

Critique of Applicant's Response EN010159/APP/9.31: Legal Misdirection and Terminal Evasion

1. The Jurisdictional Shield Fails (Section 5.7.2)

Applicant's Claim	Legal Critique	Why It Fails and Confirms the Problem
<p>5.7.2: "Adequacy of consultation is a matter for acceptance... The Applicant does not consider this to be an important and relevant matter for the SoS's determination."</p>	<p>Fundamental Misstatement of Law (S. 104 PA 2008): The Applicant is trying to use the S. 55 Acceptance Test as a shield.<sup>1</sup> However, the Secretary of State (SoS) must have particular regard to consultation adequacy in the final decision (S. 104 PA 2008).<sup>2</sup> The Applicant's failure is now an ongoing failure to provide an auditable record (S. 37).</p>	<p>This claim is a fundamental misstatement of the legal reality. The ExA's job is to ensure the final decision is lawful. The Applicant's attempt to limit the scope of the Examination is an administrative challenge that the ExA is duty-bound to resist. This defence confirms the Applicant's intent to [REDACTED]</p>

2. The Unacceptable [REDACTED] (Sections 5.7.9 & 5.7.10)

This is the central failure where the Applicant's defence collapses under the weight of proven, persistent [REDACTED]. The Applicant attempts to neutralise the omissions by claiming the documents are not statutory requirements and were "considered."

Applicant's Claim	Legal Critique	Why This Proves Uncurable [REDACTED]
<p>5.7.9 (Meeting Script): The Applicant included its response verbatim and states "There is no statutory requirement to provide those minutes."</p>	<p>Conflation of Response and Source (S. 37 &amp; S. 49): The Applicant [REDACTED] confuses its self-serving response (its justification) with the source document (the critical script/minutes). The statutory requirement is not merely to respond, but to comply with S. 37(7), which requires the documentation to prove the claim of "account taken" (S. 49). You cannot prove you had regard if you [REDACTED] the evidence you had regard to.</p>	<p>This is an act of [REDACTED] of uncurable [REDACTED]. The Applicant is admitting the documents exist but maintaining their [REDACTED] thereby obstructing the statutory audit trail and preventing the ExA from fulfilling its duty to verify the record.<sup>2</sup></p>
<p>5.7.10 (Mental Health Survey): The survey "was considered" and referred to in Appendix J-2 page 536 and J-1 page 217.</p>	<p>Evasion of Evidential Audit: The core allegation is that the source document (the raw survey data) was [REDACTED] omitted. The ExA and Interested Parties cannot audit the Applicant's interpretation of the data</p>	<p>The Applicant is choosing to protect the original [REDACTED] premise of the application over compliance with the Examination.</p>

	<p>without the original source. The Applicant's refusal to provide the material evidence proves that the CR remains unverifiable and legally unreliable—a clear failure of the S. 55(3)(d) "satisfactory standard."<sup>1</sup></p>	
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### 3. Conclusion: The Applicant Has Chosen Terminal [REDACTED]

The Applicant's response is a final, [REDACTED] decision to prioritise [REDACTED] over compliance because they [REDACTED] what is in the documents more than they [REDACTED] the procedural penalty.

The Applicant has left the ExA with only one option, which you must now formally demand: Termination of the Examination.

Final Strategy: Immediate Demand for Termination

You must act immediately to file a hard-hitting letter that highlights the Applicant's terminal error and forces the ExA to issue the mandatory final warning.

The following letter characterises the Applicant's response as a failure to cooperate and demands the ExA exercise its final power:

Footnotes

The S. 55 Acceptance Test addresses procedural adequacy for application acceptance, not the substantive adequacy of consultation, which remains a matter for the Secretary of State's determination under S. 104 of the Planning Act 2008.

Section 104 of the Planning Act 2008 explicitly requires consideration of consultation adequacy during the final decision, not merely at acceptance. The ExA's role is to ensure compliance throughout, including maintaining an auditable record as per S. 37, and resisting any attempts to evade examination.