



The Planning Inspectorate  
Yr Arolygiaeth Gynllunio

# Section 55

## Acceptance of Applications Checklist

Appendix 3 of [Advice Note Six: Preparation and submission of application documents](#)

Version: October 2019



## Boston Alternative Energy Facility Section 55 Acceptance of Applications Checklist

Section 55 of the Planning Act 2008 can be viewed at [legislation.gov.uk](http://www.legislation.gov.uk), here:

<http://www.legislation.gov.uk/ukpga/2008/29/section/55>

**DISCLAIMER:** This Checklist is for information only and is not a formal application document. It is a non-statutory checklist for the Planning Inspectorate to complete. Completion or self-assessment by the Applicant does not hold weight at the Acceptance stage. Unless specified, **all references to the Planning Inspectorate are made in relation to functions being carried out on behalf of the Secretary of State for Housing, Communities and Local Government.**

Section 55(2) Acceptance of Applications				
1	Within 28 days (starting day after receipt) the Planning Inspectorate must decide whether or not to accept the application for Examination.	Date received	28 day due date	Date of decision
		<b>23 March 2021</b>	<b>20 April 2021</b>	<b>20 April 2021</b>
Section 55(3) – the Planning Inspectorate may only accept an application if it concludes that:		Planning Inspectorate comments		
Section 55(3)(a) and s55(3)(c): It is an application for an order granting development consent				
2	Is the development a Nationally Significant Infrastructure Project <sup>1</sup> (NSIP) (or does it form part of an NSIP); and does the application state on the face of it that it is an application for a Development Consent Order <sup>2</sup> (DCO) under the Planning Act 2008 (the PA2008), or equivalent words? Does the application specify the development to which it relates (i.e. which category or categories in ss14 to 30 does the Proposed Development fall)?	<p><b>Yes.</b></p> <p>The Proposed Development set out in <b>Schedule 1</b> of the <b>Draft DCO (Doc 2.1)</b> includes development falling within the categories in s14 of the PA2008. The development is for the construction of a generating station and satisfies sections 14 and 15 of the PA2008; including 14(1)(a) and subsection 15(2).</p> <p>This is consistent with the summary provided in <b>section 4</b> of the <b>Application Form (Doc 1.3)</b> which states that the application is for an NSIP.</p>		

<sup>1</sup> NSIP is defined generally in s14 with the detailed thresholds for each of the specified categories being set out in ss15 to 30

<sup>2</sup> Development consent is required for development to the extent that the development is or forms part of an NSIP (s31 of the PA2008)

	If the development does not fall within the categories in ss14 to 30, has a direction been given by the Secretary of State under s35 of the PA2008 for the development to be treated as development for which development consent is required?	
3	<b>Summary: Section 55(3)(a) and s55(3)(c)</b>	The Planning Inspectorate is satisfied that the <b>Draft DCO (Doc 2.1)</b> includes development for which development consent is required.
<b>Section 55(3)(e): The Applicant in relation to the application made has complied with Chapter 2 of Part 5 (pre-application procedure)</b>		
4	In accordance with the EIA Regulations <sup>3</sup> , did the Applicant (prior to carrying out consultation in accordance with s42) either (a) request the Planning Inspectorate adopt a Screening Opinion in respect of the development to which the application relates, or (b) notify the Planning Inspectorate in writing that it proposed to provide an Environmental Statement in respect of that development?	<b>Yes.</b> On 7 June 2018 the Applicant notified the Planning Inspectorate in accordance with Regulation 8(1)(b) of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 of its intention to provide an Environmental Statement (ES) in respect of the Proposed Development. The notification was received before the start of statutory consultation on 25 June 2019.
5	Have any Adequacy of Consultation Representations <sup>4</sup> been received from 'A', 'B', 'C' and 'D' local authorities; and if so, do they confirm that the Applicant has complied with the duties under s42, s47 and s48?	<b>Yes.</b> There are 14 host and neighbouring authorities, of which nine responded to the Planning Inspectorate's invitation to make an Adequacy of Consultation Representation (AoCR) dated 24 March 2021. The following host and neighbouring authorities confirmed in their AoCR that either the Applicant had complied with its duties under s42, s47 and s48 of the PA2008 and/ or that their authority had no comments/ objections to make. These local authorities were: <ul style="list-style-type: none"> <li>• Boston Borough Council ('B' authority)</li> </ul>

<sup>3</sup> Regulation 8 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (2017 EIA Regulations), or where Regulation 37 of the 2017 EIA Regulations applies, Regulation 6 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (2009 EIA Regulations)

<sup>4</sup> Section 55(4) of the PA2008 provides that the Planning Inspectorate must have regard to the Consultation Report, and any Adequacy of Consultation Representations received

		<ul style="list-style-type: none"> <li>• South Holland District Council ('A' authority)</li> <li>• Cambridgeshire County Council ('D' authority)</li> <li>• Norfolk County Council ('D' authority')</li> <li>• Rutland County Council ('D' authority)</li> <li>• Nottinghamshire County Council ('D' authority)</li> <li>• Peterborough City Council ('D' authority)</li> <li>• Northamptonshire County Council ('D' authority)</li> </ul> <p>While <b>Boston Borough Council</b> state that they consider the obligations under s42, 47 and 48 have been met they noted that there was a poor response for phase four of the consultation as it was undertaken online due to Coronavirus restrictions. However, they concluded that, overall, the pre-application consultation was adequate.</p> <p><b>Lincolnshire County Council</b> ('C' authority) state in their AoCR that the consultation was not adequate at phase four due to the change in proposed technology from a gasification plant, on which the PEIR had been based, to an Energy from Waste facility. The Council state that:</p> <p><i>“LCC are of the view that a further statutory consultation with an updated PEIR should have taken place at Phase 4 to allow interested parties to understand the consequences of the changes to the technology from both an environment, waste policy and operational perspective. This was not forthcoming and for this reason the Council submit that the requirements of Section 42 have not been adequately met.”</i></p> <p>The Council go on to state:</p> <p><i>“The County Council has no concerns in relation to the consultation and engagement process with the local community as set out in Section 47 of the Planning Act 2008.” and “The County Council has no comments to make in relation to the applicant’s compliance with Section 48 of the Planning Act 2008.”</i></p> <p>The Council also raised concerns as the Local Highways Authority: <i>“...the issues raised during the meetings in Autumn 2019 have not been addressed or the detailed</i></p>
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*workings to demonstrate the projected reduction in traffic movements during the construction phased been [sic] following the changes to the scheme have been made available for scrutiny.”*

With regard to this point, the Inspectorate is satisfied that the traffic and transport information provided with the application is of a satisfactory standard and is a matter that can be explored during the Examination.

We note Lincolnshire County Council’s concerns about the phase four consultation.

The Planning Act 2008: Guidance on the pre-application process states at paragraph 73: *“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.”*

At **paragraph 8.1.2** of the **Consultation Report (Doc 5.1)** the Applicant describes the phase four consultation as non-statutory, which was undertaken to update stakeholders and community consultees about proposed changes to the project, mainly relating to the change from gasification technology to Energy from Waste technology. At **paragraph 8.3.1** of the **Consultation Report (Doc 5.1)** the Applicant states that as part of the phase four consultation they contacted statutory undertakers, prescribed bodies, local authorities, landowners and persons with an interest in land and the local community.

As explained at **paragraph 8.1.3** of the **Consultation Report (Doc 5.1)** the Applicant also undertook statutory consultation at the same time, because the statutory section 48 notice had not been published in Lloyd’s List or an appropriate fishing trade journal as part of the statutory phase three consultation. Therefore, a section 48 notice was published in Lloyd’s List and Fishing News Weekly as part of the phase four consultation.

It is the Inspectorate’s view that the Proposed Development which is the subject of this application, is not fundamentally different to that which was consulted on at phase three (the statutory consultation). Given the impacts of the project and the level of local interest it is considered that the consultation undertaken was proportionate.

		<p>The Inspectorate is therefore satisfied that the consultation was adequate.</p> <p>All AoCRs received have been carefully considered and are available to view on the National Infrastructure Planning website:</p> <p><a href="https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/?ipcsection=docs&amp;stage=2">https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/?ipcsection=docs&amp;stage=2</a></p>
<b>Section 42: Duty to consult</b>		
Did the Applicant consult the applicable persons set out in s42 of the PA2008 about the proposed application?		
6	Section 42(1)(a) persons prescribed <sup>5</sup> ?	<p>The Applicant has provided a list of persons consulted under s42(1)(a) on 19 June 2019 at <b>Appendix 5.1</b> of the <b>Consultation Report (Doc 5.1)</b>.</p> <p>The Maritime and Coastguard Agency and Trinity House were not consulted at this time.</p> <p>A list of persons consulted under s42(1)(a) on 12 August 2020 is provided at <b>Appendix 6.1</b> of the <b>Consultation Report (Doc 5.1)</b>. This includes The Maritime and Coastguard Agency and Trinity House.</p> <p>A sample of the letters sent to s42(1)(a) consultees is provided at <b>Appendix 5.2</b> and <b>6.3</b> of the <b>Consultation Report (Doc 5.1)</b>.</p> <p>The Planning Inspectorate has identified the following parties based on a precautionary interpretation of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations) that were not consulted by the Applicant under s42:</p> <ul style="list-style-type: none"> <li>• Fishtoft Parish Council</li> <li>• Eclipse Power Network Limited</li> <li>• Harlaxton Gas Networks Limited</li> <li>• Murphy Gas Networks Limited</li> </ul>

<sup>5</sup> Statutory consultees set out in Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (APFP Regulations)

		<p>The Applicant's <b>Consultation Report (Doc 5.1)</b> does not explain why the bodies identified above have not been consulted.</p> <p>Fishtoft Parish Council became a s42(1)(a) party due to the change to the red line boundary to include a habitat mitigation area south east of the principal application site following the withdrawal of the application submitted on 30 November 2020. It is noted that the Parish Council were consulted under s47.</p> <p>The licences held by Eclipse Power Network Limited, Harlaxton Gas Networks Limited and Murphy Gas Networks Limited cover Great Britain or various smaller areas and the operational areas of each are not clear from information in the public domain.</p> <p>None of the bodies listed above have been identified by the Applicant as having an interest in the Order lands and are not listed in the <b>Book of Reference (Doc 3.3)</b>.</p> <p>Section 51 advice has been issued to the Applicant in respect of the above matter:  <a href="https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/?ipcsection=docs&amp;stage=2">https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/?ipcsection=docs&amp;stage=2</a></p>
7	Section 42(1)(aa) the Marine Management Organisation <sup>6</sup> ?	<p><b>Yes.</b></p> <p><b>Table 7-1</b> of the <b>Consultation Report (Doc 5.1)</b> confirms that the Marine Management Organisation was consulted.</p>
8	Section 42(1)(b) each local authority within s43 <sup>7</sup> ?	<p><b>Yes.</b></p> <p><b>Table 7-3</b> and <b>Appendix 5.1</b> of the <b>Consultation Report (Doc 5.2)</b> list the relevant local authorities that were identified and consulted under s43 and s42(1)(b) on 19 June 2019.</p> <p>The host 'B' authority was consulted:</p> <ul style="list-style-type: none"> <li>• Boston Borough Council</li> </ul> <p>The host 'C' authority was consulted:</p>

<sup>6</sup> In any case where the Proposed Development would affect, or would be likely to affect, any of the areas specified in s42(2) of the PA2008

<sup>7</sup> Definition of 'local authority' in s43(3) of the PA2008: The 'B' authority where the application land is in the authority's area; the 'A' authority where any part of the boundary of A's area is also a part of the boundary of B's area; the 'C' authority (upper tier) where the application land is in that authority's area; the 'D' authority (upper tier) where such an authority shares a boundary with a 'C' authority



		<ul style="list-style-type: none"> <li>Lincolnshire County Council</li> </ul> <p>The boundary 'A' authorities were consulted:</p> <ul style="list-style-type: none"> <li>South Holland District Council</li> <li>North Kesteven District Council</li> <li>East Lindsey District Council</li> </ul> <p>The boundary 'D' authorities were consulted:</p> <ul style="list-style-type: none"> <li>North East Lincolnshire Council</li> <li>North Lincolnshire Council</li> <li>Rutland County Council</li> <li>Peterborough City Council</li> <li>Leicestershire County Council</li> <li>Northamptonshire County Council</li> <li>Nottinghamshire County Council</li> <li>Cambridgeshire County Council</li> <li>Norfolk County Council</li> </ul> <p>A sample of the letter sent to s42(1)(b) relevant authorities is provided at <b>Appendix 5.2</b> of the <b>Consultation Report (Doc 5.1)</b>.</p>
9	Section 42(1)(c) the Greater London Authority (if in Greater London area)?	<b>n/a.</b>
10	Section 42(1)(d) each person in one or more of s44 categories <sup>8</sup> ?	<p><b>Yes.</b></p> <p><b>Paragraph 7.5.6</b> of the <b>Consultation Report (Doc 5.1)</b> states that all persons identified under s42(1)(d) were consulted on 19 June 2019.</p>

<sup>8</sup> Category 1: owner, lessee, tenant or occupier of land; Category 2: person interested in the land or has power to sell and convey the land or to release the land; Category 3: persons who would or might be entitled to make a relevant claim. There is no requirement on the Planning Inspectorate to check the accuracy of the list(s) provided or whether the Applicant has made diligent inquiry

		<p><b>Paragraphs 5.4.6 to 5.4.7 of the Consultation Report (Doc 5.1)</b> summarise how the Applicant made diligent inquiry to seek to identify and consult persons with an interest in lands affected by the <b>Draft Development Consent Order (Doc 2.1)</b>. The full methodology undertaken by the Applicant is provided at <b>paragraphs 6.4 to 6.21 of the Statement of Reasons (Doc 3.1)</b>.</p> <p>The Applicant's <b>Book of Reference (Doc 3.3)</b> lists the persons consulted under s42(1)(d).</p> <p>A sample of the letter is provided at <b>Appendix 5.2 of the Consultation Report (Doc 5.1)</b>.</p>
<p><b>Section 45: Timetable for s42 consultation</b></p>		
11	<p>Did the Applicant notify s42 consultees of the deadline for receipt of consultation responses; and if so was the deadline notified by the Applicant 28 days or more starting with the day after receipt of the consultation documents?</p>	<p><b>Yes.</b></p> <p>A sample of the letter sent to s42 consultees is provided at <b>Appendix 5.2 of the Consultation Report (Doc 5.1)</b>.</p> <p>The sample letter dated 19 June 2019 confirmed that consultation commenced on 25 June 2019 and closed on 6 August 2019, providing more than the required minimum time for receipt of responses.</p> <p>Trinity House and The Maritime and Coastguard Agency were consulted on 12 August 2020 and provided with a deadline of 10 September 2020, providing the required minimum time for receipt of responses. A sample letter is provided at <b>Appendix 6.3 of the Consultation Report (Doc 5.1)</b>. The Inspectorate notes that this formed part of the Applicant's phase four consultation which was predominantly a non-statutory consultation aimed at updating stakeholders about proposed changes to the scheme.</p>
<p><b>Section 46: Duty to notify the Planning Inspectorate of proposed application</b></p>		
12	<p>Did the Applicant supply information to notify the Planning Inspectorate of the proposed application; and if so, was the information supplied to the Planning Inspectorate on or before the date it was sent to the s42 consultees? Was this done on or before commencing consultation under s42?</p>	<p><b>Yes.</b></p> <p>The Applicant gave notice under s46 on 20 June 2019, which was before the beginning of s42 consultation.</p> <p>A copy of the s46 notification letter is provided at <b>Appendix 5.5 of the Consultation Report (Doc 5.1)</b> and a copy of s46 notification acknowledgement letter from the</p>

		Planning Inspectorate is provided at <b>Appendix 5.6</b> of the <b>Consultation Report (Doc 5.1)</b> .
<b>Section 47: Duty to consult local community</b>		
13	Did the Applicant prepare a Statement of Community Consultation (SoCC) on how it intended to consult people living in the vicinity of the land?	<p><b>Yes.</b></p> <p>The Applicant first published a SoCC dated 12 December 2018 which is provided at <b>Appendix 2.4</b> of the <b>Consultation Report (Doc 5.1)</b>.</p> <p>The Applicant published an updated SoCC dated 8 May 2019 in light of a proposed third phase of consultation. A copy of the updated SoCC is provided at <b>Appendix 2.8</b> of the <b>Consultation Report (Doc 5.1)</b>.</p>
14	Were 'B' and (where relevant) 'C' authorities consulted about the content of the SoCC; and if so, was the deadline for receipt of responses 28 days beginning with the day after the day that 'B' and (where applicable) 'C' authorities received the consultation documents?	<p><b>Yes.</b></p> <p>The Applicant sent the draft of the first SoCC to Boston Borough Council ('B Authority') and Lincolnshire County Council ('C Authority') on 15 October 2018 and set a deadline of 13 November 2018 for responses, providing the required minimum time for responses to be received. This deadline was then extended to 30 November 2018 following a request from Boston Borough Council, as per <b>paragraphs 4.3.6</b> and <b>4.3.7</b> of the <b>Consultation Report (Doc 5.1)</b>.</p> <p>In light of a proposed third phase of consultation, the Applicant sent a draft updated SoCC to Boston Borough Council ('B Authority') and Lincolnshire County Council ('C Authority') on 27 March 2019 and set a deadline of 25 April 2019 for responses, providing the required minimum time for responses to be received.</p> <p>A copy of the letters inviting comments on the draft SoCCs are provided at <b>Appendix 2.2</b> and <b>Appendix 2.7</b> of the <b>Consultation Report (Doc 5.1)</b>.</p>
15	Has the Applicant had regard to any responses received when preparing the SoCC?	<p><b>Yes.</b></p> <p><b>Table 4-1</b> of the <b>Consultation Report (Doc 5.1)</b> provides a summary of the consultation responses from Boston Borough Council, Lincolnshire County Council and East Lindsey District Council in respect of the draft of the first SoCC and demonstrates how the Applicant had regard to their content.</p> <p>Examples of changes from the draft of the first SoCC to the published first SoCC include:</p>

		<ul style="list-style-type: none"> <li>• Amendments were incorporated into <b>paragraphs 3.4.7, 3.6.1 and 3.6.2</b> of the published first SoCC as per the request of Lincolnshire County Council, including a correction of the term “<i>Material Recycling Facility</i>” to “<i>Waste Transfer Station</i>” and additional clarification that the affected land had been allocated in the Lincolnshire Waste and Mineral Local Plan for development related to waste.</li> <li>• Boston Borough Council requested that the radius of the consultation area from the development site be increased to between 7 – 10 kilometres, which the Applicant reflected in an extension to the consultation zone.</li> </ul> <p><b>Paragraph 4.7.11</b> of the <b>Consultation Report (Doc 5.1)</b> states that no amendments were requested by the consultees in relation to the draft updated SoCC.</p> <p>The Planning Inspectorate is satisfied that the Applicant had regard to the responses received when preparing the SoCC.</p>
16	<p>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><b>Yes.</b></p> <p>Both the first and updated SoCCs were made available at the following locations, which is reasonably convenient having regard to the location of the Proposed Development:</p> <ul style="list-style-type: none"> <li>• Boston Borough Council;</li> <li>• Boston Library;</li> <li>• Kirton Library;</li> <li>• Kirton Town Hall;</li> <li>• Hubberts Bridge Community Centre; and</li> <li>• Swineshead Pre-School.</li> </ul> <p>A notice stating when and where the first SoCC could be inspected was published in:</p> <ul style="list-style-type: none"> <li>• Lincolnshire Free Press (11 and 18 December 2018);</li> <li>• Boston Standard (12 and 19 December 2018); and</li> <li>• Spalding Guardian (13 and 20 December 2018).</li> </ul>

		<p>A notice stating when and where the updated SoCC could be inspected was published in:</p> <ul style="list-style-type: none"> <li>• Lincolnshire Free Press (30 April and 7 May 2019);</li> <li>• Boston Standard (1 and 8 May 2019);</li> <li>• Boston Target (1 and 8 May 2019); and</li> <li>• Spalding Guardian (2 and 9 May 2019).</li> </ul> <p>The published SoCC notices provided at <b>Appendix 2.4</b> and <b>Appendix 2.8</b> of the <b>Consultation Report (Doc 5.1)</b> state where and when the final SoCC was available to inspect.</p> <p>Clippings of the published advertisements are provided at <b>Appendix 2.5</b> and <b>Appendix 2.9</b> of the <b>Consultation Report (Doc 5.1)</b>.</p>
17	Does the SoCC set out whether the development is EIA development <sup>9</sup> ; and does it set out how the Applicant intends to publicise and consult on the Preliminary Environmental Information?	<p><b>Yes.</b></p> <p><b>Paragraph 4.4.1</b> of both the first and the updated SoCC at <b>Appendix 2.4</b> and <b>Appendix 2.8</b> of the <b>Consultation Report (Doc 5.1)</b> set out that the development is EIA development. <b>Paragraphs 4.4.2</b> and <b>4.4.3</b> of both the first and the updated SoCC set out how the Applicant intended to publicise and consult on the Preliminary Environmental Information.</p>
18	Has the Applicant carried out the consultation in accordance with the SoCC?	<p><b>Sections 5.5, 6.5, 7.9</b> and <b>8.7</b> of the <b>Consultation Report (Doc 5.1)</b> set out how the community consultation was carried out in line with the final SoCC.</p> <p><b>Table 4-6</b> of the <b>Consultation Report (Doc 5.1)</b> sets out how the Applicant has complied with the commitments set out in both the first and the updated SoCC.</p> <p><b>Appendices 3, 4, 5</b> and <b>6</b> of the <b>Consultation Report (Doc 5.1)</b> provide evidence that the commitments within both the first and updated SoCC have been carried out.</p> <p>The following observations have been noted with regard to certain commitments:</p> <ul style="list-style-type: none"> <li>• <b>Paragraph 6.6.1</b> of the first SoCC states that the second phase of consultation will take place after the PEIR is published. The PEIR was published after the</li> </ul>

<sup>9</sup> Regulation 12 of the 2017 EIA Regulations, or where Regulation 37 of the 2017 EIA Regulations applies, Regulation 10 of the 2009 EIA Regulations

		<p>phase two consultation, which then required a third phase of statutory consultation.</p> <ul style="list-style-type: none"> <li>• <b>Paragraph 9.1.1</b> of both the first and the updated SoCC states that an information slide pack would be made available on the project website, however it was made available on request and not published on the project website.</li> <li>• <b>Paragraph 9.8.2</b> of both the first and the updated SoCC lists six locations where hard copies of documents would be available to view throughout the pre-application period. While not stated in the Consultation Report, it is likely that due to Coronavirus restrictions those locations were not open for the latter stage of the pre-application period. However, as set out in the Consultation Strategy at <b>Appendix 6.2</b> of the <b>Consultation Report (Doc 5.1)</b>, hard copies of documents were available on request.</li> </ul> <p>An additional phase of consultation was carried out after phase three which was not referred to in the SoCC. As stated at <b>paragraph 8.1.2</b> of the <b>Consultation Report (Doc 5.1)</b> the reason for this consultation was to update stakeholders and community consultees about proposed changes to the project, mainly the change in technology from gasification to combustion-based energy from waste. <b>Paragraph 8.1.3</b> of the <b>Consultation Report (Doc 5.1)</b> goes on to explain that statutory consultation was also held at this time to enable the section 48 notice to be published in Lloyd’s List and an appropriate fishing trade journal, as this was not done as required at phase three. Because of restrictions in place due to Coronavirus, Public Information Days were not held however, as explained in <b>paragraph 8.7.22</b> of the <b>Consultation Report (Doc 5.1)</b> the Applicant held two webinars instead. A telephone surgery was arranged but, as explained in <b>paragraph 8.7.27</b> of the <b>Consultation Report (Doc 5.1)</b> only one slot was booked and was not subsequently held due to availability of the Applicant and attendee.</p>
<p><b>Section 48: Duty to publicise the proposed application</b></p>		
19	<p>Did the Applicant publicise the proposed application in the prescribed manner set out in Regulation 4(2) of the APFP Regulations?</p>	<p><b>Yes.</b></p> <p><b>Paragraph 7.7.13</b> of the <b>Consultation Report (Doc 5.1)</b> states that the Section 48 notice was published.</p> <p><b>Table 7.6</b> of the <b>Consultation Report (Doc 5.1)</b> displays the newspapers and dates of s48 publicity as set out below.</p>

		<p>A copy of the s48 notice is provided at <b>Appendix 5.7</b> of the <b>Consultation Report (Doc 5.1)</b>.</p> <p>As explained in <b>paragraphs 7.7.15</b> and <b>8.1.3</b> of the <b>Consultation Report (Doc 5.1)</b>, the Applicant later identified that the s48 notice should also have been published in Lloyd's List and an appropriate fishing journal. This error was rectified as set out below.</p> <p>Clippings of the published notices set out below are provided at <b>Appendix 5.7</b> and <b>Appendix 6.7</b> of the <b>Consultation Report (Doc 5.1)</b>.</p>	
		Newspaper(s)	Date
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;	<ul style="list-style-type: none"> <li>• Boston Standard</li> </ul>	12 June 2019 and 19 June 2019
b)	once in a national newspaper;	<ul style="list-style-type: none"> <li>• The Guardian</li> </ul>	12 June 2019
c)	once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and	<ul style="list-style-type: none"> <li>• London Gazette</li> </ul>	12 June 2019
d)	<p>where the proposed application relates to offshore development –</p> <p>(i) once in Lloyds List; and</p> <p>(ii) once in an appropriate fishing trade journal?</p>	<ul style="list-style-type: none"> <li>• Lloyds List</li> <li>• Fishing News</li> </ul>	6 August 2020
20	Did the s48 notice include the required information set out in Regulation 4(3) of APFP Regulations?	<p><b>Yes.</b></p> <p>The published s48 notices, supplied at <b>Appendix 5.7</b> and <b>6.7</b> of the <b>Consultation Report (Doc 5.1)</b>, contain the required information as set out below:</p>	
Information	Paragraph	Information	Paragraph

a)	the name and address of the Applicant.	1	b)	a statement that the Applicant intends to make an application for development consent to the Secretary of State	1		
	c)	a statement as to whether the application is EIA development		3 ( <b>Appendix 5.7</b> ) 5 ( <b>Appendix 6.7</b> )	d)	a summary of the main proposals, specifying the location or route of the Proposed Development	1 and 2
		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		7	f)
	g)			whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge	9 ( <b>Appendix 5.7</b> ) 8 ( <b>Appendix 6.7</b> )	h)	
		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	13 ( <b>Appendix 5.7</b> ) 11 ( <b>Appendix 6.7</b> )		
21	Are there any observations in respect of the s48 notice provided above?						
	<b>No.</b>						



22	Has a copy of the s48 notice been sent to the EIA consultation bodies and to any person notified to the Applicant in accordance with the EIA Regulations <sup>10</sup> ?	<p><b>Yes.</b></p> <p>A copy of the s48 notice was sent to the EIA consultation bodies as part of the s42 consultation, as confirmed in <b>paragraph 7.7.7</b> of the <b>Consultation Report (Doc 5.1)</b>.</p> <p>A sample of the s42 consultation letter provided at <b>Appendix 5.2</b> of the <b>Consultation Report (Doc 5.1)</b> confirms a copy of the s48 notice was enclosed.</p>
<b>s49: Duty to take account of responses to consultation and publicity</b>		
23	Has the Applicant had regard to any relevant responses to the s42, s47 and s48 consultation?	<p><b>Yes.</b></p> <p><b>Appendices 3.16, 4.17, 5.25, 5.26, 6.18 and 6.19</b> of the <b>Consultation Report (Doc 5.1)</b> set out how the Applicant had regard to the consultation responses received; including whether or not responses led to changes to the application.</p> <p>The actions informed by the consultation responses appear to be reflected in the final form of the application as submitted. Where a particular response has not led to a change in the application, it is sufficiently clear that regard was had to it.</p>
<b>Guidance about pre-application procedure</b>		
24	To what extent has the Applicant had regard to statutory guidance 'Planning Act 2008: Guidance on the pre-application process' <sup>11</sup> ?	<p><b>Paragraph 9.1.1</b> of the <b>Consultation Report (Doc 5.1)</b> states that the Applicant has taken into consideration all relevant statutory and other guidance.</p> <p>Having reviewed the application, the Planning Inspectorate is satisfied that the Applicant has identified and had regard to the relevant statutory guidance.</p>
25	<b>Summary: Section 55(3)(e)</b>	<p>The Applicant has complied with Chapter 2 of Part 5 (pre-application procedure) of the PA2008.</p> <p>In respect of the minor consultation discrepancies identified, s51 advice has been provided to the Applicant how in this regard, available here:</p> <p><a href="https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/?ipcsection=docs&amp;stage=2">https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/?ipcsection=docs&amp;stage=2</a></p>

<sup>10</sup> Regulation 13 of the 2017 EIA Regulations, or where Regulation 37 of the 2017 EIA Regulations applies, Regulation 11 of the 2009 EIA Regulations

<sup>11</sup> The Planning Inspectorate must have regard to the extent to which the Applicant has had regard to guidance issued under s50

**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)**

26	Is it made in the prescribed form as set out in Schedule 2 of the APFP Regulations, and does it include: <ul style="list-style-type: none"> <li>a brief statement which explains why it falls within the remit of the Planning Inspectorate; and</li> <li>a brief statement that clearly identifies the location of the application site, or the route if it is a linear scheme?</li> </ul>	<p><b>Yes.</b></p> <p><b>Section 4</b> of the <b>Application Form (Doc 1.3)</b> explains why the development falls within the remit of the Planning Inspectorate.</p> <p><b>Section 5</b> of the <b>Application Form (Doc 1.3)</b> provides a brief non-technical description of the site and <b>section 6</b> provides the location of the Proposed Development.</p> <p>A <b>Location Plan (Doc 4.1)</b> has been provided.</p>									
27	Is it accompanied by a Consultation Report?	<p><b>Yes.</b></p> <p>The application is accompanied by a <b>Consultation Report (Doc 5.1)</b> and appendices.</p>									
28	Where a plan comprises three or more separate sheets, has a key plan been provided showing the relationship between the different sheets? <sup>12</sup>	<b>Yes.</b>									
29	Is it accompanied by the documents and information set out in APFP Regulation 5(2)?	The documents and information required by APFP Regulation 5(2) are set out in the documents and locations within the application as listed below:									
<table border="1"> <thead> <tr> <th>Information</th> <th>Document</th> </tr> </thead> <tbody> <tr> <td>a) Where applicable, the Environmental Statement required under the EIA Regulations<sup>13</sup> and any scoping or screening opinions or directions</td> <td>An Environmental Statement is provided as follows: <b>Environmental Statement Non-Technical Summary (Doc 6.1)</b></td> </tr> </tbody> </table>		Information	Document	a) Where applicable, the Environmental Statement required under the EIA Regulations <sup>13</sup> and any scoping or screening opinions or directions	An Environmental Statement is provided as follows: <b>Environmental Statement Non-Technical Summary (Doc 6.1)</b>	<table border="1"> <thead> <tr> <th>Information</th> <th>Document</th> </tr> </thead> <tbody> <tr> <td>b) The draft Development Consent Order (DCO)</td> <td><b>Draft Development Consent Order (Doc 2.1)</b></td> </tr> </tbody> </table>		Information	Document	b) The draft Development Consent Order (DCO)	<b>Draft Development Consent Order (Doc 2.1)</b>
Information	Document										
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b) The draft Development Consent Order (DCO)	<b>Draft Development Consent Order (Doc 2.1)</b>										

<sup>12</sup> Regulation 5(4) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

<sup>13</sup> The 2017 EIA Regulations, or where Regulation 37 of the 2017 EIA Regulations applies, the 2009 EIA Regulations

		<p><b>Environmental Statement Volume I (Main Text) (Doc 6.2.1 – 6.2.28)</b></p> <p><b>Environmental Statement Volume II (Figures) (Doc 6.3.1 – 6.3.28)</b></p> <p><b>Environmental Statement Volume III (Technical Appendices) (Doc 6.4.1 – 6.4.26).</b></p> <p>A copy of the <b>Scoping Opinion</b> adopted by the Secretary of State is provided (<b>Doc 6.2.28</b>).</p>		
	Is this of a satisfactory standard?	<b>Yes</b>		Is this of a satisfactory standard? <b>Yes</b> (with minor discrepancies as noted in Box 30)
c)	An Explanatory Memorandum explaining the purpose and effect of provisions in the draft DCO	<b>Explanatory Memorandum (Doc 2.2)</b>	d)	Where applicable, a Book of Reference (where the application involves any Compulsory Acquisition) <b>Book of Reference (Doc 3.3)</b>
	Is this of a satisfactory standard?	<b>Yes</b>		Is this of a satisfactory standard? <b>Yes</b> (with minor discrepancies as noted in Box 30)
e)	A copy of any Flood Risk Assessment	<p>A flood risk assessment is provided within <b>Appendix 13.2</b> of the <b>Environmental Statement (Doc 6.4.13)</b>, with accompanying figures within <b>Doc 6.3.20</b>.</p> <p>The effects of flooding are considered within Chapter 13 of the <b>Environmental Statement</b> “Surface water, Flood Risk and Drainage Strategy” (<b>Doc 6.2.13</b>).</p>	f)	<p>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><b>Statutory Nuisance Statement (Doc 5.5).</b></p> <p>The document considers that the proposal would engage with the following statutory nuisances under Section 79(1) of the Environmental Protection Act 1990:</p> <ul style="list-style-type: none"> <li>• Air quality impacts (including odour);</li> <li>• Insect infestation;</li> <li>• Impacts from artificial light; and</li> <li>• Noise impacts.</li> </ul>

				The Applicant concludes, with the application of outlined mitigation measures, there would be no effects giving rise to a statutory nuisance.
	Is this of a satisfactory standard?	<b>Yes</b>		Is this of a satisfactory standard?
h)	A Statement of Reasons and a Funding Statement (where the application involves any Compulsory Acquisition)	<b>Statement of Reasons (Doc 3.1)</b> <b>Funding Statement (Doc 3.2)</b>	i)	A Land Plan identifying:- (i) the land required for, or affected by, the Proposed Development; (ii) where applicable, any land over which it is proposed to exercise powers of Compulsory Acquisition or any rights to use land; (iii) any land in relation to which it is proposed to extinguish easements, servitudes and other private rights; and (iv) any special category land and replacement land
	Is this of a satisfactory standard?	<b>Yes</b>		Is this of a satisfactory standard?
				<b>Land Plan and Crown Land Plan (Doc 4.2)</b>
				<b>Yes</b>

j)	<p>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 DCO</p>	<p><b>Works Plans (Doc 4.3)</b></p>	k)	<p>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><b>Access and Rights of Way Plan (Doc 4.5)</b></p>
<p>Is this of a satisfactory standard?</p>		<p><b>Yes</b> (with minor discrepancies as noted in Box 30)</p>	<p>Is this of a satisfactory standard?</p>		<p><b>Yes</b></p>
l)	<p>Where applicable, a plan with accompanying information identifying:-</p> <p>(i) any statutory/ non-statutory sites or features of nature conservation eg sites of geological/ landscape importance;</p> <p>(ii) habitats of protected species, important habitats or other diversity features; and</p>	<p>(i) and (ii) <b>Statutory and Non-Statutory Sites or Features of Nature Conservation and Habitats Plan (Doc 4.6)</b></p> <p>(iii) <b>Water Bodies in a River Basin Management Plan (Doc 4.7)</b></p>	m)	<p>Where applicable, a plan with accompanying information identifying any statutory/ non-statutory sites or features of the historic environment, (eg 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><b>Heritage Assets Plan (Doc 4.8)</b></p>

n)	(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		o)		
	Is this of a satisfactory standard?	<b>Yes</b>		Is this of a satisfactory standard?	<b>Yes</b>
	Where applicable, a plan with any accompanying information identifying any Crown land	<b>Land Plan and Crown Land Plan (Doc 4.2)</b>		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	<b>Location Plan (Doc 4.1)</b> <b>Illustrative Landscape Plans (Doc 4.4)</b> <b>Indicative Generating Station Plans (Doc 4.9)</b> <b>Indicative Electrical and Water Connection Plans (Doc 4.10)</b> <b>Indicative Wharf Plans (Doc 4.11)</b>
	Is this of a satisfactory standard?	<b>Yes</b>		Are they of a satisfactory standard?	<b>Yes</b> (with minor discrepancies as noted in Box 30)
p)	Any of the documents prescribed by Regulation 6 of the APFP Regulations:	<b>Electricity Grid Connection Statement (Doc 5.6)</b>	q)	Any other documents considered necessary to support the application	<b>Application Cover Letter (Doc 1.1)</b> <b>Application Guide (Doc 1.2)</b> <b>Planning Statement (Doc 5.2)</b> <b>Design and Access Statement (Doc 5.3)</b>

				<b>Other Consents and Licences (Doc 5.4)</b> <b>Combined Heat and Power Assessment (Doc 5.7)</b> <b>Fuel Availability and Waste Hierarchy Assessment (Doc 5.8)</b> <b>Outline Code of Construction Practice (Doc 7.1)</b> <b>Outline Construction Management Plan (Doc 7.2)</b> <b>Outline Written Scheme of Investigation (Doc 7.3)</b> <b>Outline Landscape and Ecological Mitigation Strategy (Doc 7.4)</b> <b>Outline Lighting Strategy (Doc 7.5)</b> <b>Register of Environmental Actions and Commitments (Doc 7.6)</b>	
	Are they of a satisfactory standard?	<b>Yes</b>		Are they of a satisfactory standard?	<b>Yes</b>
30	Are there any observations in respect of the documents provided at Box 29 (a) to (q) above?				
	<b>Draft Development Consent Order (Doc 2.1)</b> Schedule 10 of the Draft DCO lists the Flood Risk Assessment with document reference 6.4.11. This should be 6.4.13. <b>Book of Reference (Doc 3.3)</b> Mick George Limited is listed in Part 3 against plot 4 but not in Part 1 against that plot. <b>Works Plans (Doc 4.3)</b> On the key plan 'SHEET 5 OF 7' should refer to 'SHEET 5 OF 8'. <b>Indicative Electrical and Water Connection Plans (Doc 4.10)</b>				

	<p>On the key plan 'SHEET 5 OF 7' should refer to 'SHEET 5 OF 8'.</p> <p>Section 51 advice has been issued to the Applicant in respect of the above matters:</p> <p><a href="https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/?ipcsection=docs&amp;stage=2">https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/?ipcsection=docs&amp;stage=2</a></p>	
31	<p>Is the application accompanied by a report identifying any European site(s) to which Regulation 48 of The Conservation (Natural Habitats, &amp;c.) Regulations 1994 applies; or any Ramsar site(s), which may be affected by the Proposed Development, together with sufficient information that will enable the Secretary of State to make an appropriate assessment of the implications for the site if required by Regulation 48(1)?<sup>14</sup></p>	<p><b>Yes.</b></p> <p>A Habitat Regulations Assessment (HRA) Report is provided at <b>Appendix 17.1</b> of the <b>Environmental Statement (Doc 6.4.18)</b>.</p> <p>The HRA Report identifies relevant European sites and the likely effects on those sites. It is considered that the information provided in the report is adequate for acceptance.</p> <p>Note: The Examining Authority will be able to ask questions during the Examination. This may result in additional information being required to inform the HRA Report and the competent authority. Depending upon the type and availability of information required it may not be possible to obtain this during the statutory timetable of the Examination.</p>
32	<p>If requested by the Planning Inspectorate, two paper copies of the application form and other supporting documents and plans<sup>15</sup></p>	<p><b>Not applicable.</b></p> <p>The Planning Inspectorate did not request two paper copies of the application form and other supporting documents and plans.</p>
33	<p>Has the Applicant had regard to statutory guidance 'Planning Act 2008: Application form guidance', and has this regard led to the application being prepared to a standard that the Planning Inspectorate considers satisfactory?</p>	<p><b>Yes.</b></p> <p>The Planning Inspectorate is satisfied that the Applicant has had regard to the statutory guidance set out in the 'Planning Act 2008: Application form guidance' and considers the application to be of a satisfactory standard.</p>
34	<p><b>Summary - s55(3)(f) and s55(5A)</b></p>	<p>The Planning Inspectorate concludes that the application (including accompaniments) has been prepared to a standard that it considers satisfactory.</p> <p>In respect of the discrepancies identified in Box 30 of this checklist, to help facilitate an efficient and effective examination of the application s51 advice has been provided to</p>

<sup>14</sup> Regulation 5(2)(g) of the APFP Regulations

<sup>15</sup> Regulation 5(2)(r) of the APFP Regulations



		the Applicant in conjunction with the decision to accept the application. That advice is published on the National Infrastructure Planning website, here: <a href="https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/?ipcsection=docs&amp;stage=2">https://infrastructure.planninginspectorate.gov.uk/projects/north-east/boston-alternative-energy-facility-baef/?ipcsection=docs&amp;stage=2</a>
<b>The Infrastructure Planning (Fees) Regulations 2010 (as amended)</b>		
<b>Fees to accompany an application</b>		
35	Was the fee paid at the same time that the application was made <sup>16</sup> ?	The fee was received on 23 February 2021, before the application was made.

<b>Role</b>	<b>Electronic signature</b>	<b>Date</b>
Case Manager	<i>Siân Evans</i>	20 April 2021
Acceptance Inspector	<i>Max Wiltshire</i>	20 April 2021

<sup>16</sup> The Planning Inspectorate must charge the Applicant a fee in respect of the decision by the Planning Inspectorate under section 55 of the PA2008. If the Applicant fails to pay the fee, the Planning Inspectorate need not consider the application until payment is received. The fee must be paid at the same time that the application is made

