

The Planning Act 2008

Section 55 Acceptance of Applications*

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

- (1) The following provisions of this section apply where the Secretary of State receives an application that purports to be an application for an order granting development consent.

- (2) The Secretary of State must, by the end of the period of 28 days beginning with the day after the day on which the Secretary of State receives the application, decide whether or not to accept the application.

- (3) The Secretary of State may accept the application only if the Secretary of State concludes -
 - (a) that it is an application for an order granting development consent,
 - (b) deleted
 - (c) that development consent is required for any of the development to which the application relates,
 - (d) deleted
 - (e) that the applicant has, in relation to a proposed application that has become the application, complied with Chapter 2 of Part 5 (pre-application procedure), and
 - (f) that the application (including accompaniments) is of a standard that the Secretary of State considers satisfactory.

- (4) The Secretary of State, when deciding whether the Secretary of State may reach the conclusion in subsection (3)(e), must have regard to -
 - (a) the consultation report received under section 37(3)(c),
 - (b) any adequacy of consultation representation received by the Secretary of State from a local authority consultee, and
 - (c) the extent to which the applicant has had regard to any guidance issued under section 50.

- (5) In subsection (4) -

“local authority consultee” means -

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

“adequacy of consultation representation” means a representation about whether the applicant complied, in relation to that proposed application, with the applicant’s duties under sections 42, 47 and 48.

(5A) The Secretary of State when deciding whether the Secretary of State may reach the conclusion in subsection (3)(f) must have regard to the extent to which –

- a) the application complies with the requirements in section 37(3) (form and contents of application) and any standards set under section 37(5) and
- b) any applicable guidance given under section 37(4) has been followed in relation to the application.

(6) If the Secretary of State accepts the application, the Secretary of State must notify the applicant of the acceptance.

(7) If the Secretary of State is of the view that the application cannot be accepted, the Secretary of State must -

- (a) notify that view to the applicant, and
- (b) notify the applicant of the Secretary of State’s reasons for that view.

(8) If in response the applicant modifies (or further modifies) the application, subsections (2) to (7) then apply in relation to the application as modified.

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

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

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

Section 55 Acceptance of Applications

York Potash Harbour Facility Section 55 Application Checklist¹

Section 55(2) Acceptance of Applications			
Within 28 days (starting day after receipt) the Secretary of State must decide whether or not to accept the application.	Date received	28 day due date	Date of decision
	27 March 2015	24 April 2015	21 April 2015
Section 55(3) – the Secretary of State may <u>only</u> accept an application if the Secretary of State concludes that:-		Planning Inspectorate Comments	
1. s55(3)(a) and s55(3)(c) It is an application for an order granting development consent			
1.1 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 (i.e. which category or categories in ss14-30 does the application scheme fall)? If the development does not fall within the categories in 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?	<p>Yes.</p> <p>Box 4 of the Application Form (Doc 1.1) reads:</p> <p>“The application is for a Development Consent Order [...] to construct a nationally significant infrastructure project [...] being a harbour facility which meets the criteria in section 24.”</p> <p>The facility is described in Chapter 3 of the ES (Doc 6.6) as being a facility for neither container nor ro-ro ships, with a capacity of 13 million tonnes per annum, in England. The criteria in section 24 of the Act are that such a facility must have a capacity of 5 million tonnes per annum (s24(3)(c)).</p> <p>The development is therefore a nationally significant infrastructure project.</p>		
Summary – s55(3)(a) and s55(3)(c)	The proposed development by virtue of its nature, scale and location is one for		

¹ References in this document to the Secretary of State include references (where applicable) to the Planning Inspectorate Major Applications and Plans 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)

which a Development Consent Order is required.

2. s55(3)(e) The applicant in relation to the application made has complied with Chapter 2 of Part 5 (pre-application procedure)

2.1 Did the applicant before carrying out the s42 consultation 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 development⁴?

Yes

The applicant provided a Regulation 6(1)(b) notice under The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended), to the Planning Inspectorate dated 29 November 2013.

This notice, received by the Planning Inspectorate on 2 December 2013, stated that the applicant proposed to provide an environmental statement in respect of the proposed development. A copy of this notice is not provided as part of the application documents.

This was before 11 September 2014, which was the date upon which section 42 consultation commenced.

2.2 Have any adequacy of consultation representations⁵ 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?

Yes.

The letter inviting local authorities requesting adequacy of consultation representations was issued on 27 March 2015.

The adequacy of consultation responses were received from the following local authorities which raised no concerns as to whether the applicant has complied with their duty to consult in accordance with legislation:

‘B’ Local Authorities:

- Stockton on Tees Borough Council
- Redcar and Cleveland Borough Council

‘A’ Local Authorities:

- Darlington Borough Council

⁴ Regulation 6 of the The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

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

	<ul style="list-style-type: none"> • Durham County Council • Hambleton District Council • Middlesbrough Council • North York Moors National Park Authority • North Yorkshire County Council <p>No response was received from the following 'A' local authorities:</p> <ul style="list-style-type: none"> • Hartlepool Borough Council • Scarborough Borough Council <p>There are no 'C' or 'D' local authorities for this application.</p>
<p>s42: Duty to Consult</p>	
<p>2.3 Did the applicant consult the following about the proposed application:</p>	
<p>s42(1)(a) persons prescribed⁶?</p>	<p>Yes.</p> <p>Section 6 of the Consultation Report (Doc 6.1) refers to the applicant's statutory consultation carried out under section 42.</p> <p>Appendix 11 of the Consultation Report (Doc 6.1) lists all persons consulted by the applicant for the purposes of section 42(1)(a) consultation.</p> <p>On the basis of the information provided by the applicant, it appears that the following consultees identified by the Planning Inspectorate as potentially prescribed by section 42(1)(a) have been omitted from the applicant's consultation, these are:</p> <ul style="list-style-type: none"> • Scotland Gas Networks Plc. • Southern Gas Networks Plc.

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

	<p>It is not clear from information held in the public domain, which public gas transporters hold licences in the vicinity of the project. Therefore, on a precautionary basis, the Planning Inspectorate has put together a comprehensive list of gas transporter undertakers that hold licences covering England and Wales.</p> <p>The Planning Inspectorate does not consider these omissions have compromised the applicant's duties under section 42, but draws the applicant's attention to those undertakers that do not appear to have been consulted.</p>
s42(1)(aa) the Marine Management Organisation ⁷ ?	<p>Yes.</p> <p>Appendix 11 of the Consultation Report (Doc 6.1) lists all persons as prescribed under section 42(1)(a) and consulted by the applicant for the purposes of section 42, including the Marine Management Organisation.</p>
s42(1)(b) each local authority within s43 ⁸ ?	<p>Yes.</p> <p>Paragraph 6.22 of the Consultation Report (Doc 6.1) refers to section 42 consultation carried out with each local authority defined under section 43 of the Act. The same paragraph explains that statutory consultation with local authorities launched on 11 September 2014 and ended on 16 October 2014. It lists local authorities consulted by the applicant for that purpose, these are:</p> <p>'B' Local Authorities:</p> <ul style="list-style-type: none"> • Stockton on Tees Borough Council • Redcar and Cleveland Borough Council <p>'A' Local Authorities:</p>

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 authority shares a boundary with a "C" authority

	<ul style="list-style-type: none"> • Hartlepool Borough Council • Durham County Council • Darlington Borough Council • Hambleton District Council • North Yorkshire County Council • Scarborough Borough Council • Middlesbrough Council <p>Paragraph 6.23 of the Consultation Report (Doc 6.1) states that there are no category “C” or “D” local authorities for the project.</p> <p>Appendix 11 of the Consultation Report (Doc 6.1) also lists the above bodies as identified under section 42(1)(a) and consulted by the applicant for the purposes of section 42 consultation.</p>
s42(1)(c) the Greater London Authority (if in Greater London area)?	Not applicable.
s42(1)(d) each person in one or more of s44 categories ⁹ ?	<p>Yes.</p> <p>Paragraph 6.24 of the Consultation Report (Doc 6.1) refers to consultation carried out in accordance with sections 42(1)(d) and 44 of the Act. The same paragraph states that the letter with the summary of proposals document was sent out on 11 September 2014 inviting comments by 16 October 2014.</p> <p>Appendix 11 of the Consultation Report (Doc 6.1) provides lists the persons as identified under section 42(1)(d) and consulted by the applicant for the purposes of section 42.</p>
s45: Timetable for s42 Consultation	

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

<p>2.4 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>Yes.</p> <p>Paragraph 6.11 of the Consultation Report (Doc 6.1) states that statutory consultation was launched on 11 September and ended on 16 October 2014.</p> <p>Appendix 12 of the Consultation Report (6.1) provides a copy of the letter sent out to section 42 consultees dated 11 September 2014.</p>
<p>s46: Duty to notify Secretary of State of proposed application</p>	
<p>2.5 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>	<p>Yes.</p> <p>Paragraph 6.25 of the Consultation Report (Doc 6.1) explains that a section 46 notification letter was sent out to the Planning Inspectorate on 11 September 2014. Appendix 16 of the Consultation Report (6.1) provides a copy of the letter provided to the Planning Inspectorate. The letter is dated 11 September 2014.</p> <p>Section 42 consultation therefore commenced on the day of receipt of section 46 notification by the Planning Inspectorate.</p>
<p>s47: Duty to consult local community</p>	
<p>2.6 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>	<p>Yes.</p> <p>A copy of the SOCC is supplied in Appendix 17 of the Consultation Report (Doc 6.1).</p>
<p>2.7 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>	<p>Yes.</p> <p>Paragraph 6.31 of the Consultation Report (Doc 6.1) confirms that the applicant consulted the host local authorities on the Draft SOCC on 19 May 2014, and provided 28 days for receipt of responses. Copies of that letter are not supplied.</p> <p>However, Appendix 18 of the Consultation Report (Doc 6.1) supplies a letter from Stockton on Tees Borough Council (‘BC’) dated 10 June 2014 and a letter from Redcar and Cleveland BC Borough Council dated 3 June 2014 acknowledging receipt of the draft SOCC; and letters of 10 September 2014</p>

	<p>from Redcar and Cleveland BC and 3 September 2014 from Stockton on Tees BC confirming that the councils consider the proposed SOCC to be acceptable with minor amendments.</p> <p>For example, the letter from Stockton on Tees BC is caveated by a request to include a local MP amongst identified political stakeholders. The name of the MP, Alex Cunningham, appears in Table 5.1 of the final SOCC supplied within Appendix 17 of the Consultation Report (Doc 6.1).</p>
2.8 Has the applicant had regard to any responses received when preparing the SOCC?	<p>Yes.</p> <p>Paragraph 6.31 of the Consultation Report (Doc 6.1) asserts that the applicant made changes to the SOCC in response to submissions received from local authorities.</p> <p>Appendix 18 of the Consultation Report (Doc 6.1) provides submissions and contains comments from local authorities. It is not clearly set out what regard has been had to them or whether or not these comprise all the submissions received.</p> <p>The Planning Inspectorate notes that both local authorities have confirmed that they are content with the final form of the SOCC, as described in box 2.7 above.</p>
2.9 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>Yes.</p> <p>Paragraph 6.32 of the Consultation Report (Doc 6.1) describes when and where the notices were published in newspapers. The copy of the notice is supplied in Appendix 18 of the Consultation Report (Doc 6.1).</p> <p>The locations where the SOCC was made available for inspection appear to be reasonably convenient for people living in the vicinity of the land.</p>
2.10 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	<p>Yes.</p> <p>The SOCC supplied in Appendix 17 of the Consultation Report (Doc 6.1)</p>

¹⁰ Regulation 10 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

information?	sets out at paragraph 2.11 that the scheme is EIA development, and describes the Preliminary Environmental Information ('PEI') that formed part of the consultation material. The SOCC sets out at Table 5.1 how the consultation material was publicised and consulted upon.
2.11 Has the applicant carried out the consultation in accordance with the SOCC?	Yes. Chapter 6(ii) of the Consultation Report (Doc 6.1) sets out consultation activities completed in accordance with the SOCC, which appear to confirm to the deliverables set out in Table 5.1 of the SOCC supplied in Appendix 17 of the Consultation Report (Doc 6.1) .
s48: Duty to publicise the proposed application	
2.12 Did the applicant publish a notice, as required by Regulation 4(2) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations):	
(a) for at least two successive weeks in one or more local newspapers circulating in the vicinity in which the proposed development would be situated;	Yes. Paragraphs 6.50 to 6.53 of the Consultation Report (Doc 6.1) refer to section 48. Paragraph 6.50 of the Consultation Report (Doc 6.1) explains that the applicant published the proposed DCO application through national and local press for two successive weeks and invited comments from the wider public on its proposals. Table 6.6 of the Consultation Report (Doc 6.1) provides a log of when and in which local and national newspapers s48 notices were placed, these are: <ul style="list-style-type: none"> • Northern Echo - Thursday 11 and 19 September 2014 • Evening Gazette (Teesside) – as 11 and 18 September 2014 All above listed are regional daily newspapers. The Newspaper Notices Report (Doc 1.3) provides copies of section 48 notices placed in the newspapers showing the date of publication.

<p>(b) once in a national newspaper;</p>	<p>Yes.</p> <p>Table 6.6 of the Consultation Report (6.1) provides a log of when and in which local and national newspapers s48 notices were placed, this is:</p> <ul style="list-style-type: none"> • The Independent (National Daily) - Thursday, 11 September 2014 <p>The Newspaper Notices Report (Doc 1.3) provides dated copies of section 48 notices placed in the newspapers.</p>
<p>(c) once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and</p>	<p>Yes.</p> <p>Table 6.6 of the Consultation Report (Doc 6.1) provides a log of when and in which local and national newspapers s48 notices were placed, this is:</p> <ul style="list-style-type: none"> • The London Gazette (National) – Thursday, 11 September 2014 <p>Although it is not included in the Newspaper Notices Report, Appendix 27 of the Consultation Report (Doc 6.1) provides a copy of the section 48 notice placed in the London Gazette on 11 September 2014.</p>
<p>(d) 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>	<p>No.</p> <p>The application has potential offshore impacts, including those discussed in paragraphs 7.27 to 7.43 of the Planning Statement (Doc 7.1).</p> <p>The applicant’s view expressed in the Issues and Document Tracker (Doc 1.6) that the scheme is not offshore development is noted. The view of the Planning Inspectorate is that the scheme could reasonably be described as offshore development and that these advertisements should have been posted.</p> <p>However, the duty upon the applicant to publicise the acceptance of the application in section 56(7) provides an opportunity to publish corresponding notices, giving those who may wish to participate in the examination the opportunity to do so.</p>
<p>2.13 Did the notice include, as required by Regulation 4(3) of APFP Regulations:</p>	

(a) the name and address of the applicant;	Yes. All notices include the name and address of the applicant.
(b) a statement that the applicant intends to make an application for development consent to the Secretary of State;	Yes. All notices include a statement that the applicant intends to make an application for development consent to the Secretary of State.
(c) a statement as to whether the application is EIA development;	Yes. All notices state that the application is EIA development.
(d) a summary of the main proposals, specifying the location or route of the proposed development;	Yes. All notices provide a summary of the main proposals, specifying the location or route of the proposed development.
(e) a statement that the documents, plans and maps showing the nature and location of the proposed development are available for inspection free of charge at the places (including at least one address in the vicinity of the proposed development) and times set out in the notice;	Yes. All notices provide a statement that the documents, plans and maps showing the nature and location of the proposed development are available for inspection free of charge and list the places and times for inspection. These included at least one address in the vicinity of the proposed development and times set out in the notice, for example: <ul style="list-style-type: none"> • Redcar and Cleveland Borough Council offices, Kirkleatham Street, Redcar, TS10 1RT (Mon-Fri, 9:00 to 17:00).
(f) the latest date on which those documents, plans and maps will be available for inspection (being a date not earlier than the deadline in sub-paragraph (i));	Yes. All notices state that the documents are available for inspection until 16 October 2014.
(g) whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge;	Yes. All notices provide information on whether a charge will be made for copies of any of the documents stating:

	<ul style="list-style-type: none"> • Hard copy application documents at cost of £600, and • CD free of charge.
(h) details of how to respond to the publicity; and	<p>Yes.</p> <p>All notices provide postal and electronic contact details of how to respond.</p>
(i) a deadline for receipt of those responses by the applicant, being not less than 28 days following the date when the notice is last published?	<p>Yes.</p> <p>All notices state that responses must be received by the applicant by 16 October 2014.</p>
2.14 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 Regulation 9(1)(c) of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (the EIA Regulations) ¹¹ ?	<p>Yes.</p> <p>Appendix 12 of the Consultation Report (Doc 1.3) provides a copy of the letter dated 11 September 2014 sent to section 42 consultees, which includes EIA consultation bodies. The letter states in the final paragraph of the first page that it covers a copy of the section 48 notice.</p> <p>The Planning Inspectorate had not notified anybody under regulation 9(1)(c) to the applicant.</p>
s49: Duty to take account of responses to consultation and publicity	
2.15 Has the applicant had regard to any relevant responses to the s42, s47 and s48 consultation?	<p>Yes.</p> <p>The applicant has supplied a schedule of summaries of responses to the section 42 consultation and section 48 notification in Appendix 28 of the Consultation Report (Doc 6.1), including a schedule setting out the regard had to (and actions taken as a consequence of) those submissions.</p> <p>The applicant has also supplied a schedule of summaries of responses to the section 47 consultation in Appendix 29 of the Consultation Report (Doc 6.1), including a schedule setting out the regard had to (and actions taken as</p>

¹¹ Regulation 11 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009

	a consequence of) those submissions, for example, the relocation of the construction compound and the introduction into the proposal of ecological enhancement works in Bran Sands Lagoon.
Guidance about pre-application procedure	
2.16 To what extent has the applicant had regard to DCLG guidance 'The Planning Act 2008: Guidance on the pre-application process' ¹² ?	Yes. The applicant has addressed the DCLG guidance in the Consultation Report (Doc 6.1) , and expressly in paragraph 7.2 . The approach taken to consultation appears to be in general conformity with the guidance.
Summary - s55(3)(e)	The application is properly made as an NSIP as the development proposed is for a port to handle up to 13 m tonnes of bulk cargo pa situated within England in accordance with s24(3)(c) of the PA2008. The statutory requirements and guidance concerning pre-application publicity and procedures have generally been complied with. However, the Planning Inspectorate has noted the possibility of a specific omission in respect of pre-application publicity and has issued s51 advice to the applicant in this regard. It is the Planning Inspectorate's view that notwithstanding the s51 advice issued, the applicant's pre-application consultation duties have been met.
3. 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)	
3.1 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 	Yes. The application is made on the prescribed Application Form (Doc 1.1) . The application states at Box 4 that it is an application for development consent under the 2008 Act. The location of the application is described in Box 6 , both with a brief

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

<ul style="list-style-type: none"> a brief statement that clearly identifies the location of the application site, or the route if it is a linear scheme? 	<p>statement and by way of a grid reference.</p>
<p>3.2 Is it accompanied by a consultation report?</p>	<p>Yes</p> <p>The application is accompanied by a Consultation Report (Doc 6.1)</p>
<p>3.3 Is it accompanied by the documents and information set out in APFP Regulation 5(2) and listed below:</p>	
<p>(a) where applicable, the environmental statement required under the EIA Regulations and any scoping or screening opinions or directions;</p>	<p>Yes</p> <p>The Environmental Statement (ES) is provided in the following volumes:</p> <ul style="list-style-type: none"> The ES (Doc 6.4) The ES Appendices (Doc 6.5) Cumulative Impact Assessment (Doc 6.6) The Non-Technical Summary (Doc 6.7) <p>The ES has been identified in so much as it meets the minimum requirements set out in Schedule 4 Part 2 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (as amended) (the EIA Regulations) regarding the information for inclusion in an ES. It will not preclude the ExA from seeking further explanation during the course of the examination.</p> <p>The applicant did not request a screening opinion from the Secretary of State.</p> <p>A copy of the scoping opinion issued by the Secretary of State in January 2014 is provided in Appendix 4.2 of the ES (Doc 6.5).</p>
<p>(b) the draft proposed order;</p>	<p>Yes.</p> <p>The application is accompanied by a Draft Development Consent Order (Doc 4.1).</p>
<p>(c) an explanatory memorandum explaining the purpose and effect of provisions in the draft order;</p>	<p>Yes.</p> <p>The application is accompanied by an Explanatory Memorandum (Doc 4.2).</p>

<p>(d) where applicable, a book of reference (where the application involves any compulsory acquisition);</p>	<p>Yes. The application is accompanied by a Book of Reference (Doc 5.3).</p>
<p>(e) a copy of any flood risk assessment;</p>	<p>Yes. A Flood Risk Assessment has been provided in Appendix 17.1 of the ES (Doc 6.5).</p>
<p>(f) a statement whether the proposal engages one or more of the matters set out in section 79(1) of the Environmental Protection Act 1990 (statutory nuisances) and if so how the applicant proposes to mitigate or limit them;</p>	<p>Yes. A 'Section 79(1) of Environmental Protection Act 1990 Statement (Re Statutory Nuisance)' has been provided (Doc 6.2).</p>
<p>(g) any report identifying any European site(s) to which regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994¹³ 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);</p>	<p>Yes. A Habitat Regulations Assessment ('HRA') Report has been provided (Doc 6.3). The applicant's 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. 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>
<p>(h) a statement of reasons and a funding statement (where the application involves any compulsory acquisition);</p>	<p>Yes. The application is accompanied by a Statement of Reasons (Doc 5.1) and a Funding Statement (Doc 5.2). Having regard to applicable guidance, and particularly "<i>Planning Act 2008: guidance related to procedures for the compulsory acquisition of land</i>", these</p>

¹³ Now Regulation 61 of the Conservation of Habitats and Species Regulations 2010 SI2010/490.

	<p>documents are of a standard that can be considered satisfactory to be examined.</p> <p>This should not be taken to imply that the Examining Authority may not ask questions during the examination on this matter.</p>
<p>(i) a land plan identifying:-</p> <p>(i) the land required for, or affected by, the proposed development;</p> <p>(ii) where applicable, any land over which it is proposed to exercise powers of compulsory acquisition or any rights to use land;</p> <p>(iii) any land in relation to which it is proposed to extinguish easements, servitudes and other private rights; and</p> <p>(iv) any special category land and replacement land;</p>	<p>Yes.</p> <p>(i) A Land Plan is provided showing the land required for, or affected by, the proposed development. The Land Plan (Doc 2.1) comprises:</p> <ul style="list-style-type: none"> • Land Plan Key Plan (Doc 2.1); • Land Plan Sheets 1-3 (Docs 2.1.A, 2.1.B, and 2.1.C) containing • Land Plan (insets 1-11) (Docs 2.1D - 2.1N). <p>(ii) The Land Plans all contain a key showing: Land required for or affected by, the authorised development (the Order Limits) outlined in red.</p> <p>(iii) Order Land – New rights to be created and in relation to which it is proposed to suspend and/or interfere with easements and/or other private rights and to extinguish any unknown easements and/or other private rights insofar as those easements and/or other private rights are inconsistent with the authorised development, is shown in blue.</p> <p>Order Land - Temporary use of land and in relation to which it is proposed to temporarily suspend and/or interfere with easements and/or other private rights insofar as those easements and/or other private rights are inconsistent with the authorised development is shown in yellow;</p> <p>(iv) Land containing Crown Interests is shown in blue, cross hatched with pink.</p> <p>All the Land Plans refer to Regulation 5(2)(i) and 5(2)(n)</p> <p>All the plots are consistent with their geographical descriptions in the Book of Reference (Doc 5.3) Part 1</p>

<p>(j) a works plan showing, in relation to existing features:-</p> <p>(i) the proposed location or (for a linear scheme) the proposed route and alignment of the development and works; and</p> <p>(ii) the limits within which the development and works may be carried out and any limits of deviation provided for in the draft order;</p>	<p>Yes.</p> <p>(j) A Works Plan (Doc 2.2) is provided and comprises:</p> <ul style="list-style-type: none"> • Works Plan Key Plan (Doc 2.2) • Works Plan Sheets 1-3 (Docs 2.2A – 2.2F) <p>(i) and (ii) All the Works Plans have a key clearly showing the order limits in red, and the Works as specified in the Draft Development Consent Order (Doc 4.1), Schedule 1, Works nos 1-12</p> <p>All the Works Plans refer to Regulation 5(2)(j)</p>
<p>(k) where applicable, a plan identifying any new or altered means of access, stopping up of streets or roads or any diversions, extinguishments or creation of rights of way or public rights of navigation;</p>	<p>Yes.</p> <p>(k) An Access and Rights of Way Plan (Doc 2.3) is provided and comprises:</p> <ul style="list-style-type: none"> • Access and Rights of Way Key Plan (Doc 2.3) • Access and Rights of Way Plan Sheets 1-3 (Docs 2.3A, 2.3B, 2.3C). <p>All the Access and Rights of Way Plans refer to Regulation 5(2)(k).</p>
<p>(l) where applicable, a plan with accompanying information identifying:-</p> <p>(i) any statutory/non-statutory sites or features of nature conservation e.g. sites of geological/ landscape importance;</p> <p>(ii) habitats of protected species, important habitats or other diversity features; and</p> <p>(iii) water bodies in a river basin management plan, together with an assessment of any effects on such sites, features, habitats or bodies likely to be caused by the proposed development;</p>	<p>Yes.</p> <p>(i) Sites or features of nature conservation are shown in Figure 8.8 in the Environmental Statement (Doc 6.4) which identifies the location of:</p> <ul style="list-style-type: none"> • Local Wildlife Sites • National Nature Reserves • Special Protection Areas; and • Sites of Special Scientific Interest. <p>Drawing Number 2327.CLVIA02 in Appendix 22.1 of the Cumulative Impact Assessment (Doc 6.6) identifies landscape designations including:</p> <ul style="list-style-type: none"> • National Parks,

	<ul style="list-style-type: none"> • Heritage Coasts; and • Registered Parks and Gardens. <p>An assessment of the impacts on features of landscape importance is provided in Chapter 20 (Landscape and Visual) of the ES (Doc 6.4) and in the Cumulative Impact Assessment (Doc 6.6).</p> <p>(ii) Habitats of protected species, important habitats or other diversity features within the draft DCO boundary are identified in Figure 10.3 in the ES (Doc 6.4). Maps 4-17 in the Extended Phase 1 Survey (ES, Appendix 10.2 (Doc 6.5)) identify habitats and other diversity features for the immediate surrounding area around the draft DCO boundary.</p> <p>An assessment of the impacts on nature conservation is provided in the following Chapters of the ES (Doc 6.4):</p> <ul style="list-style-type: none"> • Chapter 8: Marine Ecology, • Chapter 9: Marine and Coastal Ornithology; and • Chapter 10: Terrestrial Ecology. <p>And in the Cumulative Impact Assessment of the ES (Doc 6.6).</p> <p>(iii) Water bodies are identified on Figure 6.1 of the ES (Doc 6.4). An assessment of impacts on water features is provided in the Flood Risk Assessment (Appendix 17.1 of the ES (Doc 6.5)) and in the following Chapters of the ES (Doc 6.4):</p> <ul style="list-style-type: none"> • Chapter 6: Hydrology, hydrogeology and land quality; and • Chapter 17: Coastal Protection and Flood Defence.
<p>(m) where applicable, a plan with accompanying information identifying any statutory/non-statutory sites or features of the historic environment, (e.g. scheduled monuments, World Heritage sites, listed buildings, archaeological sites and registered battlefields) together with an assessment of any effects on such sites, features or structures likely to be caused by</p>	<p>Yes.</p> <p>Figures 15.1 and 15.2 in the ES (Doc 6.4) identify the location of heritage assets including listed buildings and conservation areas.</p> <p>An assessment of the impacts on the historic environment is provided in Chapter 15 (Archaeology and Heritage) of the ES (Doc 6.4) and supporting</p>

the proposed development;	appendices (Appendices 15.1, 15.2, 15.3 and 15.4) (Doc 6.5).
(n) where applicable, a plan with any accompanying information identifying any Crown land;	<p>Yes.</p> <p>(n) The Land Plan (Doc 2.1) shows Land containing Crown Interests in blue, cross hatched.</p> <p>The Land Plan refers to Regulation 5(2)(i) and 5(2)(n).</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 vehicular and pedestrian access, any car parking and landscaping;	<p>Yes.</p> <p>(o) The following plans, drawings and sections are provided:</p> <ul style="list-style-type: none"> • Location Plan (Doc 3.1) • Layout Plans (Ground Level) Northern Route - Key Plan (Doc 3.2A) • Layout Plans (Ground Level) Northern Route Sheets 1 -5 (Doc 3.2B – 3.2F) • Layout Plans (Ground Level) Southern Route - Key Plan (Doc 3.2G) • Layout Plans (Ground Level) Southern Route Sheets 1-5 (Doc 3.2H - 3.2L) • Conveyor Route Southern Route - Key Plan (Doc 3.3A) • Conveyor Route Plans Southern Route - Sheets 1 -6 (Doc 3.3B -3.3G) • Conveyor Route Plans Northern Route - Key Plan (Doc 3.3H) • Conveyor Route Plans Northern Route - Sheets 1 -7 (Doc 3.3I-3.3O) • Location of Temporary Compounds (Sheet 1 of 2) (Doc 3.4A) • Location of Temporary Compounds (Sheet 2 of 2) (Doc 3.4B) • Temporary Compound Site A,B,D,E,F (Doc 3.4C -3.4G) • Permanent Compound Site A (Doc 3.5A) • Permanent Compound Site C (Doc 3.5B) • Permanent Building Elevations Site C (Doc 3.6A)

- Substation Elevations Sites A and C (3.6B)
- MHF Overall Site Layout. (Doc 3.7)
- Indicative Layout - Solid Quay Construction - Northern Route (Doc 3.8A)
- Indicative Layout - Solid Quay Construction - Southern Route (Doc 3.8B)
- Indicative Section Solid Quay Construction (Doc 3.8C)
- Indicative Elevation Solid Quay Construction (Doc 3.8D)
- Indicative Layout - Open Quay Northern Route (Doc 3.9A)
- Indicative Layout - Open Quay Construction - Southern Route (Doc 3.9B)
- Indicative Section Open Quay Construction (Doc 3.9C)
- Indicative Elevation Open Quay Construction (Doc 3.9D)
- Conveyor Typologies (Doc 3.10)
- Southern Option - Conveyor Vertical Limits of Deviation Plans Long Section (Doc 3.11A)
- Northern Option - Conveyor Vertical Limits of Deviation Plans Long Section (Doc 3.11B)
- Conveyor Cross Sections Location Plan – Northern Route (Doc 3.12A)
- Conveyor Cross Sections Northern Route Sheet 2 (Doc 3.12C)
- Conveyor Cross Sections Location Plan - Southern Route (Doc 3.12D)
- Conveyor Cross Sections Southern Route Sheet 1(Doc 3.12E)
- Conveyor Cross Sections Southern Route Sheet 2 (Doc 3.12F)
- Ease of Reference A3 Plans Bundle(Doc 3.13)
- Harbour Construction Route Access (Doc 3.14)

	All the above documents refer to Regulation 5(2)(o).
(p) any of the documents prescribed by Regulation 6 of the APFP Regulations ¹⁴ ;	Yes. In accordance with Regulation 6 (3) (Construction or Alteration of Harbour Facilities) a Planning Statement (Doc 7.1) is provided.
(q) any other documents considered necessary to support the application; and	No other documents have been identified by the applicant as necessary to support the application.
(r) if requested by the Secretary of State, three paper copies of the application form and other supporting documents and plans.	Yes. Two paper copies of the application were requested and have been supplied by the applicant.
3.4 Are the plans, drawings or sections submitted A0 size or smaller, drawn to an identified scale (not smaller than 1:2500) and, in the case of plans, show the direction of north ¹⁵ ? NB:- It is not intended that information provided in other documents, such as any Environmental Statement submitted, should be duplicated. It is possible therefore to cross refer to the location of relevant information – see DCLG Guidance on application forms paragraphs 33 – 38.	Yes. All Plans and sections listed in sections 3.3 (i),(j),(k),(n), and (o) are provided at A0 size or smaller, drawn to an identified scale (not smaller than 1:2500) and, in the case of plans, show the direction of north. The Conveyor Route Plans Key Plans (Docs 3.3A, 3.3H) are shown as 'Not To Scale'.
3.5 Where a plan comprises three or more separate sheets has a key plan been provided showing the relationship between the different sheets ¹⁶ ?	Yes. All Plans listed in sections 3.3 (i),(j),(k),(n), and (o) have a key plan if there are more than three separate sheets.
3.6 Has the applicant had regard to DCLG guidance 'Planning Act 2008: Application form guidance', and has this regard lead to the	Yes The application appears to be in general conformity to the Planning Act 2008

¹⁴ These are documents which are relevant to specific types of project (generating stations, highway related development, railways, harbour facilities, pipelines, hazardous waste facilities, dam or reservoirs). Confirm in each case the type of project and the relevant documents which **must** be included with the application in each case

¹⁵ Regulation 5(3) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

¹⁶ Regulation 5(4) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

application being prepared to a standard that the Secretary of State considers satisfactory?	Application Form guidance.
Summary - s55(3)(f) and s55(5A)	<p>The application is of a satisfactory standard supported by the requisite supporting documents in order to identify the proposed works and assess the environmental, social and economic implications.</p> <p>At Examination the justification for the extent of flexibility sought, particularly the uniform and significant horizontal limit of deviation, will need to be probed but that will be made clear in terms of preliminary issues and First questions.</p>
The Infrastructure Planning (Fees) Regulations 2010 (SI106)	
Fees to accompany an application	
Was the fee paid at the same time that the application was made ¹⁷ ?	<p>Yes</p> <p>The fee of £4500 was paid on 12 March 2015</p>

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 payable is presently £4,500 and must be paid at the same time that the application is made

Case Leader

ROBERT RANGER

Robert Ranger

Signed

Date: *20 April 2015*

Acceptance Inspector

PETER ROBOTOM

Peter Robotom

Signed

Date: *20 April 2015*

Section 55 Acceptance of Applications

Appendix One

Application Checklist

York Potash Harbour Facility

A Legal Advice

Withheld from publication as potentially falling within one or more of the following categories of information:-

- excepted internal communications and / or
- excepted because publication would adversely affect the course of justice and/or
- exempted information protected by legal professional privilege

B Habitats Regulation Assessment Checklist

Withheld from publication as potentially falling within one or more of the following categories of information:-

- excepted internal communications and / or
- excepted because publication would adversely affect the course of justice and/or
- excepted because its publication would adversely affect the protection of the environment to which the information relates