i>The Thames Tideway Tunnel project will be within England, its main purpose will be the transfer of wastewater for treatment, and will have the storage capacity of 1,250,000 cubic meters. The project is therefore an NSIP within the ambit of the 2008 Act. Accordingly, this application is an application under the 2008 Act for an order granting development consent in respect of the project.</i></p>	Agreed
<p>4.2 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”)</p> <p>and includes:</p> <p>a brief statement which explains why it falls within the remit of the Secretary of State</p> <p>a brief statement that clearly identifies the location of the application site, or the route if it is a linear scheme</p>	<p>Yes</p> <p>Box 1 of the Application Form (Doc1.2) Section 4 provides a brief statement setting out provisions within the Infrastructure Planning (Waste Water Transfer and Storage) Order 2012 made by the Secretary of State under sections 14(3), (4) and 232 (3) of PA2008 and the subsequent effect on the definition of an NSIP under section 14 (1) of PA2008.</p> <p>The statement describes the development as being wholly in England and having a storage capacity of 1,250,000 cubic metres, therefore exceeding 350,000 cubic metres as set out in the thresholds defined in the aforementioned Order.</p> <p>Section 6 of the application form lists both the main tunnel and the CSO structure sites. This section also describes the route of the subterranean elements of the scheme.</p>	<p>Agreed</p> <p>In addition, application form box 6 provides start middle and end grid references to identify the location of the application site as a linear development in the prescribed form. Reference is also made to “<i>all sites and tunnel alignments are shown on drawings DCO-WP-000-ZZZZ-010001 through to DCO-WP-000-ZZZZ-010060 inclusive, which are in the works plans and sections (document 2.01). The first drawing is a key plan.</i>”</p>
4.3 Is it accompanied by the consultation report.	The applicant has submitted a Consultation Report (Doc 5.1)	Agreed and see earlier reporting at 3 above on consultation matters
4.4 Is it accompanied by the documents and information set out in APFP Regulation 5(2) and listed below:		
(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</p> <p>The applicant has submitted an Environmental Statement, Volumes 1 – 29 (Doc 6.2.01 - 6.2.28).</p>	<p>Agreed</p> <p>It should be noted that the scoping undertaken with both the relevant local authorities and former IPC identified waste arisings and disposal as matters to be assessed. The applicant has identified information that shows the material arising is capable of being dealt with but is not proposing a fixed and defined scheme at</p>

		<p>this stage in the process.</p> <p>It is noted that the limitations on transportation and waste matters are not prescriptively controlled within the submitted draft DCO.</p> <p>This is not a matter for acceptance. However, it should be noted that nothing in this acceptance process fetters the discretion of the examining authority or Secretary of State with regard to the examination of any accepted application or ongoing duties to consider environmental information relating to the project which will be authorised, subject to any limitations, by the DCO.</p>
(b) the draft proposed order;	<p>Yes</p> <p>The draft Development Consent Order is provided (Doc 3.1)</p>	<p>Agreed</p> <p>In addition the draft DCO has been submitted in the form of a statutory instrument as is required.</p> <p>Section 55(3) does not require at the stage of acceptance for us to conclude that it is possible, lawfully, to make a DCO in the form of the draft submitted before deciding to accept the application.</p> <p>However, the draft DCO as submitted does contain some novel provisions and a number of departures from the model DCO provisions and conventions of other drafting forms such as Transport and Works Act drafting examples. For example:</p> <ul style="list-style-type: none"> ▪ Articles have the effect of directing relevant local planning authorities to consult the DCO statutory undertaker before granting planning permission on other sites; ▪ Dis-applying other legislation; ▪ Amending Part 4 of the Marine and Coastal Access Act; ▪ Appearing to extend powers which engage private rights and interests beyond the Order land; and ▪ Appearing to provide powers which extend beyond the Order limits. <p>There is also a complete absence of content in the protective provision schedules.</p>
(c) an explanatory memorandum explaining the purpose and effect of provisions in the draft order;	<p>Yes</p> <p>An Explanatory Memorandum is provided. (Doc 3.2)</p>	<p>Agreed</p>

<p>(d) where applicable, the book of reference (where the application involves any compulsory acquisition);</p>	<p>Yes. A Book of Reference (Doc 4.3.01-4.3.14) has been provided with the application separated in the following sections: City of Westminster (Doc 4.3.01) City of London (Doc 4.3.02) London Borough of Ealing (Doc 4.3.03) Royal Borough of Greenwich (Doc 4.3.04) London Borough of Hammersmith and Fulham (Doc 4.3.05) London Borough of Hounslow (Doc 4.3.06) Royal Borough of Kensington and Chelsea (Doc 4.3.07) London Borough of Lambeth (Doc 4.3.08) London Borough of Lewisham (Doc 4.3.09) London Borough of Newham (Doc 4.3.10) London Borough of Richmond upon Thames (Doc 4.3.11) London Borough of Southwark (Doc 4.3.12) London Borough of Tower Hamlets (Doc 4.3.13) London Borough of Wandsworth (Doc 4.3.14) All sections are divided into Parts 1-5 as prescribed. After Part 5 an additional section named "List statutory undertakers and other like bodies having or possibly having a right to keep equipment on, in or over the land within the order limit" has been added to the Book of Reference. Interests of the Crown have been excluded from the descriptions of land or rights to be acquired in the Book of Reference</p>	<p>Agreed See also matters set out under land plans below</p>
<p>(e) a copy of any flood risk assessment;</p>	<p>Yes The project-wide FRA is located in Section 15 of Environmental Statement Volume 3 (Doc 6.2.01). The site specific FRAs are located in Section 15 of Environmental Statement Volumes 4 – 27 (Doc 6.2.04 – 6.2.27).</p>	<p>Agreed</p>
<p>(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;</p>	<p>Yes The applicant has submitted a Statement in Respect of Statutory Nuisance (Doc 5.2).</p>	<p>Agreed</p>

<p>(g) any report identifying any European site to which regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994² applies, or any Ramsar site, which may be affected by the proposed development, together with sufficient information that will enable the Secretary of State to make an appropriate assessment of the implications for the site if required by regulation 48(1);</p>	<p>Yes</p> <p>Habitats Regulations Assessment: No Significant Effects Report (Doc 6.3).</p> <p>This discusses, on a site by site and feature by feature basis, the effects upon the following sites, concluding that there would be no Likely Significant Effect upon any of them, either alone or in combination with other plans or projects, and as a result that an Appropriate Assessment is not required. Following consultation, Natural England has provided a comfort letter (see Appendix E) accepting these conclusions.</p> <ul style="list-style-type: none"> • Thames Estuary and Marshes SPA and Ramsar site. • Lee Valley SPA and Ramsar site • South West London Waterbodies SPA and Ramsar site • Benfleet and Southend Marshes SPA and Ramsar site • Outer Thames Estuary SPA • Wimbledon Common SAC • Richmond Park SAC • Epping Forest SAC • Wormley-Hoddesdonpark Woods SAC. <p>At 8.3.5 of the <i>No Significant Effects Report</i> it is noted that in March 2012, the Environment Agency (EA) and the Marine Management Organisation (MMO) raised the issue of potential in-combination effects with a number of projects, including some offshore wind farm projects, (London Array, Kentish Flats and Gunfleet Sands). Table 8.1 of the <i>No Significant Effects Report</i> sets out the potential for in combination effects with the projects identified, and in each case has concluded that there is no mechanism for in combination effects between the Thames Tunnel project and the other projects identified</p>	<p>Agreed</p> <p>Noted that the Habitats Regulations Assessment assumes that there is no offshore disposal of waste.</p> <p>Nothing in this acceptance will fetter the examining authority in any consideration of habitats matters or the ongoing duty of the competent authority in any consideration of matters under the Habitats regulations.</p>
<p>(h) a statement of reasons and a funding statement (where the application involves any compulsory acquisition);</p>	<p>Yes</p> <p>A Statement of Reasons is provided (Doc 4.1)</p> <p>A Funding Statement is provided (Doc 4.2)</p>	<p>Agreed</p> <p>In addition the use of the terms 'Order land' and 'Order limits' (as defined in the draft DCO) is confusing and particularly in paragraph 5.4 may well need some clarification as to what is actually intended.</p> <p>In relation to article 22 of the draft DCO, which relates to land outside the Order limits some further explanation will be required for what appears to be a proposed CA power out with the Order land.</p> <p>The section on Human Rights issues and the summary at paragraph 15.7 justifying interference appears too brief and in too general terms having regard to the number, variety and geographical spread of interests</p>

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

		<p>involved and rights removed and may need some further explanation and expansion.</p> <p>Para 1.7 of the Funding Statement sets out that: <i>“This statement reflects the position on funding for the Project at the time the Statement is delivered. It will need to be updated for the purposes of the examination of the application for development consent for the Thames Tideway Tunnel.”</i></p> <p>The statement mainly sets out intentions towards funding rather than certainty and in conclusion para 7.2 states that <i>“The statement explains the current preference as to how the Project will be funded through an Infrastructure Provider established under the WIA. The statement demonstrates that there is an established regulatory regime for funding delivery of projects of this nature by sewerage Undertakers and how this regime will apply to the Infrastructure Provider with modifications to reflect the specific circumstances of the Project.”</i></p> <p>Although this raises a number of questions and leaves many matters to be resolved in relation to security for funding both project and compensation the funding statement sets out the applicant’s current position and on the face of it in accordance with the matters set out in guidance that the proposed development is likely to be undertaken and not be prevented due to difficulties in sourcing the necessary funding.</p>
<p>(i) a land plan identifying:-</p> <p>(i) the land required for, or affected by, the proposed development;</p> <p>(ii) where applicable, any land over which it is proposed to exercise powers of compulsory acquisition or any rights to use land;</p> <p>(iii) any land in relation to which it is proposed to extinguish easements, servitudes and other private rights; and</p> <p>(iv) any special category land and replacement land;</p>	<p>Yes</p> <p>The applicant has submitted set of Land Acquisition Plans (Doc 2.1) and Land Plans (Doc 2.2) showing land the land required for, or affected by, the proposed development; and land over which it is proposed to exercise powers of compulsory acquisition or any rights to use land and/or in relation to which it is proposed to extinguish easements, servitudes and other private rights</p> <p>The applicant has also submitted a Crown and Special Category Land Plan (Doc 2.4) showing special category land. The application proposes no replacement land.</p> <p>A check of the land plans against the Book of Reference (Doc 4.3) has been carried out. The plans show all the land proposed to be subject to compulsory acquisition, and correspond with the descriptions of the plots contained in the Book of Reference.</p> <p>The Land Plans make use of monochrome washes of differing opacity, apparently to increase the legibility of the plans and ease differentiation</p>	<p>Agreed</p> <p>In addition the land acquisition plans that should be read alongside the Book of Reference have a number of matters that do not help understanding and cross referencing. For example:</p> <ul style="list-style-type: none"> ▪ The compulsory acquisition (CA) land within each London Borough is numbered consecutively from 1 but since some land plans show land within more than one Borough it is possible to have more than one plot 1 on a plan. This is at the very least confusing and made more difficult to comprehend since the Borough boundaries on the plans are often unclear or obscured by insets; ▪ CA land plans seek only to distinguish plot boundaries. The purpose for acquisition has to be ascertained by reference to keys at the bottom of the plans and then cross checked against the more

	between plots. However, no note to that effect is on the plans.	<p>comprehensive tables set out in paragraph 9.2.8 of the Statement of Reasons;</p> <ul style="list-style-type: none"> ▪ Paragraph 9.2.8 of the Statement of Reasons only identifies the site by name and not which Borough it is located within; ▪ The land plans show permanent land take at the surface and subsoil levels but give no indication as to the reason for the remainder of land take as shown on the plan. <p>There are no matters that amount to reasons not to accept, but do result in difficulties of clarity and understanding and it will be important that these matters are capable of understanding and clear definition for all parties if the application is accepted and examined.</p> <p>The applicant identifies in the Explanatory Memorandum para 1.11 that s127 and s131 are the subject of a likely change in legislation. Nothing arises in relation to this at acceptance. However in accordance with Planning Inspectorate advice applicants should nonetheless be well prepared and deal with any parallel matters at the earliest possibility to avoid delay or duplication of process and to ensure that all matters will be before the examining authority and relevant Secretary of State should the application be accepted and proceed to examination.</p>
<p>(j) a works plan showing, in relation to existing features:-</p> <p>(i) the proposed location or (for a linear scheme) the proposed route and alignment of the development and works; and</p> <p>(ii) the limits within which the development and works may be carried out and any limits of deviation provided for in the draft order;</p>	<p>Yes</p> <p>A Works Plan and the section drawings are located in section 1 of the Book of Plans (Doc 2.01) and divided into an overview plan and 59 sections. Each section also shows the elevation of project.</p> <p>(i) Yes. Each section shows the linear parts of the works and the location of the non-linear works along the route.</p> <p>(ii) Yes. Each sections show the order limit, the linear works centreline and its limits of deviation. The non-linear works are shown with the limits of land to be used or acquired.</p>	Agreed
<p>(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;</p>	<p>Yes.</p> <p>The applicant has submitted a Book of Plans (Doc 2.05-2.28). Each site has an Access Plan sheet which identifies any new or altered means of access, stopping up of streets or roads or any diversion, extinguishments or creations of Rights or way or public right of navigation.</p>	Agreed

	<p>In the draft Development Consent Order (Doc 3.1) Schedule 6 lists the planned Streets to be Stopped up, Schedule 7 lists the planned Public Rights of Ways and Permissive paths to be extinguished, Schedule 8 Streets and Rights of Way to be Temporarily Stopped up, Schedule 9 list the planned Access to Works, Schedule 12 lists the planned Rights of Navigation to be Affected by the Authorised Project. There are no schedules listed for Road diversions.</p>	
<p>(l) where applicable, a plan with accompanying information identifying:-</p> <p>(i) any statutory/non-statutory sites/features of nature conservation e.g. sites of geological/ landscape importance;</p> <p>(ii) habitats of protected species, important habitats or other diversity features; and</p> <p>(iii) water bodies in a river basin management plan, together with an assessment of any effects on such sites, features, habitats or bodies likely to be caused by the proposed development;</p>	<p>Yes</p> <p>Plans and relevant accompanying information is provided in the Environmental Statement (Doc 6.2), as detailed below:</p> <p>(i) Statutory or non-statutory sites or features of nature conservation</p> <ul style="list-style-type: none"> • Baseline (Project-wide): Volume 3, Section 5.4 and Figures 5.4.2 – 5.4.4. • Baseline (Site-specific): Volumes 4 – 27, Section 5.4 (aquatic ecology); Volumes 4-16 and 19-26, Section 6.4 (terrestrial ecology); Figure 6.4.1 for Volumes 4-16 and 19-26. • Assessment (project-wide): Sections 5-5-5.11 of Volume 3 • Assessment (Site-specific): Volumes 4-27, Sections 5.5-5.10 (aquatic ecology) and Volumes 4-16 and 19-26, Sections 6.5-6.10 (terrestrial ecology). <p>(ii) Habitats of protected species, important habitats or other diversity features</p> <ul style="list-style-type: none"> • Baseline (Project-wide): Volume 3, Section 5.4 and Figures 5.4.1 and 5.4.5-5.4.8. • Baseline (Site-specific): Volumes 4-27, Section 5.4 (aquatic ecology) and Volumes 4-16 and 19- 6 Section 6.4 (terrestrial ecology); Figure 5.4.1 in Volumes 4-27 (aquatic ecology); Figure 6.4.2 in Volumes 4-16 and 19-26 (terrestrial ecology). • Assessment (project-wide): Sections 5-5-5.11 of Volume 3. • Assessment (Site-specific): Volumes 4-27, Sections 5.5-5.10 (aquatic ecology) and Volumes 4-16 and 19-26, Sections 6.5-6.10 (terrestrial ecology). <p>(iii) Water bodies in a river basin management plan</p> <ul style="list-style-type: none"> • Baseline (Project-wide): Volume 3, Section 14.4; Volume 2, Figure 14.4.1. • Baseline (Site-specific): Volumes 4-27, Section 14.4. • Assessment (project-wide): Volume 3, Sections 14.5-14.11. • Assessment (Site-specific): Volumes 4 – 27, Sections 14.5 – 14.10. <p>Other relevant plans include Figures 2.3.1 – Figure 2.3.4.</p> <p>Designations identified include:</p>	<p>Agreed</p> <p>Nothing in this acceptance will fetter the examining authority in any consideration of environmental matters or the ongoing duty in relation to environmental assessment and information requirements. See also comments above with regard to waste arisings and transportation.</p>

	<ul style="list-style-type: none"> • Sites of Special Scientific Interest (SSSI) • Special Areas of Conservation (SAC) • Special Protection Areas (SPA) • Ramsar sites • Local Nature Reserves (LNR) • Proposed Marine Conservation Zones • World Heritage Sites • LPA Archaeological Area • Sites of Importance for Nature Conservation (SINC) 	
<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</p> <p>Plans and relevant accompanying information is provided in the documents below:</p> <p>Heritage Statement (Doc 5.3) and accompanying appendices for each site. Each Appendix includes the following sections:</p> <ul style="list-style-type: none"> • Site location and context • Heritage policy and guidance • Description of heritage assets and significance summary • Description of proposals and required heritage consents • Heritage design considerations • Mitigation measures • Assessment of effects • Conclusion <p>Table 2 in each Appendix lists the relevant plans for each site, including a heritage features map, a conservation areas map and other detailed plans.</p> <p>Additional information is provided in the Environmental Statement (Doc Ref 6.2) together with referenced figures and appendices. Project-wide effects on the historic environment are presented in Volume 3, Section 7, together with Figures 7.4.1 to 7.4.23.</p> <p>The assessment of effects on the historic environment is provided in Section 7 of each site-specific volume of the Environmental Statement. This includes a Figure 7.4.1 (Historic environment features map) and a Figure 7.4.2 for those sites where an assessment of effects on the historic character and setting of heritage assets has been undertaken.</p> <p>Designations/features identified include:</p> <ul style="list-style-type: none"> • World Heritage Sites • Scheduled monuments • Grade I, II*, II listed buildings • English Heritage Grade I, II*, II registered parks and gardens • Conservation areas • Burial grounds • Undesignated heritage assets of national and international 	<p>Agreed</p>

	<p>significance</p> <ul style="list-style-type: none"> Protected wrecks, designated historic battlefields, protected heritage landscapes (e.g. ancient woodland or historic hedgerows). 	
(n) where applicable, a plan with any accompanying information identifying any Crown land;	<p>Yes</p> <p>A "Crown land and special category land plan" is provided with the Book of Plans (Doc 2.04.)</p>	Agreed
(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;	<p>Yes</p> <p>Application Documents within the Book of Plans (Doc 2.05-2.29) include site specific plans, typically incorporating:</p> <p>Site location, site features, access, demolition and site clearance, site works parameter, permanent work layouts, landscape, site elevations, ventilation columns and buildings (if applicable), construction phases, highway layout (temporary and permanent).</p> <p>Document 2.29 provides project wide ventilation column drawings.</p>	<p>Agreed</p> <p>In addition, from an initial review of the plans, drawings and documents some selected matters that arise with regard to adequacy of information to understand the application scheme include:</p> <ul style="list-style-type: none"> how each CSO interception site achieves the project objectives, the Book of Plans needs to be read in conjunction with the site specific schematic layouts included in the Environmental Statement Non Technical Summary (Doc 6.1); the plans on the Bekesbourne Street proposals (Book of Plans, Volume 6) do not include a cross section or elevation of the penstock and flap valve chamber. There is no schematic included in Doc 6.1; how the siphon tunnel, at Beckton Sewage Treatment Works, will operate with the Tideway Pumping Station and the Lee Tunnel. There is no schematic included in Doc 6.1; more details are needed to illustrate how the Tideway Pumping Station has been designed to achieve the objective of fully emptying the tunnel. <p>These matters do not individually or collectively justify non acceptance in this case.</p>
(p) any of the documents prescribed by Regulation 6 of the APFP Regulations; NB:- These are documents which are relevant to specific types of project (generating stations, highway related development, railways, harbour facilities, pipelines, hazardous waste facilities, dam or reservoirs). Confirm in each case the type of project and the relevant documents which must be included with the application in each case.	<p>No documents are prescribed.</p> <p>The project is defined under 2(3)(a)(1A) of SI 2012 No 1645 "The Infrastructure Planning (Waste Water Transfer and Storage) Order 2012" as "The construction of infrastructure for the transfer or storage of waste water".</p> <p>It is not within any of the project definitions as defined by Regulation 6 of the APFP Regulations 2010.</p>	Agreed
(q) any other documents considered necessary to support the application;	<p>Yes</p> <p>Documents 7.01-7.24 provide documents the applicant considers</p>	Noted

and	necessary to support the application.	
(r) if requested by the Secretary of State, three paper copies of the application form and other supporting documents and plans.	Yes 2 paper copies of the application were requested and have been supplied	Agreed
4.5 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) NB:- 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.	A check of the plans submitted has been carried out. Some plans are at scales that are smaller than 1:2500 or are not indicated. Each of these plans appears to be at a scale appropriate to its function and is sufficiently clear. Some plans do not show the direction of North Each of these plans contains sufficient information, when read with the submission as a whole, to make clear what they are intended to show.	Agreed
4.6 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)	Yes Where a plan comprises three or more sheets, a key plan has been provided.	Agreed
4.7 The Secretary of State may give guidance about how the requirements under s37(3) are to be complied with.	The Secretary of State has issued no guidance under s37(6) Prior to amendments made to s37(6) by the Localism Act 2011 having effect, the Secretary of State issued guidance on how the requirements under s37(3) are to be complied with. That guidance has on the face of the application been followed.	Agreed
Acceptance Inspector Summary - s55(3)(f) and s55(5A)	Whilst a number of discrepancies and concerns have been identified and noted (see above) none is of such magnitude individually or in combination as to justify non acceptance of the application in this case.	
The Infrastructure Planning (Fees) Regulations 2010 (SI106)		
Fees to accompany an application		
NB:- The Secretary of State must charge the applicant a fee in respect of the decision by the Secretary of State under section 55. If the applicant fails to pay the fee, the Secretary of State need not consider the application until payment is received by the Secretary of State. The fee payable is presently £4,500 and must be paid at the same time that the application is made.		
<i>Was the fee paid at the same time that the application was made</i>	Yes	Noted
<i>Date the fee received and confirmed as bankable</i>	Yes. The fee was paid by CHAPS transfer on 15 February 2013, which was before the date of 28 February 2013 on which the application was made	Noted

Lead Acceptance Inspector

Jan Bessell

Signed

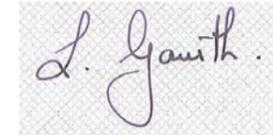


Date: 27 March 2013

Acceptance Inspector

Libby Gawith

Signed



Date: 27 March 2013

Acceptance Inspector

Emrys Parry

Signed



Date: 27 March 2013

Case Leader

Mark Wilson

Signed *Mark Wilson*

Date: 27 March 2013

Section 55 Acceptance of Applications

Application Checklist

Appendices

[Scheme name]

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