

A38 Derby Junctions

TR010022

Volume 1

1.2 Covering Letter and Section 55 Checklist

Regulation 5(2) (q)

Planning Act 2008

Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009

April 2019

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Applications: Prescribed Forms
and Procedure) Regulations 2009**

A38 Derby Junctions
Development Consent Order 202[]

Covering Letter and Section 55 Checklist

Regulation Number	Regulation 5(2)(q)
Planning Inspectorate Scheme Reference	TR010022
Application Document Reference	1.2
Author	A38 Derby Junctions Project Team, Highways England

Version	Date	Status of Version
1	April 2019	DCO Application

Major Applications & Plans
3/18 Eagle Wing
The Planning Inspectorate
Temple Quay House
Temple Quay
Bristol
BS1 6PN

Dear Sir/Madam

Planning Act 2008
Application for a Development Consent Order for the proposed A38 Derby Junctions
Highways England
Application Reference: TR010022

I am pleased to enclose an application on behalf of Highways England (the "Applicant") under section 37 of the Planning Act 2008 (the "2008 Act") for an order granting development consent for the A38 Derby Junctions (the "Scheme").

1 Subject of the Application

Development consent is required to the extent that the application includes development that is or forms part of a Nationally Significant Infrastructure Project (NSIP) pursuant to sections 14(1) (h) and 22(1) (b) of the 2008 Act.

Further detail concerning the Scheme's qualification as an NSIP can be found in the prescribed form within the Application Form (Application document 1.4) and in the Explanatory Memorandum (Application document 3.2).

2 Application fee and documentation enclosed

A fee of £7,106.00 has been submitted by BACS transfer to the account of the Planning Inspectorate (the "Inspectorate").

It has been agreed with the Inspectorate that the application will be submitted in electronic form via six USB memory sticks of the full application as listed in Annex A.

A completed Section 55 checklist accompanies this letter in Annex B.

In accordance with the advice as set out in the Planning Inspectorate's Advice Note 6 and agreed with the Inspectorate on the 19 March 2019, the application electronic index and the GIS shape file (to the required format) of the land over which authorisation is sought was provided on the 9 April 2019, 2 weeks in advance of the submission.

3 Application formalities

This application is made in the form required by Section 37(3) (b) of the 2008 Act and the application documents comply with the requirements in Section 37 of the 2008 Act and those set out in:

- The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations);
- The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017;
- The Department for Communities and Local Government's (DCLG) 'Planning Act 2008: Nationally significant infrastructure projects – Application form guidance' (June 2013); and
- The Planning Inspectorate's 'Advice Note Six: Preparation and submission of application documents'.

We request that the Inspectorate publish (with the exception of Figures 8.19, 8.23 and 8.24 [TR010022/APP/6.2]; and Appendices 8.8(a), 8.8(b), 8.8(c), 8.10(a), 8.10(b), 8.11(a) and 8.11(b) [TR010022/APP/6.3] as these documents/ plans contain confidential information pertaining to species protected under the Protection of Badgers Act 1992 and The Wildlife & Countryside Act 1981) the application documents on the A38 Derby Junctions project page of the National Infrastructure website following submission of the application. We also include two versions of Chapter 8: Biodiversity of the Environmental Statement [TR010022/APP/6.1] and two versions of Appendix 8.20 [TR010022/APP/6.3] – one version contains confidential ecological information, whilst the second version has confidential information removed and is suitable for publication on the National Infrastructure Planning website.

4 Description of the Scheme

A non-technical description of the Scheme is provided in the Introduction to the Application [TR010022/APP/1.1]. A more detailed and technical description is provided in Chapter 2: The Scheme of the Environmental Statement [TR010022/APP/6.1].

5 Consent flexibility – Rochdale Envelope

The Applicant has considered the National Policy Statement for National Networks (NPSNN) and the Planning Inspectorate's 'Advice Note Nine: Rochdale Envelope' together with pre-application advice provided by the Inspectorate. It is our view that the inclusion of flexibility provided for in the draft Development Consent Order (DCO) is fundamental to whether the Scheme is deliverable.

An important element of the flexibility sought within the DCO is the lateral and vertical limits of the Scheme. The DCO submission is based on the maximum area over which the Scheme would be constructed and the maximum height that the Scheme would be constructed to (including signage, gantries and lighting columns).

These limits of deviation have been incorporated within the draft DCO to allow minor modifications to be made to the design of the Scheme during the detailed design and construction stages. Such flexibility is required, for example, to enable the construction contractor to alter their working procedures or make minor adjustments to the position of certain infrastructure in response (for example) to unforeseen ground conditions.

The Environmental Impact Assessment (EIA), which was undertaken in support of the Scheme, has considered and reflects the flexibility sought in the draft DCO. The maximum design parameters referenced in the draft DCO have been assessed in the Environmental Statement [TR010022/APP/6.1].

Further detail on the Applicant's approach to the Rochdale Envelope and flexibility within the draft DCO is provided within 'part 2.5, Scheme description' of the Environmental Statement [TR010022/APP/6.1].

6 Habitats Regulations Assessment

This application includes a Habitats Regulation Assessment as required by Regulation 5(2) (g) of the APFP Regulations. This assessment identifies relevant European sites and provides sufficient information for the competent authority to determine whether the Scheme is likely to have an adverse effect on the integrity of any European site.

The assessment was prepared in accordance with the Planning Inspectorate's 'Advice Note 10: Habitats Regulations Assessments'.

The Applicant has undertaken Screening for the purposes of the habitats regulations and has concluded that there are no likely significant effects on any European sites and their features. Therefore, this application is accompanied by a Habitat Regulations Assessment - No Significant Effects Report [TR010022/APP/6.10].

The No Significant Effects Report is also provided within Appendix 8.2 of the Environmental Statement [TR010022/APP/6.3] to evidence this conclusion. The report states that *"the Scheme would have no significant effects on European sites, and therefore no European sites are required to be considered and taken forward to Appropriate Assessment"* and that *"Natural England [has] confirmed that they are satisfied with the conclusion of no likely significant effect on European sites"*.

7 Compulsory Acquisition

The Applicant is seeking compulsory acquisition and temporary possession powers to acquire land, rights over land and interests in land, and other related powers to support the delivery of the Scheme. Details on the powers sought and negotiations to date including those relating to the special category land/ Crown land (where acquisition must be secured through agreement) affected are provided in the Book of Reference [TR010022/APP/4.3] and the Statement of Reasons [TR010022/APP/4.1].

Adequacy of the funding for compensation is provided in the Funding Statement [TR010022/APP/4.2].

8 Other consents

Details of other consents and licences not forming part of the DCO which the Applicant (or others) may be seeking in relation to the construction and operation of the Scheme, are set out in the Consents and Agreements Position Statement [TR010022/APP/3.3].

9 Pre-application consultation

As required by section 37(3) (c), a Consultation Report [TR010022/APP/5.1] accompanies this application; the Consultation Report details compliance with sections 42, 47, 48 and 49 of the 2008 Act.

10 Pre-application engagement with the Planning Inspectorate

The applicant has sought to actively discuss the Scheme with the Inspectorate since December 2014. In this regard, there have been a number of meetings and conference calls held providing updates throughout the process and a selected set of draft documents were shared with the Inspectorate in January 2019.

As part of this draft submission, the following core DCO documents were submitted for review:

- Draft Development Consent Order [TR010022/APP/3.1];
- Explanatory Memorandum to the Draft Development Consent Order [TR010022/APP/3.2];
- Consultation Report (first 3 chapters) and Appendices (except Annex O) [TR010022/APP/5.1] and [TR010022/APP/5.2];
- Sample Book of Reference [TR010022/APP/4.3];
- Sample Land Plans [TR010022/APP/2.2];
- Sample Works Plans [TR010022/APP/2.5];
- Statement of Reasons [TR010022/APP/4.1];
- Habitats Regulations Assessment Report - No Significant Effects Report [TR010022/APP/6.10].

The Inspectorate provided comments to the Applicant on these draft documents and a call was subsequently arranged to discuss the comments of the Inspectorate on 12 February 2019. There were no significant issues identified from this review, but minor modifications were made to the draft documents as referred to above to address the comments made. These updates are reflected in the final version of the application submitted. A further conference call was held on 19 March 2019 to confirm with the Inspectorate the final date for the submission of the application so that they could plan their resources accordingly for the receipt of the application. The call was also used to discuss any outstanding issues.

11 Other matters

Under Regulation 6(2) of the APFP Regulations, an application for highway development is required to include section drawings; these can be found as the Engineering Section Drawings [TR010022/APP/2.10].

In accordance with Regulation 5(3) of the APFP Regulations, all plans, drawings and sections are no larger than A0 size, have been drawn to an identified scale (no smaller than 1:2500) and, in the case of plans, show the direction of north.

Under Regulation 5(2) (l) of the APFP Regulations, an applicant is required to provide a plan of certain nature conservation sites, alongside the identification of water bodies within the River Basin Management Plan area and an assessment of any effects on those sites and features likely to be caused by the proposed development. There is an equivalent requirement under Regulation 5(2) (m) in relation to certain historic sites and features. These requirements are referenced as application documents [TR010022/APP/6.6], [TR010022/APP/6.13] and [TR010022/APP/6.7] respectively. Full details are provided within the Environmental Statement [TR010022/APP/6.1] - see Environmental Statement Chapter 8 Biodiversity [TR010022/APP/6.1], Figures 8.3 to 8.5 [TR010022/APP/6.2], Environmental Statement Chapter 13: Road Drainage and the Water Environment [TR010022/APP/6.1], Figure 13.4 [TR010022/APP/6.2], and Environmental Statement Chapter 6: Cultural Heritage [TR010022/APP/6.1], Figures 6.1 to 6.6 [TR010022/APP/6.2]. Of particular note is that Chapter 6: Cultural Heritage [TR010022/APP/6.1] provides an assessment of the effects of the Scheme on the Derwent Valley Mills World Heritage Site (refer to Appendix 6.1 [TR010022/APP/6.3]).

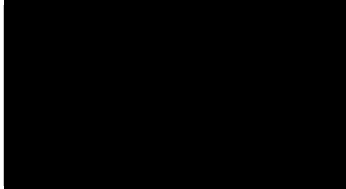
The application submission is accompanied by a Planning Statement [TR010022/APP/7.2] which considers the compliance of the Scheme with the National Policy Statement for National Networks (NPSNN) along with the assessment of compliance with relevant national and local planning policy. The Planning Statement considers some of the key policy and related issues associated with the Scheme. This includes (amongst other things) the consideration of the Scheme's compliance with Green Belt policy objectives (Little Eaton junction is located within the Green Belt) and loss of public open space associated with the Scheme, including the proposals for replacement land in exchange under the provisions of the 2008 Act.

In accordance with Regulation 5(5) of the APFP Regulations, the Applicant retains all responses to the consultation carried out under Part 5 of the 2008 Act, and can make them available at the request of the Inspectorate.

The Applicant will keep all application documents under review and will endeavour to provide updates (where it considers it necessary to do so) during the examination of the application considering questions and comments received from the Inspectorate and interested parties.

We look forward to hearing from you in relation to a formal acceptance of this application. If we can be of any assistance, please do not hesitate to contact us using the details provided below.

Yours faithfully,



Paul Nagra
Project Manager – A38 Derby Junctions Project
Major Projects - Regional Investment Programme
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Enclosures:

Annex A: Overview of the application Documents
Table of application Documents

Annex B: Section 55 Acceptance of applications Checklist (completed by the Applicant)

Annex A: Overview of the Application Documents

The reports, drawings and plans that make up the DCO application have been organised into 7 volumes as listed in the table below. The 7 volumes are explained in further detail in the Introduction to the Application [TR010022/APP/1.1].

	VOLUME	CONTENT
1	Application Form Information Background	This document, the completed application form and an introduction to the Scheme.
2	Plans Drawings Sections	These include plans that illustrate the location of the Scheme, the proposed works, the land that will be acquired or used, and engineering details.
3	Draft Development Consent Order	This is the document that sets out the legal powers that the Applicant is seeking to enable it to build, operate and maintain the Scheme, together with the Explanatory Memorandum, explaining the provisions of the Order, and the Consents and Agreements Position Statement which sets out the strategy for obtaining the consents and associated agreements needed to implement the Scheme.
4	Compulsory Acquisition Information	Documents setting out in tabular form the land to be acquired or used, and reports justifying the seeking of compulsory acquisition powers over this land.
5	Reports Statements	Reports including the Consultation Report and other Reports and Statements relevant for the specific DCO and not dealt with elsewhere in the application.
6	Environmental Statement and Associated Documents	An assessment of the likely significant effects (both positive and negative) of the Scheme on the environment and a description of mitigation measures proposed to reduce any negative impacts.
7	Other Documents	Additional documents that support the DCO application; these are not legally required but provide useful information on the case for the Scheme, which includes for example the Planning Statement.

Table of Application Documents

A list of documents within the application is set out below. If you require a copy of any of the application documents, or parts of them, please contact the A38 Derby Junctions Project Team. A USB stick containing these documents will be provided free of charge. A request for hard copies will be subject to a 'reasonable' charge to cover the cost of printing and distribution.

VOLUME	DOCUMENT REFERENCE	DOCUMENT TITLE	FOLDER NUMBER
VOLUME 1: Application Form / Information/ Background	1.1	Introduction to the Application	Volume 1
	1.2	Covering Letter/Section 55 Checklist	
	1.3	Application Form	
	1.4	Electronic Index	
VOLUME 2: Plans / Drawings / Sections	2.1	Location Plan	Volume 2 Folder 1
	2.2	Land Plans	
	2.3	Special Category Land Plans	
	2.4	Crown Land Plans	
	2.5	Works Plans	
	2.6	General Arrangement Scheme Layout Plans	
	2.7	Streets Rights of Way and Access Plans	Volume 2 Folder 2
	2.8	Traffic Regulations Measures Plans	
	2.9	Classifications of Roads Plans	
	2.10	Engineering Section Drawings	
	2.11	Outline Drainage Works	
VOLUME 3: Draft Development Consent Order	3.1	Draft Development Consent Order	Volume 3
	3.2	Explanatory Memorandum	
	3.3	Consents and Agreements Position Statement	
VOLUME 4: Compulsory Acquisition Information	4.1	Statement of Reasons	Volume 4
	4.2	Funding Statement	
	4.3	Book of Reference	
VOLUME 5: Reports Statements	5.1	Consultation Report (main report)	Volume 5
	5.2	Consultation Report Appendices	
VOLUME 6: Environmental Impact Assessment	6.1	Environmental Statement	Volume 6 Folder 1
	6.2	Environmental Statement Figures	Volume 6 Folder 2

VOLUME	DOCUMENT REFERENCE	DOCUMENT TITLE	FOLDER NUMBER
(EIA) Information	6.3	Environmental Statement Appendices	Volume 6 Folder 3
	6.4	Environmental Statement Non-Technical Summary	Volume 6 Folder 4
	6.5	Scoping Opinion	
	6.6	Statutory and Non-Statutory Nature Conservation Site Plans	
	6.7	Statutory and Non-Statutory Historic Site Plans	
	6.8	Equalities Impact Assessment	
	6.9	Tree Preservation Order Impact/Removal Plans	
	6.10	Habitats Regulations: No Significant Effects Report	
	6.11	Statutory Nuisance Report	
	6.12	Outline Environmental Management Plan (OEMP)	
	6.13	River Basin Management Plan Water Bodies	
VOLUME 7: Other Documents	7.1	Flood Risk Assessment	Volume 7
	7.2	Planning Statement	
	7.3	Transport Assessment Report	
	7.4	Traffic Management Plan	

Annex B: Section 55 Acceptance of Applications Checklist (completed by the Applicant)

Section 55 Acceptance of Applications

Section 55 Application Checklist¹

Section 55(2) Acceptance of Applications				
1	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
	Section 55(3) – the Secretary of State may <u>only</u> accept an application if the Secretary of State concludes that:-	Planning Inspectorate Comments		
s55(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 ² (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 ³ (DCO) under the Planning Act 2008 (the PA2008), or equivalent words? Does the application specify the development to which it relates ie which category or categories in ss14-30 does the application scheme fall)? If the development does not fall within the categories in	The Scheme is a nationally significant infrastructure project ("NSIP") within sections 14(1) (h) and 22(1) of the 2008 Act. Under section 22 an NSIP must fall within one of the three categories specified, which are expressly stated to be alternatives. This Scheme is the "alteration" of a highway within the meaning of section 22(1) (b). The Scheme is wholly located in England, Highways England, a strategic highways company, will be the highway authority for the Scheme, the area of development is in excess of 12.5 hectares, with a speed limit in excess of 50 miles per hour. The Scheme therefore falls under the requirements of 22(3) and 22 (4) of the act. This is consistent with the summary provided in the Application Form [TR010022/APP/1.3] at Section 4 which concludes that the application is an NSIP.		

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

² NSIP is defined generally in s14 with the detailed thresholds for each of the specified categories being set out in ss15-30

³ Development consent is required for development to the extent that the development is or forms part of an NSIP (s31 of the PA2008)

	ss14-30, 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	Summary – s55(3)(a) and s55(3)(c)	The Applicant has demonstrated that the application as submitted is an application for an order granting development consent under the 2008 Act.
s55(3)(e) The applicant in relation to the application made has complied with Chapter 2 of Part 5 (pre-application procedure)		
4	In accordance with the EIA Regulations ⁴ , did the applicant (prior to carrying out consultation in accordance with s42) either (a) request the Secretary of State to adopt a screening opinion in respect of the development to which the application relates, or (b) notify the Secretary of State in writing that it proposed to provide an environmental statement in respect of that development?	<p>Yes.</p> <p>The Applicant notified the Secretary of State on 2 March 2018 that it proposed to provide an Environment Statement in respect of the Scheme. A copy of the letter (Ref: A38DJs EIA Reg8(1)(b) Mar2018) dated 2 March 2018 along with the written acknowledgement dated 5 March 2018 is provided in the Consultation Report Annex B [TR010022/APP/5.2].</p>
5	Have any adequacy of consultation representations ⁵ been received from “A”, “B”, “C” and “D” authorities; and if so do they confirm that the applicant has complied with the duties under s42, s47 and s48?	<p>No such representations have been received. It is anticipated that upon submission of the application for development consent, the Planning Inspectorate will request that relevant local authorities provide an adequacy of consultation statement. This is as set out in the Planning Inspectorate’s Advice Note 14 (April 2012).</p> <p>In the pre-application stages Highways England have engaged with relevant local authorities on an informal and formal basis. The ‘host’ authorities in the case of the Scheme are:</p> <p>Derby City Council (Authority ‘B’)</p> <p>Erewash Borough Council (Authority ‘B’)</p> <p>Derbyshire County Council (Authority ‘C’).</p> <p>In addition to the above there are a further 17 ‘neighbouring’ authorities. Of these neighbouring authorities 2 immediate neighbouring authorities to the host authorities that</p>

		<p>included Amber Valley Borough Council (Authority 'A') and South Derbyshire District Council (Authority 'A') formed part of a group of 5 authorities (along with the host authorities) that were informally consulted on the Statement of Community Consultation (SOCC). As detailed in Annex A of the Consultation Report Annexes [TR010022/APP/5.2] in the summary of engagement a meeting took place on the draft SoCC on the 14th February 2018. The comments of the authorities were discussed and a further period was offered to allow written feedback to be given and the comments to be considered. As detailed in Section 3 of the Consultation Report [TR010022/APP/5.1] whilst not required to do so Highways England formally consulted South Derbyshire District Council and Amber Valley Borough Council along with the 3 host authorities on the SoCC. On the 22nd June 2018 the 5 authorities were notified in advance that a formal consultation would take place shortly. The formal consultation under Section 47(2) of the PA 2008 was made on the 25 June 2018. Table 2 within Section 3 of the Consultation Report [TR010022/APP/5.1] details how the responses were taken into account and the changes that were made to the SoCC.</p> <p>In addition to the above, all 20 host and neighbouring authorities were consulted under Section 42 of the PA 2008 on the 6th September 2018. Annex I of the Consultation Report Annexes [TR010022/APP/5.1] includes sample copies of these letters.</p>
s42: Duty to Consult		
	Did the applicant consult the applicable persons set out in s42 of the PA2008 about the proposed application?	
6	s42(1)(a) persons prescribed ⁶ ?	<p>Yes.</p> <p>There were 2 consultation periods for the Scheme (7 September to 18 October 2018 and 7 March to 9 April 2019) where the Applicant consulted applicable persons.</p> <p>The list of those persons consulted is set out in Annexes G, H and N of the Consultation Report Annexes [TR010022/APP/5.2]. Annex I provides sample copies of the letters that were issued to prescribed consultees under S42(1)(a) of the PA 2008.</p> <p>In relation to S42(1)(a) persons described the Applicant has provided a list of prescribed persons consulted during the statutory and further consultation periods. This is contained within Annex G of the Consultation Report Annexes [TR010022/APP/5.2].</p>

⁴ Regulation 8 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 (2017 EIA Regulations), or Regulation 6 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (2009 EIA Regulations) (where Regulation 37 of the 2017 EIA Regulations applies).

⁵ S55(4) of the PA2008 provides that the Secretary of State must have regard to the consultation report, and any adequacy of consultation representations received

7	s42(1)(aa) the Marine Management Organisation ⁷ ?	Not applicable – the Marine Management Organisation is not a relevant consultee in respect of this Scheme.
8	s42(1)(b) each local authority within s43 ⁸ ?	Yes. There are 3 host authorities (Derby City Council, Erewash Borough Council and Derbyshire County Council) and 17 neighbouring authorities who were all consulted. Refer to Annex G of the Consultation Report Annexes [TR010022/APP/5.2] which contains a list of prescribed consultees that were consulted.
9	s42(1)(c) the Greater London Authority (if in Greater London area)?	Not applicable – the Scheme is not within the Greater London Area.
10	s42(1)(d) each person in one or more of s44 categories ⁹ ?	Yes. Letters were issued to all relevant parties as part of a diligent inquiry process as defined under the S44 of the PA 2008 which included: Category 1 - owner, lessee, tenant (whatever the tenancy period) or occupier of the land. Category 2 - (a) is interested in the land, or (b) has power— (i) to sell and convey the land, or (ii) to release the land. Category 3 – Those parties that may be able to make a relevant claim as a result of the Order. These parties are identified in Annex H of the Consultation Report Annexes. Each of the relevant parties were sent letters under the provisions of S44 with each

		<p>category receiving a bespoke letter providing notice of the statutory consultation, associated details of the public consultation events and a deadline for when responses should be received. Refer to Annex I [TR010022/APP/5.2] of the Consultation Report Annexes for sample copies of these letters.</p> <p>The identification of relevant parties under S44 has been kept under ongoing review and where letters were returned as detailed in Section 3 of the Consultation Report [TR010022/APP/5.1] alternative methods were followed as part of the diligent inquiry process which included desk base research comprising of company house searches, reviewing land registry information and internet research backed up by site visits as needed. This process has informed the review and update of the Book of Reference [TR010022/APP/4.3] along with identifying the additional parties to be consulted as referred to within Annex N of the Consultation Report Annexes [TR010022/APP/5.2].</p>
s45: Timetable for s42 Consultation		
11	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>Yes. The letters sent out dated 6 September 2018 for the statutory consultation between 7 September 2018 and 18 October 2018 are included at Annex I [TR010022/APP/5.2]. These letters confirmed that responses were required by the 18 October 2018. A further targeted S42 consultation was undertaken due to revisions to the redline boundary. These letters were issued on the 7 March 2019 and 30 days were provided with a response being sought by the 9 April 2019. These letters are enclosed as Appendix I and a list of the additional parties are detailed in Appendix N of the Consultation Report Annexes [TR010022/APP/5.2].</p>

⁶ Statutory consultees set out in Schedule 1 of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

⁷ 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

⁸ Definition of "local authority" in s43(3): 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 where such an authority shares a boundary with a "C" authority

⁹ 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: person entitled to make a relevant claim. There is no requirement to check the accuracy of the list(s) or whether the applicant has made diligent inquiry.

s46: Duty to notify Secretary of State of proposed application		
12	Did the applicant supply information to notify the Secretary of State of the proposed application; and if so was the information supplied to the Secretary of State on or before the date it was sent to the s42 consultees? Was this done on or before commencing consultation under s42?	<p>Yes.</p> <p>The Applicant gave notice under s46 on 4 September 2018 which was before the beginning of s42 consultation. Refer to Annex J of the Consultation Report Annexes [TR010022/APP/5.2] for confirmation of receipt of information from the Inspectorate with regards to the statutory consultation undertaken between 7 September 2018 and the 18 October 2018.</p>
s47: Duty to consult local community		
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>Yes.</p> <p>The published SoCC is provided in Annex F of the Consultation Report Annexes [TR010022/APP/5.2]. The SoCC was produced in close cooperation with the host authorities of Derby City Council, Erewash Borough Council and Derbyshire County Council. This included informal discussion, consultation and revisions before the formal consultation was issued. In order to ensure a robust approach, two adjoining neighbouring authorities (Amber Valley Borough Council and South Derbyshire Council) were also consulted. The approach to this is detailed in Section 3.2 of the Consultation Report [TR010022/APP/5.1].</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>Yes.</p> <p>As explained in Section 3.5 of the Consultation Report [TR010022/APP/5.1] consultation was undertaken with the host authorities of Derby City Council, Erewash Borough Council (the ‘B Authorities’) and Derbyshire County Council (the ‘C Authority’). In addition, Amber Valley Borough Council and South Derbyshire District Council (non-host authorities) were also consulted.</p> <p>Annex D of the Consultation Report [TR010022/APP/5.2] includes copies of the letters sent to the local authorities consulting them on the SOCC. Letters were sent to each of the named authorities above on the 25 June 2018 seeking a response by the 23 July 2018. Based on the day of receipt, the date specified in the letter should have stated the 24 July 2018, in accordance with Section 47(3) of the 2008 Act, with the 28 day period</p>

		beginning with the day after the day of receipt. Notwithstanding this, no prejudice is considered to have been caused as all authorities consulted responded by the specified date.
15	Has the applicant had regard to any responses received when preparing the SoCC?	Yes. Copies of the responses from the local authorities are provided at Annex E of the Consultation Report [TR010022/APP/5.2]. Table 2 in Section 3 of the Consultation Report [TR010022/APP/5.1] sets out a summary of responses received on the SOCC and how the Applicant has had regard to these responses.
16	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?	Yes. The SOCC was made available for inspection at the 8 deposit locations as detailed within Table in Section 3 of the Consultation Report [TR010022/APP/5.1] and on the Applicant's website. Copies of the Newspaper adverts (Section 47 Notices) are included at Annex K of the Consultation Report Annexes [TR010022/APP/5.2]. Derby Evening Telegraph – Date Published – Thursday 6 September 2018 (page 45).
17	Does the SoCC set out whether the development is EIA development ¹⁰ ; and does it set out how the applicant intends to publicise and consult on the preliminary environmental information?	Yes. Refer to Paragraph 18 of the SOCC. The published SOCC is included at Annex F of the Consultation Report [TR010022/APP/5.2].
18	Has the applicant carried out the consultation in accordance with the SoCC?	Yes. Table 7 in Section 3 of the Consultation Report [TR010022/APP/5.1] demonstrates how the consultation was carried out in accordance with the SOCC.
s48: Duty to publicise the proposed application		
19	Did the applicant publicise the proposed application, under s48, in the prescribed manner set out in Regulation 4(2) of The Infrastructure Planning	Yes. Annex L of the Consultation Report [TR010022/APP/5.2] includes copies of the Section

	(Applications: Prescribed Forms and Procedure) Regulations 2009?	48 notices published in the relevant newspapers. Table 8 at Section 3 of the Consultation Report [TR010022/APP/5.1] sets out where the Section 48 notice was published for the statutory consultation.	
		Newspaper(s)	Date
	for at least two successive weeks in one or more local newspapers circulating in the vicinity in which the proposed development would be situated;	Refer to Table 8 in Section 3 of the Consultation Report [TR010022/APP/5.1]. Derby Evening Telegraph	6 September 2018 13 September 2018
	once in a national newspaper;	Refer to Table 8 in Section 3 of the Consultation Report [TR010022/APP/5.1]. The Guardian	5 September 2018
	once in the London Gazette and, if land in Scotland is	Refer to Table 8 in Section 3 of the Consultation Report [TR010022/APP/5.1]. The London Gazette	6 September 2018

¹⁰ Regulation 12 of the 2017 EIA Regulations, or Regulation 10 of the 2009 EIA Regulations (where Regulation 37 of the 2017 EIA Regulations applies).

	affected, the Edinburgh Gazette; and	Not applicable.			
	where the proposed application relates to offshore development – (i) once in Lloyds List; and (ii) once in an appropriate fishing trade journal?	Not applicable.			
20	Did the s48 notice include the required information set out in Regulation 4(3) of APFP Regulations?		The Section 48 Notice is contained within Annex L of the Consultation Report Appendices [TR010022/APP/5.2] and contains the required information as set out below:		
	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	5	d)	a summary of the main proposals, specifying the location or route of the proposed development	3
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	6 and 7	f)	the latest date on which those documents, plans and maps will be available for inspection	8
g)	whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge	7	h)	details of how to respond to the publicity	8

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	9	
21	Are there any observations in respect of the s48 notice provided above?		
	N/A		
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 ¹¹ ?	Yes. Section 48 notices were sent to the bodies in accordance with Regulation 13 of the EIA Regulations. Refer to Annex I of the Consultation Report Annexes [TR010022/APP/5.2] for copies of these letters and enclosures which includes copies of the S48 notice and confirmation in the letters that the notices were sent.	
s49: Duty to take account of responses to consultation and publicity			
23	Has the applicant had regard to any relevant responses to the s42, s47 and s48 consultation?	Yes. The Applicant has set out at section 3.2 and 4 of the Consultation Report [TR010022/APP/5.1] and Annex I of the Consultation Report Annexes [TR010022/APP/5.2] the actions taken with regard to the consultation responses received.	
Guidance about pre-application procedure			
24	To what extent has the applicant had regard to DCLG guidance 'The Planning Act 2008: Guidance on the pre-application process' ¹² ?	The extent to which the Applicant has had regard to the DCLG guidance 'The Planning Act 2008: Guidance on the pre-application process' is contained in Section 1.2 and Section 5 Table 12 of the Consultation Report [TR010022/APP/5.1].	
25	Summary - s55(3)(e)		
	s55(3)(f) and s55(5A) The application (including accompaniments) achieves a satisfactory standard having regard to the		

¹¹ Regulation 13 of the 2017 EIA Regulations, or Regulation 11 of the 2009 EIA Regulations (where Regulation 37 of the 2017 EIA Regulations applies).

¹² The Secretary of State must have regard to the extent to which the applicant has had regard to guidance issued under s50

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"> a brief statement which explains why it falls within the remit of the Secretary of State; and a brief statement that clearly identifies the location of the application site, or the route if it is a linear scheme? 		The application is made in the prescribed form and a statement as to why it falls within the remit of the Secretary of State is set out in Section 4 of the Application Form [TR010022/APP/1.3]. Section 6 of the Application Form [TR010022/APP/1.3] provides a brief statement that describes the location of the proposed route and a more detailed description is provided in Chapter 2: The Scheme of the Environmental Statement [TR010022/APP/6.1]. The location of the proposed Scheme is shown on the Location Plan [TR010022/APP/2.1].		
27	Is it accompanied by a consultation report?		Yes. The Consultation Report is included as [TR010022/APP/5.1] and the Consultation Report Appendices are included as [TR010022/APP/5.2].		
28	Where a plan comprises three or more separate sheets has a key plan been provided showing the relationship between the different sheets? ¹³		Yes.		
29	Is it accompanied by the documents and information set out in APFP Regulation 5(2)?		Yes. The documents and information required by APFP regulation 5(2) are set out in the documents and locations within the application as listed below:		
Information		Document	Information		Document
a)	Where applicable, the environmental statement required under the EIA Regulations ¹⁴ and any scoping or screening opinions or directions	Yes. The application is accompanied by an Environmental Statement [TR010022/APP/6.1]. Volume 6.1 is the main statement. The	b)	The draft proposed order	Yes. The application is accompanied by the Draft Development Consent Order [TR010022/APP/3.1] in the validated statutory instrument

		other relevant volumes are:			template.
	Is this of a satisfactory standard?	<p>Environmental Statement Figures [TR010022/APP/6.2]</p> <p>The Environmental Statement Appendices [TR010022/APP/6.3]</p> <p>The Environmental Statement Non-Technical Summary [TR010022/APP/6.4]</p> <p>The Scoping Opinion [TR010022/APP/6.5]</p>		Is this of a satisfactory standard?	

¹³ Regulation 5(4) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

¹⁴ The 2017 EIA Regulations, or the 2009 EIA Regulations (where Regulation 37 of the 2017 EIA Regulations applies)

c)	An explanatory memorandum explaining the purpose and effect of provisions in the draft order	Yes. The application is accompanied by the Explanatory Memorandum [TR010022/APP/3.2] to the Draft Development Consent Order [TR010022/APP/3.1].	d)	Where applicable, a book of reference (where the application involves any compulsory acquisition)	Yes. The application is accompanied by the Book of Reference [TR010022/APP/4.3].
	Is this of a satisfactory standard?			Is this of a satisfactory standard?	
e)	A copy of any flood risk assessment	Yes. The application is accompanied by a Flood Risk Assessment [TR010022/APP/7.1].	f)	A statement whether the proposal engages one or more of the matters set out in section 79(1) of the Environmental Protection Act 1990 (statutory nuisances) and if so how the applicant proposes to mitigate or limit them	Yes. A Statement of Statutory Nuisance is included within the Environmental Protection Information [TR010022/APP/6.11].
	Is this of a satisfactory standard?			Is this of a satisfactory standard?	
h)	A statement of reasons and a funding statement (where the application involves any compulsory acquisition)	Yes. The application is accompanied by a Statement of Reasons [TR010022/APP/4.1] and a Funding Statement [TR010022/APP/4.2].	i)	A land plan identifying:- (i) the land required for, or affected by, the proposed development; (ii) where applicable, any land over which it is proposed to exercise powers of compulsory acquisition or any rights to use land; (iii) any land in relation to which it is proposed to extinguish easements, servitudes and other private rights; and (iv) any special category land and replacement land	Yes. The application is accompanied by Land Plans [TR010022/APP/2.2].

	Is this of a satisfactory standard?		Is this of a satisfactory standard?	
j)	A works plan showing, in relation to existing features:-	Yes. The application is accompanied by Works Plans [TR010022/APP/2.5].	k)	Where applicable, a plan identifying any new or altered means of access, stopping up of streets or
	(i) the proposed location or (for a linear scheme) the proposed route and alignment of the development and works; and (ii) the limits within which the development and works may be carried out and any limits of deviation provided for in the draft order			roads or any diversions, extinguishments or creation of rights of way or public rights of navigation
	Is this of a satisfactory standard?			Is this of a satisfactory standard?
l)	Where applicable, a plan with accompanying information identifying:- (i) any statutory/non-statutory sites or features of nature conservation eg sites of geological/ landscape importance; (ii) habitats of protected species, important habitats or other diversity features; and (iii) water bodies in a river basin management plan,	Yes. The information is included in the Environmental Statement Figures [TR010022/APP/6.2]: (i) Statutory and non-statutory nature conservation sites plans (Environmental Statement Chapter 8:		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
				Figures 6.1 – 6.6 Location of Designated Heritage Assets and Location of Non-designated Heritage Assets are found in the Environmental Statement Figures [TR010022/APP/6.2] and Chapter 7: Cultural Heritage in the Environmental Statement

	together with an assessment of any effects on such sites, features, habitats or bodies likely to be caused by the proposed development	<p>Biodiversity): Figures 8.3, 8.4, 8.5.</p> <p>(ii) Statutory and non-statutory historic sites plans (Environmental Statement Chapter 6: Cultural Heritage): Figures 6.1 to 6.6.</p> <p>(iii) River Basin Management plan with water features (Environmental Statement Chapter 13 Road Drainage and the Water Environment): Figure 13.4.</p>			[TR010022/APP/6.1].
	Is this of a satisfactory standard?			Is this of a satisfactory standard?	
n)	Where applicable, a plan with any accompanying information identifying any Crown land	<p>Yes.</p> <p>The application is accompanied by Crown Land Plans [TR010022/APP/2.4].</p>	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	<p>Yes.</p> <p>The following plans and drawings are provided under Regulation 5(2)(o) of the APFP</p>

				vehicular and pedestrian access, any car parking and landscaping	<p>Regulations 2009 (as amended):</p> <p>Location Plan [TR010022/APP/2.1].</p> <p>General Arrangement Plans [TR010022/APP/2.6].</p> <p>Streets Rights of Way and Access Plans [TR010022/APP/2.7].</p> <p>Traffic Regulation Measures Plans [TR010022/APP/2.8].</p> <p>Classification of Roads Plans [TR010022/APP/2.9].</p> <p>Engineering Drawings and Sections [TR010022/APP/2.10].</p>
	Is this of a satisfactory standard?			Are they of a satisfactory standard?	
p)	Any of the documents prescribed by	Yes.	q)	Any other documents considered necessary to	Yes.

	Regulation 6 of the APFP Regulations:	<p>The proposed development is Highway-related development. The application is therefore required to be accompanied by section drawings showing the information set out under Regulation 6(2) of the APFP Regulations. This information is provided in the Engineering Drawings and Sections [TR010022/APP/2.10]</p> <p>Drainage outfalls are also show in the Outline Drainage Document [TR010022/APP/2.11]</p> <p>.</p>	support the application.	<p>Volume 1, 3, 6 and 7 of the DCO Application comprises other documents considered necessary to support the application, as listed in section 23 of the Application Form [TR010022/APP/1.3].</p> <p>These documents are:</p> <p>Introduction to the Application [TR010022/APP/1.3].</p> <p>Consents and Agreements Position Statement [TR010022/APP/3.3]</p> <p>Equalities Impact Assessment [TR010022/APP/6.8].</p> <p>Outline Environmental Management Plan [TR010022/APP/6.12].</p> <p>The Planning Statement [TR010022/APP/7.2].</p> <p>Transport Assessment Report [TR010022/APP/7.3].</p> <p>Traffic Management Plan</p>
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					[TR010022/APP/7.4].
	Are they of a satisfactory standard?			Are they of a satisfactory standard?	
30	Are there any observations in respect of the documents provided above?				
31	<p>Is the application accompanied by a report identifying any European site(s) to which regulation 48 of the Conservation (Natural Habitats, &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)?¹⁵</p> <p>Yes. Refer to The Habitats Regulations Assessment - No Significant Effects Report [TR010022/APP/6.10].</p>				

¹⁵ Regulation 5(2)(g) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

32	If requested by the Secretary of State, two paper copies of the application form and other supporting documents and plans ¹⁶	It has been agreed with the Inspectorate that the application will be submitted in electronic form. Accordingly, no hard copies of the application submission will be provided.
33	Has the applicant had regard to DCLG guidance 'Planning Act 2008: Application form guidance', and has this regard led to the application being prepared to a standard that the Secretary of State considers satisfactory?	The DCLG guidance 'Planning Act 2008: Application form guidance' has been used to prepare the application form [TR010022/APP/1.3]. The Applicant believes that the application has been prepared to the standards that the Secretary of State considers satisfactory.
34	Summary - s55(3)(f) and s55(5A)	
The Infrastructure Planning (Fees) Regulations 2010 (SI106)		
Fees to accompany an application		
35	Was the fee paid at the same time that the application was made ¹⁷ ?	The application fee was paid on the 10 April 2019, the application was submitted on the 23 April 2019.

Electronic Signature	Name	Date
Case Leader		
Acceptance Inspector		

¹⁶ Regulation 5(2)(r) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

¹⁷ 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 must be paid at the same time that the application is made.