

Section 55 Acceptance of Applications

Section 55

- (1) The following provisions of this section apply where the Commission receives an application that purports to be an application for an order granting development consent.
- (2) The Commission must, by the end of the period of 28 days beginning with the day after the day on which it receives the application, decide whether or not to accept the application.
- (3) The Commission may accept the application only if the Commission concludes:
 - (a) that it is an application for an order granting development consent,
 - (b) that it complies with section 37(3) (form and contents of application) and with any standards set under section 37(5),
 - (c) that development consent is required for any of the development to which the application relates,
 - (d) that the application gives reasons for each respect in which any applicable guidance given under section 37(4) has not been followed in relation to it, and
 - (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).
- (4) The Commission, when deciding whether it 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 it 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.
- (6) If the Commission accepts the application, it must notify the applicant of the acceptance.

- (7) If the Commission is of the view that it cannot accept the application, it must:
 - (a) notify that view to the applicant, and
 - (b) notify the applicant of its 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 Acceptance of Applications

Section 55

Section 55 Acceptance of Applications – Application Checklist			
Within 28 days (starting day after receipt) the Commission must decide whether or not to accept the application.	Date received	28 day due date	Date of decision
	29 June 2011	27 July 2011	21 July 2011
NB: See IPC Guidance Note No. 2 (the preparation of application documents) and CLG Application Form Guidance for guidance on how the form should be completed and what should be included with it.			
Section 55(3) – the Commission may <u>only</u> accept an application if it concludes that it:-		Secretariat Comments	Commissioner Note
(a) Is an application for an order granting development consent			
1) The application must state on the face of it that it is an application for a development consent order (DCO) under the 2008 Act, or equivalent words	Yes. The covering letter dated 27 June 2011 states: “This letter with its enclosures is a formal application on behalf of Network Rail Infrastructure Limited (NR) under section 37 of the Planning Act 2008 (PA 2008) for Development Consent for NR’s proposed Ipswich Chord development.”		I am satisfied this is an application for a DCO under the Act.
Commissioner summary - s55(3)(a)			
(b) Complies with section 37(3) (form and contents of application) and with any standards set under section 37(5)			
s37: Applications for orders granting development consent			
1) only if an application is made (<i>is the application made?</i>)	Yes. The application was received by the IPC on 29 June 2011. The application has been made through the use of the IPCs application form and accompanied by all of the required documents.		Agreed that the applicant has complied.
2) must be made to the Commission. The applicant must give a brief statement which explains why the Commission is the appropriate body to receive this application, with reference to the relevant section of Part 3 of the Act. (<i>has the application been made to the Commission and has this statement been included?</i>)	Yes. Box 4 of the application form (Doc 1.2) states ' <i>The application related to the construction and operation of a new railway and improvements to existing railway infrastructure. Both existing and new railway works are, or will be, wholly in England and currently do, or will, form part of Network’s national railway network. The works are not permitted development within the scope of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). All the works therefore come within s.25(1) and (2) of the PA 2008 as railways that are NSIPs within s.14(1)(k) and so require authorisation by</i>		Reviewed and agreed as complied.

	development consent order under s.31'.	
3) A brief statement must be given that clearly identifies the location of the application site, or the route if it is a linear scheme (is this included?)	Yes. Box 6 of Doc 1.2 states 'The location of the proposed chord centres on Grid Reference 614264, 244951. The site lies approximately 2km west of Ipswich town centre and is partly in the borough of Ipswich and partly in the district of Babergh. The proposed chord will be primarily located on (i) land forming part of the site off Hadleigh Road previously occupied by the former Harris Factory; (ii) land within the Boss Hall Industrial Estate adjoining the existing railway; and (iii) the existing NR railway corridor. The location and route are shown on the Land plans and Works plans (docs refs 5.3 and 5.4). A detailed description of the location and route is in sections 2.1 and 2.2 of the Environmental Statement (doc ref 4.1)'.	Agreed as complied.
the application must :		
a) specify the development to which it relates (i.e. which category or categories in sections 14-30 does the application scheme fall) . (does it?)	Yes. Box 4 of Doc 1.2 states 'All works therefore come within s.25(1) and (2) of the PA 2008 as railways that are NSIPs within s.14(1)(k) and so require authorisation by development consent under s.31'.	The application specifies the development category to which it relates as s.25(1) and (2), applicant has complied.
b) made in the prescribed form (is it?)	Yes. The application has been submitted in the prescribed form and is completed, signed and dated.	I have read the application form, agreed.
Prescribed form as set out in Regulation 5(1) and Schedule 2 of SI 2264 – The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (the APFP Regulations)		
c) accompanied by consultation report (is it?)	Yes. Consultation Report (Doc 3.1) dated 27 June 2011 has been submitted.	Agreed as complied.
d) accompanied by documents and information of prescribed description (are there any?)	Yes. All of the documents and information of prescribed description have been submitted. The covering letter states 'The application documents include not only all those specifically required by Regulation 5(2) of The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 but also some additional material in support of the application such as an Assessment of Need (listed as document 6.3), setting out NR's case for the Order.'	Agreed as complied.
Prescribed form as set out in Regulation 5 and 6 of the APFP Regulations Under Regulation 5(2) an application must be accompanied by:-		
(a) where applicable, the environmental statement required under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 and any	Yes. The Environmental Statement (ES) is considered to include the mandatory elements required within the ES	The information required to be within an ES by Part 2 of Schedule 4 of the

<p>scoping or screening opinions or directions;</p>	<p>based on Part 2 of Schedule 4 Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (EIA Regs) (Doc 4.1 - 4.4).</p> <p>The red line boundary on Location Plan (Volume 4 figure 2.1) and on the General Arrangement Plan (Volume 4 figure 2.3) omits small parcels of land which on the Land Plans are shown as included.</p>	<p>IP(EIA) Regulations 2009 is included. Agreed as complied.</p> <p>The areas of land omitted are minor and do not impact on the environmental impact of the project; technical non-compliance.</p>
<p>(b) the draft proposed order;</p>	<p>Yes received.</p>	<p>I have seen this, agreed as complied.</p>
<p>(c) an explanatory memorandum explaining the purpose and effect of provisions in the draft order, including in particular any divergences from the model provisions (SI 2009 2265);</p>	<p>Yes Explanatory Memorandum received.</p>	<p>I have checked the Explanatory Memorandum and in relation for example to Article 5 an explanation of departures from Model Provisions has been provided. Agree Secretariat conclusions.</p>
<p>(d) where applicable, the book of reference (where the proposed application involves any compulsory acquisition of land);</p>	<p>Yes Book of Reference received.</p>	<p>I have seen this, agreed as complied.</p>
<p>(e) where applicable a copy of any flood risk assessment;</p>	<p>Yes. Relevant information is included in technical report 4: Flood Risk Assessment, of the ES Volume 3 – Technical Appendices (Binder 1).</p>	<p>I have seen this is within the ES, agreed as complied.</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. Relevant information is included within Statement Relating to Statutory Nuisances (Doc 3.5). Mitigation measures are proposed and also cross referenced to relevant sections within the ES (Doc 4.1) and the Draft DCO (Doc 5.1).</p>	<p>Agreed as complied (Statement predicts that only matters engaged would be noise and vibration at Railway Cottages) DCO makes provision for Requirements relating to this (Schedule A, Part 2).</p>
<p>(g) any report identifying any European site to which regulation 48 of the Conservation (Natural Habitats, &c.) Regulations 1994 (as amended) applies, or any Ramsar site, which may be affected by the proposed development, together with sufficient information that will enable the Commission to make an appropriate assessment of the implications for the site if required by regulation 48(1). LEGAL/EIA TEAM ADVICE/INPUT REQUIRED on whether the information provided is sufficient or not.</p>	<p>Yes. The Report as to Effects on European Sites (Doc 3.6), identifies the Stour and Orwell Estuaries Special Protection Area (SPA) and Ramsar site as the only European site that could potentially be affected by the proposal. The report constitutes a '<i>report of no significant effects</i>' and includes a Habitat Regulations Assessment (HRA) screening assessment. The report includes a letter from Natural England (NE) stating that NE agree with the findings of the HRA report providing that measures are in place to prevent a water pollution incident reaching the international site.</p> <p>The IPC's review of the application documents has identified that measures to prevent water pollution incidents include the following:</p> <p>Requirement 8 of the draft Development Consent Order</p>	<p>Requirement 8 of the draft DCO includes proposals for adhering to a Pollution Incident Control Plan as stated by the secretariat. It is reasonable at Acceptance stage to accept the applicant's view that there are no significant affects and therefore appropriate assessment is not needed. Consider as complied.</p>

	<p>(DCO) (Doc 5.1), requires the preparation of a Pollution Incident Control Plan which shall <i>'include prior consideration of the potential sources of pollution and how they might be prevented paying particular attention to the potential pollution impacts of the works on the River Gipping and sub-surface controlled waters and how they might be prevented'</i>; and</p> <p>Network Rail Contract Requirements included in Volume 3 - Technical Appendices to the Environmental Statement (ES) (Doc 4.2), state that <i>'the contractor shall develop and implement a Pollution Incident Control Plan as part of the Environmental Management Plan (EMP). The Pollution Incident Control Plan shall set out the precautions to be taken to avoid the release of oils, fuels, coolants or other pollutants into the environment and procedures to be followed in the event of any spillages or uncontrolled release of pollutants into the environment.'</i></p> <p>On the basis of information provided within the report, an appropriate assessment will not be required.</p>	
<p>(h) if the proposed order would authorise the compulsory acquisition of land/an interest in land or right over land, a statement of reasons and a statement to indicate how an order that contains the authorisation of compulsory acquisition is proposed to be funded;</p>	<p>Yes statement of reasons received.</p> <p>Yes funding statement received.</p>	<p>I have seen these, consider as complied.</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) where the land includes special category land and replacement land, that special category land</p>	<p>Land plan received, Doc 5.3, revision A2, dated 6 May 2011, Incorrectly referenced 5(2)(d). Key plan with 4 sheets at scale 1:1000@A1</p> <p>i) Yes. Doc 5.3 identifies the land required for, or affected by, the proposed development with a broken dashed line.</p> <p>ii) Yes. Doc 5.3 identifies land over which it is proposed to exercise powers of compulsory acquisition using shading and numbering.</p> <p>iii) Yes. Doc 5.3 identifies land in relation to which it is proposed to extinguish easements, servitudes and other private rights by shading and numbering.</p> <p>iv) No. Doc 5.3 does not identify special category land. No replacement land is identified, and the applicant has not indicated that any is required.</p>	<p>I have inspected the Land Plans which show all affected land. Incorrect reference: technical non-compliance.</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>Works plan received, Doc 5.4, revision A01, dated 12 May 2011.</p> <p>i) Yes. Doc 5.4 sheet 2-6 (key plan with 4 sheets at scale 1:1000@A1) identifies the proposed route and alignment of the development and works.</p> <p>ii) Yes. Doc 5.4 sheet 2-6 (key plan with 4 sheets at scale 1:1000@A1) identifies any limits of deviation provided for in article 7 of the draft order Doc 5.1.</p> <p>“The draft DCO provides the following interpretation: ‘limits of deviation’ means the limits of deviation referred to in article 7; ‘the Order limits’ means the limits of deviation shown on the works plans and the limits of land to be acquired or used shown on the works plans and the land plans;”</p>	<p>The Order Limits are described in the DCO as both the Limits of Deviation and the Limits of Additional Land to be used, these are shown on the Works Plans. Applicant is therefore considered to have complied.</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>No separate access plan included however all matters are included within the works plan as stated in box 21 of the application form Doc 1.2.</p> <p>Yes. The streets subject to street works and streets to be temporarily stopped up have been identified within the Works Plan Doc 5.4 sheet 2-6 (key plan with 4 sheets at scale 1:1000@A1) and can be cross referenced with schedule B and C of the draft order Doc 5.1. No reference to Regulation 5(2)(k) on plan.</p>	<p>Separate Access Plan is not specified to be separate under Reg 5(2) (k), applicant considered to have complied.</p>
<p>(l) where applicable, a plan with accompanying information identifying:-</p> <p>(i) any statutory/non-statutory sites/ features of nature conservation e.g. sites of geological/ landscape importance;</p> <p>(ii) habitats of protected species, important habitats or other diversity features; and</p> <p>(iii) water bodies in a river basin management plan,</p> <p>together with an assessment of any effects on such sites, features, habitats or bodies likely to be caused by the proposed development;</p>	<p>Plans A – O of the Assessment of Effects on Sites or Features of the Natural Environment Doc 3.3, revised May 2011</p> <p>(i) Yes. Any statutory/non-statutory sites/ features of nature conservation e.g. sites of geological/ landscape importance have been identified in Plan A Location of proposed site and Stour and Orwell Estuary</p> <p>ii) Habitats of protected species, important habitats or other diversity features are identified in Plans B – O.</p> <p>Plan B Phase 1 Habitat Survey Plan C Phase 1 Habitat Survey Plan D Phase 1 Habitat Survey Plan E Breeding Bird Survey Results Visit 1 & 2 Plan F Breeding Bird Survey Results Visit 1 & 2 Plan G Breeding Bird Survey Results Visit 1 & 2</p>	

	<p>Plan H Breeding Bird Survey Results Visit 1 & 2 Plan I Breeding Bird Survey Results Visit 1 & 2 Plan J Bat Emergence and Activity Survey 23/06/2010 Plan K Bat Emergence and Activity Survey 08/09/2010 Plan L Bat Emergence and Activity Survey 28/09/2010 Plan M Anabat Recorder Locations Plan O 2km Data Enquiry</p> <p>The Phase 1 habitats plans in Document 3.3 are intended to satisfy regulation 5(2)(l)(ii) by identifying habitats of protected species, important habitats or other diversity features. However, the plans illustrating the areas covered by the Phase 1 habitat survey do not encompass all of the land within the order limits.</p> <p>ES Figure 14.1 shows the local plan land allocations which identifies two designations (a local wildlife site and special landscape area located in proximity to the development site). These designations have not been included in the plan (Plan O of Doc: 3.3) provided by the applicant to satisfy the requirements of regulation 5(2)(l)(i).</p> <p>iii) Water bodies in a river basin management plan have been identified in Plan N Plan of features. Noted that the extent of the plan does not encompass the full extent of the land within the Order Limits.</p>	<p>Habitats: Regn 5(2)(l)(ii) does not require all habitats within the Order Limits as shown in the ES, to be included on this plan. Consider as complied.</p> <p>Local wildlife sites: Regn 5(2)(l)(i) does not require all sites shown in the ES to be included on this plan. Consider as complied.</p> <p>While being unconventional the omission of the entire development site/Order Limits on Plan N is not prohibited by the Regulations, applicant is considered to have complied.</p>
<p>(m) where applicable, a plan with accompanying information identifying any statutory/non-statutory sites or features of the historic environment, (e.g. scheduled monuments, World Heritage sites, listed buildings, archaeological sites and registered battlefields) together with an assessment of any effects on such sites, features or structures likely to be caused by the proposed development;</p>	<p>A plan identifies statutory/non-statutory sites of the historic environment in appendix 2 of the Assessment of the Effects on Sites or Features of the Historic Environment Doc 3.4 dated May 2011.</p> <p>The Plan of heritage sites in Document 3.3 is intended to satisfy regulation 5(2)(m) by identifying any statutory or non statutory sites or features of the historic environment. The heritage chapter in the ES indicates that the only designated site within the study area is Chantry Park a Grade II Registered Park (located approximately 300 m from the proposed development). The plan of heritage sites intended to satisfy regulation 5(2)(m) does not include this designation, nor does there appear to be any consideration of the potential effect on the designation.</p>	<p>Failure to identify Elton and Chantry Park is noted, the Park however is noted in the ES: technical non-compliance with Regulation 5(2)(m).</p>

<p>(n) where applicable, a plan with any accompanying information identifying any Crown land;</p>	<p>Yes. Crown land is identified on the Land plan with shading and labelled plot 2. This cross references with part 4 of the Book of Reference Doc 6.4 and article 35 of the Explanatory Memorandum Doc 5.2.</p> <p>Crown's interest in the land is also identified and labelled as plots 20a, 33, 34, 57, 58, 59 and 62.</p>	<p>I have seen this, considered as complied.</p>
<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>	<p>Box 23 of the application form Doc 1.2 indicates all other plans are located in Design Drawings Doc 2.2 and are listed below.</p> <p>Sheet 1 - Key plan Sheet 2 - Sproughton Road Underbridge Existing Structure Sheet 3 - Sproughton Road Underbridge Proposed Structure Sheet 4 - Proposed Bridge over River Gipping Sheet 5 - Proposed Underpass Sheet 6 - Reconstruction of Bridge 404 over River Gipping Existing Structure Sheet 7 and 8 - Reconstruction of Bridge 404 over River Gipping Proposed Structure Sheet 9 - Indicative Drawing of the Proposed Route of the Sewer Diversion and Headwall Details Sheet 10 - Retaining Wall Plan and Sections Sheet 11 - Retaining Wall Elevation and Access Step Detail Sheet 12 - Proposed Earth Works Sheet 13 and 14 - Earthworks Cross-Sections Sheet 15 - Proposed Earthworks Road Rail Access Ramps</p>	<p>I have inspected the Design Drawings and consider applicant has complied.</p>
<p>(p) any of the documents prescribed by Regulation 6 of the APFP Regulations. NB:- These are documents which are relevant to specific types of project. Important to confirm in each case the type of project and the relevant documents which must be included with the application in each case.</p> <p>“6. Matters prescribed in relation to applications for specific types of projects</p> <p>(2) If the application is for highway related development or for the construction or alteration of a railway, it must be accompanied by section drawings to suitable horizontal and vertical scales, which show, by reference to Ordnance Survey or Chart datum—</p> <p>(a) the levels of the proposed works, including in particular and where relevant—</p> <p>(i) ground levels;</p> <p>(ii) the height of every proposed bridge, viaduct, aqueduct, embankment and elevated guideway;</p>	<p>Works plan received, Doc 5.4, revision A01, dated 12 May 2011.</p> <p>6(2)(a)(i)-(v); identified in Sheet 7 and 8 of the works plan.</p> <p>Sheet 7 - Work No.1 - Railway Sheet 8 - Work No.2 - Sewer Diversion, Work No.3 - Training Wall, Work No.4 - Access Road</p> <p>6(2)(b) Identified by Sheet 9 Miscellaneous Sections of Doc 5.4</p> <p>Sheets 7 and 8 of doc 5.4 complies with Reg 6(2)(a)(i) and demonstrates the extent of the works above ordnance</p>	<p>Considered as complied. (No intended tunnel or altered gradient of a carriageway is proposed and thus no sections of these required).</p>

<p>(iii) the depth of every proposed cutting and tunnel; (iv) the levels of the bed of any tidal waters or inland waterway in which it is proposed that any works should be situated; and (v) the height of every structure or device (including a cable, but not catenary and related equipment) intended to be erected above, on or below the surface of, or on or beneath the bed of tidal waters or an inland waterway.</p> <p>(b) a cross section of every intended tunnel and any altered gradient of a carriageway or a way forming part of a guided transport system on either side of every level crossing, bridge, tunnel or underpass which would carry the carriageway or way or through which it would pass.”</p>	<p>datum (AOD).</p> <p>Sheet 7 Work no.1 of doc 5.4 complies with Reg 6(2)(a)(ii) the plans demonstrate the proposed embankments and elevations.</p> <p>Reg 6(2)(a)(iii) – there does not appear to be any cuttings or tunnels, however, it is proposed to raise ground levels as shown on Sheet 7, 8 and 9 of doc 5.4</p> <p>Sheet 8 Work no. 3 of doc 5.4 complies with Reg 6(2)(a)(iv) demonstrating the current ground levels and river bed.</p> <p>Sheet 9 of doc 5.4 complies with Reg (2)(a)(v) which demonstrates the height of every structure above the bed of tidal waters.</p> <p><u>See Doc 2.2 Design Drawings for more detailed drawings of the proposed works.</u></p>	
<p>(q) any other documents considered necessary to support the application; and</p>	<p>Box 23 of Doc 1.2 indicates any other documents considered necessary to support the application and are listed below.</p> <p>Doc 3.9 - Planning Statement</p> <p>Doc 3.10 - Sproughton Road Bridge (BFC/1) Architectural Design Statement</p> <p>Doc 6.3 - Assessment of Need</p>	<p>Additional statements, including importantly the Planning Statement given the absence of a National Networks NPS, are noted. Complied.</p>
<p>(r) if requested by the Commission, three paper copies of the application form and other supporting documents and plans.</p>	<p>Three paper copies of the application form, documents and plans were submitted and received on 29 June 2011.</p>	<p>Agree secretariat comments, complied.</p>
<ul style="list-style-type: none"> - Regulation 5(3) requires that any plans, drawings or sections submitted under Regulation 5(2) shall be no larger than AO size, shall be drawn to an identified scale (not smaller than 1:2500) and, in the case of plans, shall show the direction of north. - It is not intended that information provided in other documents, such as any Environmental Statement submitted, should be duplicated. It is possible therefore to cross refer to the location of relevant information – see CLG Guidance on NSIP projects Application form guidance paragraphs 33 – 38. - LEGAL ADVICE should be sought if there is any uncertainty as to whether the plans etc. submitted are in compliance. 	<p>The Plans required under section 5(2) (l) (i) (l) (iii) & (m) are of a scale not smaller than 1:2500. The plan under section 5(2) (l) (i) any statutory/non-statutory sites/features of nature conservation is at a scale of 1:50000. The plan under section 5(2) (l) (iii) water bodies in a river basin management plan is of a scale of 1:4000. The plan under section 5(2) (m) a plan with accompanying information identifying any statutory/non-statutory sites or features of the historic environment is at a scale of 1:5000.</p>	<p>The inclusion of plans at scales smaller than 1:25000 is noted, however the plans remain legible and all other plans comply: technical non-compliance.</p>
<p>Regulation 5 (4) Where a plan comprises three or more separate sheets a key plan must be provided showing the relationship between the different sheets.</p>	<p>The Land Plan Doc 5.3 and the Works Plan Doc 5.4 comprise of four sheets. Key plans have been provided for both.</p>	<p>Seen and agreed as complied.</p>

5. Commission Guidance Note No. 2 on the preparation of application documents gives guidance about how requirements under subsection (3) are to be complied with. CLG have also issued guidance 'Planning Act 2008: Nationally significant infrastructure projects Application Form Guidance' (September 2008). IPC Guidance Note 2 (in paragraphs 9,10, 11 and 12) sets the following minimal standards for all application documents:-		
Para. 9 - Summaries of documents	All documents include summaries unless they are plans, drawings, tables, figures or a short statement of no more than 2 pages as per para 9 of IPC Guidance Note 2.	Agreed as complied.
Para. 10 - Format of documents:		
Paginated and paragraph numbered	All documents are paginated and paragraphed as per para 10 of IPC Guidance Note 2.	Agreed as complied.
Clear title page to every document identifying:	A title page has been identified for all of the application documents except for the following: <ul style="list-style-type: none"> • Doc 1.1 Application Documents List • Doc 1.2 Application form 	I do not consider the Application Documents List nor the Application form to fall under this requirement. Applicant has complied.
- The project	Yes. The name of the project is made clear on all documents.	Agreed as complied.
- Date of revision	Yes. Where applicable the date of revision has been provided.	Agreed as complied.
- Authors	Yes. Documents refer to the consultancy or the applicant responsible for producing it rather than an individual person. Some documents list authors on a 'document control sheet'.	Agreed as complied.
- Appropriate regulation 5(2) paragraph to which the document relates	Reference to regulation 5(2) of the APFP is made in all cases except for the following documents: <ul style="list-style-type: none"> • Doc 5.3 Land Plans • Doc 6.3 Assessment of Need. These documents are referenced incorrectly; they refer to the wrong Regulation.	Noted that documents 5.3 and 6.3 do not comply with paragraph 10 of IPC Guidance Note 2, correct referencing is provided in all other cases: technical non-compliance.
All documents over two A4 pages in length require Table of Contents setting out Chapter or topic headings	All documents include a contents or index page	Agreed as complied.
Plans must also be clearly labelled in the bottom right hand corner with:		
"title page" information (as set out above)	All plans were checked and the following has been noted: <ul style="list-style-type: none"> • Land plans refer to <i>section 5(2)(i)</i> not <i>regulation 5(2)(i)</i>. • Land plans do not identify the author on the individual sheets. 	Noted that Land Plans do not show appropriate regulation to which they refer and do not comply with paragraph 10. Noted that Land Plans show author on title page rather than

	<ul style="list-style-type: none"> • Works plans – individual sheets do not include the regulation to which the plan refers. • The project title for all plans within Doc 2.2 Design Drawings has a different project title to that in the application form (Doc 1.2). 	on Plans. Noted that Works Plans do not include the appropriate Regulation and do not comply with paragraph 10, technical non-compliance.
A list of revisions and identification of version reference	All plans were checked for a revision and a version reference and meet the criteria set out in the guidance apart from Doc 5.3 Land Plan (Key Plan).	Considered as complied, noting that Document 5.3 contains no revisions.
Para. 11 - Copies and Media:		
3 paper copies of full application	Yes. 3 paper copies of the application were received.	Agreed as complied.
A list of all of the application documents that accompany the prescribed form (Schedule 2)	Yes. An application documents list (Doc 1.1) accompanied the application form however this was not in the Application Index format which was requested at the pre-application stage and also suggested within IPC Advice Note 6.	Agreed as complied.
10 DVD copies (in format to be agreed in advance with the IPC)	Yes. 10 DVD copies of the application were received.	Agreed as complied.
Has the IPC requested additional paper copies?	No, however on 8 and 14 July the IPC requested a copy of the consultation correspondence and statutory consultee information.	Noted.
Has the IPC requested additional DVD copies?	No, however as part of the above the IPC has requested and received one hard copy and 3 electronic copies of this extra information.	Noted.
Para. 12 - Consultation report		
Application must be accompanied by the applicant's consultation report prepared under s37(7) of the Act. The consultation report should draw together:	The application was accompanied by a consultation report (Doc 3.1) prepared for the purposes of s37(7) of PA 2008	I have seen the consultation report, considered as complied.
An account of the statutory consultation, publicity, deadlines set and community consultation activities undertaken at pre-application under s42, 47 & 48	<p>S42 Doc 3.1 para 4.1 states that s42 consultation began in June 2010 and consisted of two phases:</p> <p><u>Phase 1</u> Consultation documents consisted of preliminary information about the proposal and an Environmental Scoping Report.</p> <p>This material was sent out on 2 June 2010 with the deadline for formal responses by 9 July, exceeding the 28 day minimum set out in s45(2) PA 2008.</p> <p><u>Phase 2</u> Consultation documents consisted of draft application documents. The s48 notice was also sent to statutory</p>	The required account of activity is included, consider as complied.

	<p>consultees and relevant local authorities.</p> <p>This material was sent out on 8 March 2011 with the deadline for formal responses by 11 April, exceeding the 28day min set out in s45(2) PA 2008.</p> <p>Doc 3.1 para 4.4 states that 2x landowners and Treasury Solicitor were consulted at a later date (27 April and 25 May 2011) and given 28 days to formally respond. The consultation report does not state specific dates set for a formal response to consultation. The IPC must satisfy itself that the applicant has complied with s45(1) PA 2008 therefore requested from the applicant all correspondence sent to statutory consultees (under s42 PA 2008) during phase 2 of consultation and copies of the responses received.</p> <p>From the additional information provided, the IPC secretariat confirm that one landowner and the Treasury Solicitor were provided with a deadline for the receipt by the applicant of the persons' responses to the consultation. The dates given also provide the consultee with a min of 28 days thus complying with s45(1) & (2) of PA 2008.</p> <p>Correspondence to the other landowner does not state the deadline by which to respond. Alternatively the correspondence states '<i>as soon as possible</i>'. This does not comply with s45(1) of PA 2008.</p> <p>S47 In accordance with s47(1) PA 2008 the applicant must consult people living in the vicinity of the land. CLG guidance states those in the vicinity are '<i>those who work in or otherwise use the area, as well as those who live there</i>' (CGL pre-app consultation guidance p13). Doc 3.1 para 8.3.1 notes that people living in the vicinity and those living out of the vicinity but may have an interest were informed about the consultations through media releases, press adverts and posters. Doc 3.1 appendix 4 provides the geographic area of consultation, which includes residential and industrial properties.</p> <p>In accordance with s47(6)(a), a SoCC (Doc 3.1 appendix 3) was published in a newspaper circulating in the vicinity of the land, the Ipswich Advertiser, on 3 June 2010.</p>	<p>For most consultees the applicant complied with s.45(1) and (2). Later though, consultees were not given 28 days, a technical non-compliance in these cases albeit more than adequate consultation has taken place in general terms.</p>
--	--	---

	<p>The SoCC was prepared following a meeting held with IBC, BDC & SCC in Dec 2009 and submitted to LAs on 26 April 2010; Doc 3.1 para 8.2.3 states the review period was 28 days and the SoCC was agreed by all LAs by 3 June 2010.</p> <p>The SoCC, in accordance with Reg 10 of the EIA Regs 2009, identifies that the proposal is an EIA development.</p> <p>Consultation Phases stated in SoCC: <u>Stage 1</u>, June-Aug 2010 on overall proposals. <u>Stage 2</u>, Sept-Nov 2010 exploring construction options and PEI (Doc 3.1 appendix 16). <u>Stage 3</u>, Dec 2010 information round.</p> <p>Methods included:</p> <ul style="list-style-type: none"> • Submit written comment (deadlines stated 9 July 2010 for Phase 1 and Oct 2010 for Phase 2)) • Mail shots, informing people in the vicinity about the proposal and consultation programme. • Public Exhibitions (Doc 3.1 appendix 20) • Stakeholder and community workshops • Neighbourhood forums • 24hr helpline • Updated webpage etc. <p>NR undertook stage 1 in accordance with the SoCC and as a result of the responses received to the consultation, the design of the project changed meaning the timescales for consultation changed (Doc 3.1 para 8.2.4).</p> <p>Consultation revised to: <u>Stage 2</u>: Feb 2011. <u>Stage 3</u>: Apr-May 2011.</p> <p>On 3 Nov 2010 the applicant notified, via letter and email, members of the public and those who expressed an interest at stage 1 consultation, of the revisions to the consultation timetable set in the SoCC due to changes to the scheme after stage 1 consultation (Doc 3.1 appendix 10 & 11).</p> <p>S47(7) PA 2008 <i>The applicant must carry out consultation in accordance with the proposals set out in the statement.</i> Dates were amended as stated above and the SoCC was not republished.</p>	<p>The revision in consultation deadlines caused the consultation to be carried out other than in accordance with the SOCC: non compliance with s.47(7) however see comments in final summary.</p>
--	---	--

	<p>S48 Doc 3.1 para 15 states that the dates of publication were; 10 Mar 2011- London Gazette 8 Mar 2011 - The Independent 8 Mar & 15 Mar 2011 - East Anglian Daily Times. The deadline for written responses was stated within these publications as 11 April 2011.</p>	
<p>A summary of the relevant responses to the separate strands of consultation</p>	<p>S42 In accordance with para 13 of IPC Guidance Note 2: • Consultation Report (Doc 3.1) para 5.1-5.16 summarises consultation responses by theme (e.g design, visual amenity, planning etc). • Doc 3.1 section 6 provides a table which summarises responses, describes what action was taken by NR and explanation if no action was taken.</p> <p>S47 • Doc 3.1 para 10.2.4 provides the main issues raised from phase 1 consultation (e.g Noise during construction, wildlife impact, electrification of route). • Doc 3.1 section 12 summaries the issues (by theme) raised during a phase 2 workshop. • Doc 3.1 para 12.16.5 includes a table of the main issues raised, an example of the type of comment made and NR response.</p> <p>There is no indication that any responses were received beyond the deadline set by the promoter.</p> <p>S48 Doc 3.1 para 15.3 states there were no responses arising from s48 publicity.</p>	<p>I have seen this summary and layout, agreed as complied.</p>
<p>Account taken of responses in developing the application from proposal to final form, as required by s49(2)</p>	<p>S42 Doc 3.1 section 5 notes the responses made from consultation and categorises them into topics/issues. Provided underneath each issue is a description of how NR took the response into account and any further responses from consultees.</p> <p>Doc 3.1 section 6 also details any action taken, or an account of why no action was taken by NR in relation to responses made from consultation.</p>	<p>Account has been taken and changes made to the scheme as a result. Applicant has more than complied</p>

	<p>S47 Doc 3.1 para 8.2.4 and 8.2.5 notes the delay in the consultation timetable due to amendments being implemented in the design of the proposal. These changes derived from suggestions made by LAs and public at (and before) phase 1 of consultation.</p> <p>Doc 3.1 para 12.16.5 provides NR responses to the suggestions and concerns raised during s42 consultation.</p> <p>S48 Doc 3.1 para 15.3 states there were no responses arising from s48 publicity.</p>	
<p>Commissioner summary - s55(3)(b)</p>	<p>The majority of Form and Contents requirements have been complied with however there are some technical non-compliances as detailed above.</p>	
<p>c) That development consent is required for any of the application development (<i>is it required?</i>)</p>		
<ul style="list-style-type: none"> - Consent is required for development to the extent that the development is or forms part of a nationally significant infrastructure project (NSIP) (s.31) - What constitutes a NSIP is defined generally in s.14 with the detailed thresholds for each of the specified categories being set out in sections 15-30 of the Act - The meaning of development is given in s.32 of the Act. <p>NB: LEGAL ADVICE should be sought if there is any uncertainty as to whether the application is for a proposed NSIP development.</p>	<p>At acceptance stage, it is only necessary to consider whether or not <u>any part</u> of the development requires development consent.</p> <p>Box 4 of the application form (Doc 1.2) states that <i>‘both the existing and new railway works are, or will be, wholly in England and currently do, or will, form part of NR’s national railway network. The works are not permitted development within the scope of the Town and Country Planning (General Permitted Development) Order 1995 (as amended). All the works therefore come within s.25(1) and (2) of the Planning Act 2008 as railways that are NSIPs within s.14(1)(k) and so require authorisation by development consent order under s.31’.</i></p>	<p>I have considered Part 17 of Schedule 2 of the General Permitted Development Order 1995 (as amended) and am satisfied that the proposed railway is not permitted development and comes within s.14(1)(k). Agreed as complied.</p>
<p>Commissioner summary - s55(3)(c)</p>	<p>The application is for a railway to which permitted development rights do not apply, the application therefore complies with s.55(3)(c).</p>	
<p>d) That the application gives reasons for any IPC guidance (under 37(4)) not having been followed</p>		
<p>Para.13 of IPC Guidance Note 2 dealing with the applicant’s Consultation Report, and paras.1-8 and 14-32 of IPC Guidance Note 2, are guidance rather than standards.</p>		
<p>Para.13 - A list of the individual responses received should be provided and categorised in an appropriate way (grouped and in accordance with the SoCC produced under s.47)</p>	<p>Responses in the Consultation Report (Doc 3.1) are sorted and categorised by s42 and s47 consultees.</p> <p><u>S42 Responses:</u> S42 Consultation responses are listed at section 6. There</p>	<p>Full copies of consultation responses requested (under Regulation 5(5) APFP) and received in order to check that these were provided appropriately</p>

	<p>are two phases of consultation to note. Phase 1 and phase 2 consultation responses are grouped in the same table, categorised by each s42 consultee.</p> <p>Responses are listed and categorised in tabular form. Tables are organised by “consultee”, “issue”, “any action taken or if no action taken” on the comments submitted.</p> <p>The applicant was requested to provide all of the s42 consultation responses received under Part 5 of the PA 2008. These were supplied in hardcopy to the IPC by the stated deadline of 14 July 2011. These submissions were assessed by the Secretariat. Copies of responses from s42(a), (b) & (d) consultees are provided. This documentation includes the original consultation letter issued by NR and the relevant response. The consultation responses have been divided into phase 1 and 2 consultation correspondences.</p> <p>There was no evidence of any s42 correspondence with the Broads Authority.</p> <p><u>S47 Responses</u></p> <p>S47 consultation included three phases. Phase 1 responses are provided at section 10, listed in tabular form and sorted by “Issue”, “Example of comment” and “NR Response (at the time)”.</p> <p>Phase 2 responses are provided at section 12. This section accounts for responses received at a workshop for ‘Councillors and Officers’, and lists observations made at the workshop. At para 12.16.5 two tables are provided, titled as “Suggestions” and “Concerns”.</p> <p>Each table provides the responses categorised by “Issue”, “Example of Comment” and “Network Rail Response”.</p> <p>Phase 3 responses are provided at section 13. This section provides NR responses to queries.</p> <p>The applicant was requested to provide all of the s47 consultation responses received under Part 5 of the PA 2008. These were supplied in hardcopy to the IPC by the stated deadline of 14 July 2011. These submissions were assessed by the Secretariat to assist the Commissioner. Copies of the original responses to s47 consultation are provided. This documentation includes the original</p>	<p>consider complied.</p> <p>(Broads Authority: see comments under s42 below)</p>
--	--	---

	consultation letter issued by NR and following correspondence and the relevant response. The consultation responses have been divided into phase 1, 2 and 3 consultation correspondences.	
Para.13 - The list should also be split and sorted according to comments that have led to changes /no changes and responses received after the deadline set by the promoter	<p><u>S42 Consultation</u></p> <p>Doc 3.1 Section 5 provides a summary of the main outcomes of s42 consultation.</p> <p>Doc 3.1 Section 6 provides details of those responses received, categorised by s42(a), s42(b) and s42(d) respectively, listed in tabular form. Tables are organised by consultee, issue, any action taken or if no action taken on the comments submitted.</p> <p>General responses to s42 consultation are also included in Doc 3.1 Section 7.</p> <p>The deadline for comments for phase 1 was 9 July 2010, and phase 2 was 11 April 2011. Responses and comments received after these dates have not been identified in Doc 3.1.</p> <p><u>S47 Consultation</u></p> <p>S47 consultation included three phases. Phase 1 responses are provided at section 10. A deadline of 9 July 2010 is set out in the published SoCC.</p> <p>Phase 2 responses are provided at section 12. No deadline set in Doc 3.1. Para 12.15.2 notes a 6 week viewing period on the website from 28 January 2011.</p> <p>Phase 3 responses are provided at section 13. No deadline or feedback period set in Doc 3.1.</p> <p>Responses and comments received after each deadline dates have not been identified Doc 3.1.</p> <p>The responses are not split and sorted to those which have or have not led to changes</p>	Lists are split and sorted appropriately, consider complied.
Have reasons been given for any other paragraphs of IPC Guidance Note 2 not having been followed?	The Consultation Report makes no reference to IPC Guidance Note 2 not being followed.	Noted, see comments below (next box).
Commissioner summary - s55(3)(d)	Applicant has not expressly departed from IPC Guidance Note 2 and therefore cannot be expected to have provided reasons for doing so, considered as complied.	

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

1. s42: Duty to Consult

a) person prescribed (set out in Schedule 1 of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009.

In accordance with the s42 list produced by the IPC, the following bodies were not included in **Doc 3.1 appendix 1**. However, they were consulted under s42 of PA 2008. Evident from the requested NR correspondence received 14 July 2011.

- **The Coal Authority**
- **OFWAT**
- **The British Waterways Board**
- **Suffolk PCT**
- **EDF Energy (IDNO) Limited**
- **EDF Energy Netwroks (EPN) Plc**
- **The Electricity Network Company Limited**

The following bodies were not included in **Doc 3.1 appendix 1** and were not consulted under s42:

Network Rail Infrastructure Ltd and Network Rail (CTRL) Ltd

NR state in a letter received 14 July 2011 that: *'These two companies are not relevant consultees for the purposes of this application. Network Rail did not formally consult itself or its wholly-owned subsidiary, Network Rail (CTRL) Limited, under section 42 of the PA 2008. Consultation necessarily involves one legal person ascertaining the views of another. It follows that as a matter of law Network Rail cannot consult itself. Any differing views within Network Rail and its subsidiaries will have been taken into account as part of the internal processed leading to the decision to make the present application'*.

The Broads Authority

To be consulted as an "A" authority under s43(3)(h) of PA 2008.

NR state in a letter received 14 July 2011 that: *'The Broads Authority was mistakenly omitted from Network Rail's section 42 consultation. As soon as this was brought to light by your letter, therefore, I contacted the Authority with a view to ascertaining whether its position is still as stated in its response to the IPC's consultation*

Failure to consult the Broads Authority is a failure to comply with s.42 of the Act. Non-compliance with s.42 however see final summary below.

It is noted that a number of reported consultees were not, according to Appendix 1 of the Consultation Report, consulted through that process. The Secretariat have investigated each one omitted from the Report and found explanations in each case (for example the Regional Resilience Forums have been re-organised). In a number of cases the applicant's judgement that the proposed application will not affect the consultee is the reason and this is accepted.

regarding EIA scoping i.e. that the Authority does not have any interest in the Order. In order to assist the Authority's reply, it has been sent Network Rail's section 42 consultation pack.

A letter from the Broads Authority confirms that the Authority has no interest in the Order nor wishes to make an Adequacy of Consultation representation.

East of England Regional Strategy Board

Suffolk Resilience Forum

NR have consulted Regional Resilience Team not the Suffolk Resilience Forum.

ABP Ipswich

ABP were consulted (**Doc 3.1 para 5.5 and 6.6**). Not specifically ABP Ipswich.

ABP's response stated that they '*wanted clarification as to whether the proposed scheme would impact on the rail operations of the Ipswich Associated British Ports (IABP)*'.

Civil Aviation Authority (CAA)

The Gas Transportation Company Limited

WINGAS Storage UK Limited

Wales and West Utilities Ltd

ESP Networks Ltd

This is considered as operating with ESP Pipelines Ltd, ESP Connections Ltd, ESP Electricity Ltd and ES Pipelines who have been consulted.

Intoto Utilities Limited and ECG (Distribution) Limited

These bodies are advised to be consulted under advice note 3.

National Grid Gas Plc (RDN)

National Grid and National Grid Gas Plc has been referred to in Appendix 1 but not specifically relating to National Grid Gas Plc (RDN). In accordance with National Grid's Compliance Annual Report (June 2009) "*NGG's national transmission system ("NTS") and gas distribution ("RDN") businesses have dedicated management boards which are independent of each other*"

Following phase 1 of pre application consultation in

	<p>accordance with s47, the design of the proposal was amended. Minor changes to the red line boundary from that proposed at Scoping Report stage have been identified, but on review it is apparent that the Regn 9 list of consultees would not have been different.</p>	
<p>b) each local authority (defined in s43)</p>	<p>Identified in Doc 3.1 appendix 1, the following Local Authorities defined in s43 are identified as follows and have been consulted:</p> <p>Ipswich Borough Council (“B” Authority) Babergh District Council (“B” Authority) Suffolk County Council (“B” Authority)</p> <p>Suffolk Coastal District Council (“A” Authority) Mid Suffolk District Council (“A” Authority) Norfolk County Council (“A” Authority) Cambridgeshire County Council (“A” Authority) Essex County Council (“A” Authority) Waveney District Council (“A” Authority) South Norfolk District (“A” Authority) Breckland District (“A” Authority) Borough Council of Kings Lynn and West Norfolk (“A” Authority) East Cambridgeshire Council (“A” Authority) South Cambridgeshire District Council (“A” Authority) Braintree District Council (“A” Authority) Colchester Borough Council (“A” Authority) Tendering District Council (“A” Authority) Forest Heath District Council (“A” Authority) St Edmundsbury District (“A” Authority) Great Yarmouth Borough Council (“A” Authority)</p> <p>The Boards Authority (“A” Authority) has not been identified as s43 Doc 3.1 appendix 1.</p>	<p>Consider complied.</p>
<p>c) Greater London Authority (if in Greater London area)</p>	<p>N/A</p>	<p>N/A</p>
<p>d) each person in one or more of s44 categories</p>	<p>Identified in Doc 3.1 appendix 1 covering categories 1-4 of s44.</p> <p>All persons under s.44 have been identified in the Book of Reference and Appendix 1 of Doc 3.1; however there is ambiguity over K R Rackham & Sons and Rackhams Auto Body Centre. It is unclear as to whether or not they are the same company.</p>	<p>Network Rail can be assumed to have consulted itself internally. Noted that Anglian Water is not listed under s42(d) consultees despite having an interest in the land but that they have been consulted as listed under s42(a), not considered as a significant non-compliance. The four individuals</p>

	<p>Anglian Water Services has not been included the list of s.42(d) consultees in Appendix 1 of Doc 3.1. They are however referred to under s.42(a) consultees.</p> <p>Network Rail Infrastructure Ltd has not been included in the list of the consultees in Appendix 1 of Doc 3.1.</p> <p>The following consultees were listed under Appendix 1 of Doc 3.1 but were not referred to in the Book of Reference:</p> <ul style="list-style-type: none"> • Big Fun UK.com Ltd • EDF Energy Networks (EPN) plc • GGN Ltd • John Menzies Plc • NHS Blood and Transplant Services 	<p>named Rackham are assumed to account for Rackhams Autobody Centre at the same address, which can therefore be considered as having been consulted. Consider as complied.</p> <p>Differences between s42(d) consultees as listed in the Consultation Report and those listed in the Book of Reference noted. There may be circumstances where bodies have an interest in the land and appear as s42(d) bodies but whose land will not be subject to an acquisition and therefore need not appear in the Book of Reference. Applicant has certified documents as correct: consider as complied.</p>
<p>When development is EIA development a person who proposes to make an application for an order granting development consent must, before carrying out consultation under section 42 (duty to consult) either –</p> <p>(a) Request the Commission to adopt a screening opinion in respect of the development to which the application relates; or</p> <p>(b) Notify the Commission in writing that the person proposes to provide an environmental statement in respect of that development</p>	<p>Yes. On 28 May 2010 the developer notified the IPC that it proposes to provide the IPC with an environmental statement in accordance with regulation 6(1)(b) of the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009, Regulations that the proposed development is EIA development, and for compliance with regulation 6(3), notification of the Ipswich Chord Environmental Report.</p>	<p>I have seen the Scoping Report and Scoping Opinion. Consider complied.</p>
<p><i>Was a request made prior to consultation made under section 42?</i></p>	<p>N/A</p>	<p>N/A</p>
<p><i>Was notification given in writing prior to consultation under section 42?</i></p>	<p>Doc 3.1 para 4.1 explains that s.42 consultation began in June 2010. Para 4.2 states that consultation material was sent out 2 June 2010. Therefore, after the 28 May 2010.</p>	<p>Agreed as complied.</p>
<p>2. s43: Local Authorities for the purposes of section 42(b)</p>		
<p>1) application land is in the authority's area (<i>is this identified?</i>)</p>	<p>Section 6 of the application form gives the coordinates of the development proposal. This area is shown in Doc 5.4 figure 1.1 this falls in the areas of the authorities Ipswich Borough Council, Babergh District Council and Suffolk County Council.</p>	<p>Agreed as complied.</p>
<p><i>If identified name of authority(s):</i></p> <p>.....</p> <p>.....</p> <p>.....</p>	<p>Ipswich Borough Council, Babergh District Council and Suffolk County Council, are not explicitly identified as the "B" Authorities. Doc 3.1 para 2.2.2 states that the s42(b) local authorities are IBC, BDC, SCC and neighbouring local authorities.</p>	<p>Whilst unconventional there is no prohibition in the regulations of failing to list the A and B authorities. Consider as complied</p>

.....		
a local authority ("A") is within this section if:		
a) the application land is in the area of another local authority ("B") and	The "B" Authorities are Ipswich Borough Council, Babergh District Council and Suffolk County Council	Noted.
b) any part of the boundary of A's area is also a part of the boundary of B's area	The "A" Authorities are Suffolk Coastal District Council Mid Suffolk District Council Norfolk County Council Cambridgeshire County Council Essex County Council Waveney District Council South Norfolk District Breckland District Borough Council of Kings Lynn and West Norfolk East Cambridgeshire Council South Cambridgeshire District Council Braintree District Council Colchester Borough Council Tendering District Council Forest Heath District Council St Edmundsbury District Great Yarmouth Borough Council The Broads Authority	Noted.
3. s44: Categories for purposes of section 42(d)		
1) Category 1 – known owner, lessee, tenant or occupier of land	Doc 6.4 Part 1 identifies those who fall within category 1. Numbers 15, 17 and 18 the freehold owner and occupier have been left unknown. For number 62 one of the occupiers has been left unknown.	Applicant has provided evidence of diligent enquiries having been made. Consider as complied.
Category 2		
a) Known person interested in the land	Doc 6.4 Part 1 identifies those who fall within category 2.	Noted.
Has power:		
i. to sell and convey the land: or	None expressly identified	Noted.
ii. to release the land	None expressly identified	Noted.
4. s45: Timetable for Consultation under section 42		
1) notification to person(s) under section 42 of deadline for receipt of response to consultation (<i>check if notification apparent?</i>)	Two phases of s.42 consultation: Phase 1: Material was sent out 2 June 2010; deadline of 9 July 2010 (Doc 3.1 para 4.2).	Consider as complied.

	Phase 2: Draft application documents was sent to s42 consultees on 8 March 2011; deadline of 11 April 2011. In addition, two landowners were sent draft application documents on 27 April 2011 and the Treasury Solicitor was sent draft application documents on 25 May 2011. All three parties were given 28 days to respond (Doc 3.1 para 4.4). No deadline for the additional consultees stated.	
2) deadline under 1 must not be earlier than 28 days starting the day after receipt of the consultation documents (<i>check period given 28 days or over?</i>)	As above the deadline given for phase 1 consultation is 37 days starting the day after receipt. For phase 2 is 34 days starting the day after receipt. Both phases are over 28 days. The deadline for the additional consultees is not stated. It is stated that 28 days were given.	Agreed as complied.
3) consultation documents mean those supplied by the applicant for the purpose of consultation (<i>check that documents were stated to be supplied?</i>)	Doc 3.1 does not list the documents supplied to s42 consultees. Doc 3.1 para 4.1 states that ' <i>Consultees were sent a section 42 notification pack which contained preliminary information about the proposed development and an Environmental Scoping Report which identified the scope of the Environmental Impact Assessment (EIA) for the scheme, as well as providing an overview of the likely environmental issues associated with the project.</i> ' The letter sent to the s42 consultees (provided by NR after a request for correspondence received 14 July 2011) included an annexed ' <i>Ipswich Chord s42 Notification pack</i> ' which contained preliminary environmental information.	Consider as complied.
5. s46: Duty to notify Commission of proposed application		
1) Did the applicant supply information to notify Commission of proposed application?	Yes. A s46 notification was received by the IPC on 28 May 2010.	Agreed as complied.
2) Was the information sent to the Commission the same as that sent to the s.42 consultees?	The s46 notification was attached with: a. Information on the proposed development and location b. A plan identifying the land c. Environmental scoping report d. Consultation strategy Doc 3.1 does not list the documents supplied to s42 consultees. See details above.	Consider as complied.
3) did notification under (1) above take place prior to consultation under s42?; or did it fall under transitional arrangements?	Yes. Notification to the IPC was received 28 May 2010. The material was sent to the s42 consultees on 2 June 2010 (para 4.2 Doc 3.1). Therefore, s42 consultation commenced after the date the IPC were notified.	Consider as complied.

6. s47: Duty to consult local community		
1) Applicant must prepare statement on how it intends to consult people living in the vicinity of the land (<i>has statement been prepared?</i>)	The published Statement of Community Consultation has been provided in Doc 3.1 appendix 3	I have seen the SOCC, consider as complied.
If the application is for EIA development the consultation statement requirements set out in Regulation 10 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 SI No. 2263 require that: 10. The consultation statement prepared under section 47 (duty to consult local community) must set out:		
(a) whether the development for which the applicant proposes to make an application for an order granting development consent is EIA development; and (<i>is it?</i>)	The Ipswich Rail Chord is EIA development. The published SoCC states that; <i>'the proposed development is Environmental Impact Assessment (EIA) Development and as such a comprehensive environmental impact assessment will be undertaken and the application to the Infrastructure Planning Commission (IPC) will be accompanied by an Environmental Statement' (Doc 3.1 appendix 3).</i>	I have read this in the SOCC and consider as complied.
(b) if that development is EIA development, how the applicant intends to publicise and consult on the preliminary environmental information. (<i>is this evident?</i>)	Doc 3.1 appendix 3 The published SoCC states that <i>'the proposed development is Environmental Impact Assessment (EIA) Development and as such a comprehensive environmental impact assessment will be undertaken and the application to the Infrastructure Planning Commission (IPC) will be accompanied by an Environmental Statement under the Infrastructure Planning (Environmental Impact Assessment) Regulations 2009. We will also consult on this environmental information during the second stage of consultation as set out below. It does not explicitly set out that the environmental information is preliminary environmental information (this is stated later in the SoCC).</i> The SoCC states that in stage 2 of the consultation there will be <i>'consultation meetings exploring construction options and preliminary environmental information, September – November 2010 (12 weeks)'</i> . Doc 3.1 para 8.5 states that in phase 2 of the consultation <i>'The Preliminary Environmental Information (PEI) was therefore included within this consultation phase'</i> . Appendix 16 shows the PEI used.	Consider as complied.
2) Before preparing the statement under (1) above the applicant must consult each local authority, defined in s43(1) about what is to be in the statement:		
<i>Was the consultation undertaken before the preparation of the statement?</i>	Yes. The 'B' authorities defined under s.43(1) are Ipswich Borough Council (IBC), Suffolk County Council (SCC) and Babergh District Council (BDC). Doc 3.1 para 8.2.1 states that <i>'A Statement of Community Consultation (SoCC)...</i>	Consider as complied reinforced by positive adequacy of consultation responses.

	<i>was prepared following an initial meeting with IPC, BDC and SCC in December 2009'... 'The SoCC was agreed by all three councils' Doc 3.1 para 8.2.3.</i>	
<i>Were all authorities defined in s43 (1) consulted?</i>	Yes. Details above. Doc 3.1 does not formally identify these "B" authorities as s43(1).	Consider as complied.
3) Receipt by applicant of a local authority's response to consultation under (2) above, 28 days after receipt of the consultation documents (<i>was this done?</i>)	<i>"The SoCC was submitted to IBC, BDC and SCC on 26 April 2010 for a 28 day review along with a supporting document setting out NR's approach to community consultation. The SoCC was agreed by all three councils" (Doc 3.1 para 8.2.3).</i>	Deadline set was 28 days, consider as complied.
4) In (3) above "the consultation documents" means the documents supplied to the local authority under (2) above		
Once statement prepared it must be published		
a. In a newspaper circulating in the vicinity of the land, and	Doc 3.1 para 8.2.3 states that the SoCC was <i>'published in the Ipswich Advertiser on 3 June 2010 as required by section 47(6) of the Planning Act'</i> .	Consider as complied.
b. In such other manner as may be prescribed	N/A	N/A
5) Applicant must carry out consultation in accordance with the proposals set out in the statement (<i>is this evident?</i>)	NR stated that they would undertake the following (in bold text below) in their SoCC published on 3 June 2010. The evidence used for assessing compliance with the SoCC is from the consultation report Doc 3.1 . NR intends to consult people living in the vicinity of the land proposed for the infrastructure works about the scheme and how it might affect them. Para 8.1 states that <i>'NR carried out consultation with the local community living in and around the vicinity of the proposed site in Ipswich'</i> . The consultation area is mapped in appendix 4 . Para 12.4.1 states that <i>'IBC approved NR's plan, as part of the Statement of Community Consultation, to include properties within 300-500 metres from site and possible haulage routes. This comprised 5,225 properties (residential and industrial) - map included (see Appendix 4).</i> Interested parties outside this area to be targeted by media releases. Press releases issued to the local	See comments in final summary.

media and supplemented with advertising at key stages of the project.

Stage 1 consultation: Yes evident in **paras 9.2.6 - 9.2.10**

Stage 2 consultation: Yes evident in **paras 11.2.5 - 11.2.8**

Stage 3 consultation: Yes evident in **para 13.2**

**Stage 1: Public consultation on the overall proposals
June - August 2010 (12 weeks)**

- **Early June - mid July 2010 (six weeks of consultation activity; public exhibition 8-10 June)**
- **Mid July - End of August 2010 (six weeks of consultation feedback analysis)**

The stage 1 consultation was carried out in June 2010. Public exhibitions were held 8-10 June 2010 (**para 9.2.16**).

Para 10.1.3 states that after going live on 7 June 2010, 1,550 people visited the website over a 6-week period, with a total of 2,383 page views.

Stage 2: Consultation meetings exploring construction options and preliminary environmental information, September - November 2010 (12 weeks)

- **September - mid October 2010 (six weeks of consultation activity)**
- **October - mid November 2010 (six weeks of workshop feedback analysis)**

Para 8.2.4 - 8.2.5 explains that *'in August 2010 the design of the project changed as a result of the decision to double-track the Ipswich Chord from the outset – in response to requests from the local authorities and public in and before phase 1, as well as regional authorities who were invited to a TEN-T consultation...this meant the timescales for consultation needed to be revised. An email and letter was sent on 3 November 2010 to all members of the public who had expressed an interest during phase 1 to be kept informed of project updates, detailing the revised consultation timetable. This was complemented by press releases issued on 23 November 2010 and 18 January 2011, as well as another email and letter on 5 January 2011'*.

Stage 2 consultation exhibitions and workshop took place

	<p>in January/February 2011 (para 11.1.3).</p> <p>Para 12.15.2 states that after going live on 28 January 2011, a total of 2,193 page views on the website over a 6-week period.</p> <p>Stage 3: Information round, December 2010 (two weeks of activity)</p> <p>Undertaken in April/May 2011 (para 13.1). Activity from 27 April - 6 May (para 13.2) less than 2 whole weeks. No evidence of feedback period in Doc 3.1 or attached appendix.</p> <p>Written comments can be submitted via letters (freepost) and online via the NR website or email address. A record of comments raised via the helpline number will also be reviewed as part of the consultation process. Feedback for Stage 1 consultation should be submitted by 9 July 2010 and Stage 2 consultation by mid October 2010.</p> <p>It is evident that there was an option of written feed back via letters (freepost) and online via the NR website or email address and a helpline in:</p> <p>Stage 1 consultation paras 9.3.1 - 9.3.3</p> <p>Stage 2 consultation paras 11.3.1 - 11.3.3.</p> <p>The feed back stage from 2 February 2011 (appendix 13) online questionnaire from January 2011- March (appendix 15). The mid October 2010 time scale set in the SoCC for stage 2 was moved due to changes in the scheme after consultation in stage 1. Therefore, the date set does not match the date the consultation took place.</p> <p>Stage 3 consultation evidence provided on a leaflet in appendix 22, letter in appendix 23 and email in appendix 24.</p>	
--	--	--

	<p>An initial mail shot will be undertaken to provide people living in the vicinity of the site with information about the proposal and consultation programme.</p> <p>The consultation area used for identifying people living in the vicinity of the site is mapped in appendix 4.</p> <p>Stage 1 consultation: Yes evident in paras 9.2.2 - 9.2.4</p> <p>Stage 2 consultation: Yes evident in paras 11.2.3 - 11.2.4</p> <p>Stage 3 consultation: Yes evident in para 13.2</p> <p>Public exhibitions as part of Stage 1 consultation to collate feedback on the emerging plans. These will take place at various times of the day so that as many people as possible can attend.</p> <p>Three public exhibitions held in stage 1 of the consultation at the following times at Ipswich's Corn Exchange:</p> <ul style="list-style-type: none"> • Tuesday 8 June, 10:00 – 20:00 • Wednesday 9 June, 10:00 – 20:00 • Thursday 10 June, 10:00 – 20:00 (para 9.2.16) <p>An additional public exhibition was held in stage 2 of the consultation on 1-2 February 2011 in the Ipswich Corn Exchange (para 11.1.4 and 11.2.18).</p> <p>NR offered to undertake presentations and Q&A sessions with councillors at various stages of the project.</p> <p>This took place in stage 1 of the consultation with a preview evening for councillors and council officers from the "B" authorities (para 9.2.15). In stage 2 a workshop for interested councillors and officers from IBC (para 11.1.4) took place and a presentation to the Chamber of Commerce (para 11.2.10).</p> <p>NR offered to attend meetings organised stakeholder and resident meetings, neighbourhood forums, and stakeholder and community workshops.</p> <p>In stage 2 of the consultation the workshop stated above which took place with '<i>key stakeholders</i>' (para 11.2.12 -</p>	
--	--	--

	<p>11.2.16).</p> <p>Not evident whether or not any other activities stated above took place in any other consultation stages.</p> <p>24-hour telephone helpline service will be available</p> <p>Stage 1 consultation: Yes evident in paras 9.3.3 Stage 2 consultation: Yes evident in paras 11.3.3 Stage 3 consultation: Yes evident in appendix 22 - 24.</p> <p>Inspection of documents including a copy of the SoCC, further consultation information and all relevant technical documents available to view free of charge at the following places. New information will be added as the proposals evolve.</p> <ul style="list-style-type: none"> • Online • By email • Project hotline • One-Ipswich Customer Service Centre • Babergh District Council <p><i>Para 8.6.2 states that 'throughout the pre-application consultation process a dedicated project webpage was established containing information about the scheme and technical documents were made available at the following locations:</i></p> <ul style="list-style-type: none"> • <i>One-Ipswich Customer Service Centre</i> • <i>Ipswich County Reference Library</i> • <i>Babergh District Council'</i> <p>Information about the scheme and forthcoming consultation events uploaded onto NR's website.</p> <p>Stage 1 consultation: Yes evident in paras 9.2.11 - 9.2.12 and 9.3.2 Stage 2 consultation: Yes evident in paras 11.2.9 and 11.3.2 Stage 3 consultation: Yes evident in para 13.3</p> <p>Project updates and flyers: letters to update interested parties about the scheme.</p>	
--	---	--

	<p>Stage 1 consultation: Yes evident in paras 9.2.1 and 9.2.4</p> <p>Stage 2 consultation: Yes evident in paras 11.1.2, 11.2.2 - 11.2.4</p> <p>Stage 3 consultation: Yes evident in para 13.2 - 13.3</p>	
7. s48: Pre-application duty to publicise the proposed application		
<p>1) Applicant must publicise the proposed application in the prescribed form as set out in Regulation 4 of the APFP Regulations (<i>has this been done? See responses set out under regulation 4 below</i>)</p>	<p>The applicant published the proposed application in the prescribed manner on the following dates:</p> <p><u>8 March 2011:</u> The Independent and the East Anglian Daily Times</p> <p><u>10 March 2011:</u> The London Gazette</p> <p><u>15 March 2011:</u> East Anglian Daily Times</p> <p>Doc 1.3 – Copies of Newspaper Notices</p> <p>Within these newspaper notices the deadline for written responses was stated as 11 April 2011. Reg 4(i) of APFP Regs states that ‘a <i>deadline for receipt of those responses by the applicant, being not less than 28 days following the date when the notice is last published</i></p> <p>The last publication made was on 15 Mar 2011 and states a deadline for written responses to be made by 11 April 2011; accounting for 27days to respond thus not complying with Reg 4(i).</p>	<p>Not complied because the deadline for comments was 27 days but see comments below for APFP Regulation 9(4)(j) and comments in final summary below.</p>
<p>2) Under Regulation 11 of The Infrastructure Planning (Environmental Impact Assessment) Regulations 2009 (SI No. 2263) where the proposed application is an application for EIA development, the applicant must, at the same time as publishing notice of the proposed application under section 48(1), send a copy of that notice to the consultation bodies and to any person notified to the applicant in accordance with regulation 9(1)(c).</p>		
<p><i>Has a copy of the consultation notice been sent to the EIA consultation bodies?</i></p>	<p>The applicant asserts in section 14 (c) of the application form (Doc 1.2) that a copy of the notice has been sent to the EIA consultation bodies. The commission has not notified the applicant of any persons under regulation 9 (1) (c)</p>	<p>Consider as complied.</p>
<p>4. – (2) The applicant must publish a notice, which must include the matters prescribed by paragraph (3) of this regulation, of the proposed application –</p>		

<p>(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;</p>	<p>The applicant published the proposed application in the following local news paper: <u>8 March 2011 and 15 March 2011</u> East Anglian Daily Times Doc 1.3 – Copies of Newspaper Notices</p>	<p>Consider as complied.</p>
<p>(b) once in a national newspaper;</p>	<p>The applicant published the proposed application in the following national newspaper and date: <u>8 March 2011</u> The Independent Doc 1.3 – Copies of Newspaper Notices</p>	<p>Consider as complied.</p>
<p>(c) once in the London Gazette and, if land in Scotland is affected, the Edinburgh Gazette; and</p>	<p>The applicant published the proposed application in the <u>10 March 2011</u> London Gazette Doc 1.3 – Copies of Newspaper Notices</p>	<p>Consider as complied.</p>
<p>(d) where the proposed application relates to offshore development –</p>	<p>N/A</p>	<p>N/A</p>
<p>(i) once in Lloyds List; and (ii) once in an appropriate fishing trade journal.</p>	<p>The proposed application is not an offshore development</p>	<p>N/A</p>
<p>(3) The matters which the notice must include are –</p>		
<p>(a) the name and address of the applicant;</p>	<p>Yes “Network Rail Infrastructure Limited” “Kings Place, 90 York Way. London, N1 9AG” Doc 1.3 – Copies of Newspaper Notices</p>	<p>Consider as complied.</p>
<p>(b) a statement that the applicant intends to make an application for development consent to the Commission;</p>	<p>Yes “...proposes to apply to the Infrastructure Planning Commission under section 37 of the Planning Act 2008...” Doc 1.3 – Copies of Newspaper Notices</p>	<p>Consider as complied.</p>
<p>(c) a statement as to whether the application is EIA development;</p>	<p>Yes “The proposed works are “EIA Development..” Doc 1.3 – Copies of Newspaper Notices</p>	<p>Consider as complied.</p>

(d) a summary of the main proposals, specifying the location or route of the proposed development;	Yes "Construction and maintenance of a railway chord linking the 2 lines mentioned above, including...." Doc 1.3 – Copies of Newspaper Notices	Consider as complied.
(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 "The documents, plans and maps showing the nature and location of the proposed development, including information so far compiled about environmental impacts (preliminary environmental information) are available for inspection free of charge from 8 March until 11 April 2011 at..." Doc 1.3 – Copies of Newspaper Notices	Consider as complied.
(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 "available for inspection free of charge from 8 March until 11 April 2011" Doc 1.3 – Copies of Newspaper Notices	Consider as complied.
(g) whether a charge will be made for copies of any of the documents, plans or maps and the amount of any charge;	Yes "a reasonable copying charge may apply, up to a maximum of £425 for the full suite of documents" Doc 1.3 – Copies of Newspaper Notices	Consider as complied.
(h) details of how to respond to the publicity; and	Yes "Any representations on the proposals should be made in writing to..." Doc 1.3 – Copies of Newspaper Notices	Consider as complied.
(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.	The notice was published in the East Anglian Times on 15 March, being the date of the last publication. The deadline for submission of responses was 11 April 2011. This provided 27 days for submission of responses and comments. The period of 27 days does not comply with Regulation 4(3)(i). Doc 1.3 – Copies of Newspaper Notices	The last publication date being 15 March the deadline for receipt of responses was 27 days counted from the day after ("following") publication, technical non-compliance therefore.
3) Regulations must make provision for a deadline for receipt by the applicant of responses to publicity <i>Regulation 4(3)(i) as set out above</i>		
8. s49: Duty to take account of responses to consultation and publicity		

<p>1) Subsection (2) applies where the applicant</p> <p>(a) Has complied with sections 42, 47 and 48, and</p>	<p>Doc 3.1 para 1.2 summaries how consultation has complied with s42, 47 and 48 of PA 2008.</p>	<p>Applicant has complied in respect of most bodies but has not complied in respect of the Broads Authority (although it did consult the Broads Authority at a later stage). Applicant has not complied with s42 nor s47, however see comments in final summary below.</p>
<p>(b) Proposes to go ahead with making an application (whether or not in the same terms as the proposed application)</p>	<p>Some minor changes to the boundary from that shown at Scoping stage have been identified however this would not have altered the list of those consulted.</p>	<p>Applicant has gone ahead. Minor changes to the application boundary are noted. Consider as complied.</p>
<p>2) Applicant must have regard to any relevant responses (<i>is this evident?</i>) NB: See Part 2 Advice Note for Commissioner for guidance on this.</p>	<p>Evidence of this is within Doc 3.1 and examples include:</p> <p>Para 5.2.1 From s42 consultation the EA noted that they required 24hr access to the sluice gate. In response NR have designed the new River Gipping bridge in a way that will allow 24hr access.</p> <p>Para 6.21 states that Scot Group Ltd (Thrifty Car Hire) were concerned that access to the wash bays and vehicle turnaround facilities will be affected by the scheme. After discussion with NR, confirmed that facilities will be relocated.</p> <p>Para 11.1.1 states that following phase 1 of s42 & s47 consultation, it was confirmed that the design would be double tracked. This was in response to requests from LAs and the public as well as regional authorities who were invited to a TEN-T consultation (Doc 3.1 appendix 7 & 8)</p>	<p>Complied.</p>
<p>3) In (2) above relevant response means:</p> <p>a. From a person consulted under section 42 received before the deadline imposed by section 45 in that person's case</p> <p>b. response to consultation under section 47(7) received before the deadline imposed in accordance with the statement prepared under section 47, or</p> <p>c. a response to publicity under section 48 received by the applicant before the deadline imposed in accordance with section 48(2) in relation to that publicity</p>		
<p>9. s50: Guidance about pre-application procedure</p>		
<p>1) Guidance may be issued by the Commission or the Secretary of State</p>		
<p>IPC Guidance Note 1 on Pre-application stages (Chapter 2 of the Planning Act 2008 – 7th December 2009 and CLG Guidance, The Planning Act 2008: Guidance on pre-application consultation</p>		
<p>2) The applicant must have regard to any guidance under this section (<i>is this evident?</i>) Legal advice should be taken on this where there is any doubt.</p>	<p>The applicant has had regard to the guidance issued under s.50 and has therefore complied with Chapter 2 of</p>	<p>Complied.</p>

	Part 5 of the Act.	
<p>10. Consultation Report</p> <p>An application must be accompanied by a consultation report (s37(3)(c)). The Commission has set standards in relation to, amongst other matters, consultation reports, and the application must comply with these. Please see this Checklist under s55(b) above in relation to both these matters.</p> <p>NB: The Commission must have regard to the consultation report when deciding whether or not to accept the application. LEGAL ADVICE may need to be taken on this.</p>		
<p>11. Any adequacy of consultation responses received from Local Authorities</p> <p>Those Local Authorities consulted by the applicant under s.42 may make representations about whether they consider the applicant has complied with its consultation and publicity duties under sections 42, 47 and 48. The Local Authorities in question are both those in which the proposed application site is situated and neighbouring authorities.</p>		
<p>Have all relevant local authorities made such representations?</p> <p>NB: The Commission must have regard to such representations when deciding whether or not to accept the application. LEGAL ADVICE may need to be taken on this.</p>	<p>The following relevant local authorities corresponded in relation to the adequacy of consultation:</p> <p>Suffolk County Council agreed that the consultation report satisfactorily explains the consultation which took place, and that the consultation met the requirements of s42, 47 & 48 PA2008.</p> <p>Great Yarmouth Borough Council stated that NR fulfilled its duty to consult and publicise the proposal.</p> <p>The Broads Authority noted that this application is of limited relevance to the Broads therefore had no comment on the adequacy of consultation. In later correspondence, the Broads acknowledged that the developer did not consult them during pre-application consultation however, after reviewing the information relating to the proposal, confirmed they had no further comment to make on the proposal or on the adequacy of consultation.</p> <p>Ipswich Borough Council confirmed that they had no objections on the issue of consultation.</p> <p>Essex County Council considered consultation and publicity to be adequate and in compliance with the developers duties to consult and publicise the projects at the pre-application stage.</p>	<p>Consider as complied.</p>
<p>Commissioner summary - s55(3)(e)</p>	<p>In deciding whether the applicant has complied with Chapter 2 of Part Five of the Act (Pre-application Procedure) I must have regard to the consultation report, any adequacy of consultation responses and “the extent to which the applicant has had regard to any guidance issued under s.50” (s.55(4)). Pre-eminent in terms of qualitative guidance on consultation is CLG’s “Guidance on Pre-application</p>	

Consultation” (September 2009 – the IPC note being mainly on form and procedure). The “Principles” for pre-application consultation set out in this Guidance are key: to allow members of the public to influence the way projects are developed; to help local people understand better what a particular project means for them; to obtain important information from consultees; to enable mitigation measures to be considered and to identify ways in which the project could support wider strategic objectives (in summary). Underpinning these are transparency, information participation and access to justice (matters set out in the Aarhus Convention).

The applicant not only consulted over a reasonable period of time but also gave a full account of the consultation in the Consultation Report. Further, the applicant enabled consultees to influence the development and evolution of the project through making key changes in the proposed project including agreeing to double-track the line and to further develop the design to reduce the impact on the cycleway and footpath. In addition the change to divert a sewer demonstrated the obtaining of important information and the mitigation of impacts through the consultation process. The applicant also, as recommended by paragraph 62 of the Guidance, used a variety of consultation techniques (a range of methods of consultation better reaches a wide variety of consultees).

The changes made to the scheme and in the consultation timescale were notified to all who had expressed an interest in the project and an ‘Information Update’ fed back to consultees in a participative manner.

All adequacy of consultation responses received from local authorities were positive.

There are a number of technical non-compliances with Form and Contents. There a number of instances of non-compliance with Pre-application Procedure: failure to consult according to the original deadlines published in the SOCC, allowing only 27 instead of 28 days for responses to consultation from some consultees and following publication of the Regulation 4 (APFP) Notice, and failure to consult the Broads Authority until after the appointed time. It is relevant in my view that it was the comprehensive nature of the consultation that caused revisions to the deadlines for further consultation. The Broads Authority was consulted at other stages, indicated it had no concerns and latterly confirmed that it does not wish to make any adequacy of consultation representation.

Having taken into account the information in the Consultation Report, the responses received from the local authorities and the Broads Authority and the fact that the applicant has more than had regard to the Guidance under s50 I conclude that the application should be accepted to go forward for examination on the basis that it would not be reasonable for a public authority in the above circumstances, in the case of this application, to refuse to accept due to the instances of non-compliance identified.

The Infrastructure Planning (Fees) Regulations 2010 (SI106)

Fees to accompany an application

5. – (1) The Commission must charge the applicant a fee in respect of the decision by the Commission under section 55 .If the applicant fails to pay the fee, the Commission need not consider the application until payment is received by the Commission.

2) The fee payable is presently £4,500 (<i>has this been paid?</i>)	Yes the correct fee of £4,500 has been paid	Agree as complied.
The fee must be paid at the same time that the application is made (<i>has it?</i>)	The applicant submitted the application documents on 28 June 2011 along with the fee, however the fee did not actually transfer into the IPC's bank account until the following day and therefore the Secretariat considers the receipt of the application to be 29 June 2011.	Due to action taken by the Secretariat the applicant can be considered as having complied with this requirement.
4) <i>What date was the fee received on and confirmed as bankable?</i>	The fee was confirmed as received in the IPC's bank account on 29 June 2011.	Noted.

Section 55 Acceptance of Applications

Application Checklist

Appendices

[Scheme name]

A Legal Advice

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

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