

From: [Oliver, Lewis](#)
To: [Aquind Interconnector](#)
Subject: EN020022 - AQUIND Interconnector - Preliminary Meeting 8th September
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[AQUIND DCO HBC PCC HCC response to Issue 3 of PM \(002\).pdf](#)

Dear Sir,

Further to the Preliminary Meeting held on Tuesday 18th August, the ExA asked for the relevant Local Authorities to set out clarification on points regarding the alternatives, which were discussed under agenda item 3. Please find attached a joint letter by Havant Borough Council, Hampshire County Council and Portsmouth City Council. We are aware that discussions have taken place with Winchester City Council regarding this issue, and as such we wish to register to speak on this item, although we are hoping to arrange to appoint a spokesman to speak on behalf of all authorities, in order to make efficient use of time.

Regards

Lewis

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Advance notice of leave: 21st August and 21st – 25th September Inclusive



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1 September 2020

Dear Sir/Madam,

**AQUIND Interconnector Examination Preliminary Meeting -
Havant Borough Council, Portsmouth City Council and Hampshire
County Council's response to Agenda Item 3 Initial Assessment of
Principal Alternatives**

Following earlier written submissions and comments during the Preliminary Meeting on the degree to which the applicant has considered alternatives in the scheme, the Examining Authority invited further written representations on this matter. As part of the response, Havant Borough Council, Portsmouth City Council, Winchester City Council and Hampshire County Council were asked to consider the role of EN-1, and how the applicant has addressed its responsibility in chapter two (Consideration of Alternatives) of the Environmental Statement (APP-117) and in the Planning Statement (APP-108)

The key issue set out in this response is the absence of the consideration of the "cross-country" route as an alternative. It is considered that this alternative should be considered during the examination and accordingly that the question of alternatives should be clearly identified as a principal issue. For the avoidance of any doubt, the cross-country route is a corridor running through the open countryside (west of the A3) from Portsdown Hill up to the Hambledon Road (B2150).

Havant Borough Council, Portsmouth City Council, Winchester City Council and Hampshire County Council have worked together to explore a common position in response. This paper sets out the combined response of Havant Borough Council, Portsmouth City Council and Hampshire County Council (hereafter 'the Councils') in response. Whilst this paper has been drafted in close collaboration within Winchester City Council, it is the position of Winchester City Council that they wish to make an independent, yet very similar, submission. Portsmouth City Council also has a separate but related concern, that the applicant has insufficiently discharged its responsibilities in respect of the assessments of alternative sites for landfill.

Legislative Background on the Consideration of Alternatives

The applicant has set out the legislative background at the beginning of chapter 2 of the Environmental Statement (the 'ES'). There is no dispute that the correct relevant sections of both EN-1 and the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 ("the EIA Regs") have been identified. The relevant sections from both authorities are quoted. The concern, where one exists, is in the application of these requirements in the context of what is considered to be "reasonable" and "proportionate".

However, beyond the way in which alternatives are addressed in the NPS and in the EIA Regs, alternatives which are not alternatives to the scheme as a whole (such as routing alternatives) may be relevant and important matters to consider in the context of the an application for development consent on the planning merits. This may include alternatives which are raised by third parties, such as the Councils. The requirement to consider alternatives may arise from:

- (1) Where alternatives are considered to be "important and relevant" to the decision (and therefore must be taken into account), which may be because the adverse effects of the proposal are such that it is necessary to consider whether alternative options could deliver the scheme without such adverse effects. The relevance and importance of alternatives in such circumstances is well-established: see the discussion of the principles in Lisle-Mainwaring v Carroll [2018] JPL 194.
- (2) The need for compulsory acquisition powers where, even if the NPS in question does not identify a need for alternatives to be considered, the existence of an alternative site or sites would be relevant for the purpose of deciding whether there was a compelling case in the public interest for compulsory acquisition (see R (FCC Environment) v Secretary of State for Energy and Climate Change [2015] Env LR 22, at [11]).
- (3) Another legal duty to consider alternatives (e.g. under the Habitats Directive).

Accordingly, whilst Chapter 2 of the ES correctly identifies the duty to consider alternatives under the EIA Regs, and the relevant parts of EN-1, it does not comprehensively address the need to consider alternatives. Nor is it the function of the ES to do so: the ES is required only to report on the main alternatives studied by the applicant.

Consideration of Alternatives in the Application

This matter is covered in Chapter 2 of the ES. This chapter outlines what is referred to as the optioneering process that has been followed. To that end, it sets out the actions of the applicant in chronological order.

It seems evident that in establishing its “first principles” in the Initial Technical Feasibility Report (August 2014) section 2.4, the applicant made a clear decision that the cable route from any landfall point to the grid connection point would follow the highway. This is evident by its presence in Table 2.1 which outlines 5 strategic principles that the scheme will follow. These are:

- Any European connection would be to France
- The landfall and grid connection would have a South Coast location
- The Cables will not be overhead but buried
- The onshore cable route would be laid in the highway
- The power would be transmitted via a DC cable connection.

This intention to adopt a road route is confirmed in para 2.4.6.1 which refers to the intention to bury the cables as a “strategic decision” made in para 2.4.1. By inference, the same point must also apply to the decision to follow roads with the cable from the landfall to grid connection point. It would seem at this early stage the applicant was locking themselves into a defined course of action regarding routing choices.

By Section 2.4.11 (UK Cable Route Desk Study) (February 2017) the optioneering process had gone through the decision to choose Lovedean as the grid connection point and reduced the choice of the landfall point to three alternatives. These were:

- East Wittering,
- Hayling Island and
- Eastney.

The routes from these landfall points to Lovedean are show on Plate 2.9 (DC Cable Route Options). They all show the cables being laid in the highway, emphasising the prior early decision taken by the applicant to utilise the road network and not appraise a cross-country route.

Section 2.4.11.5 does refer to consideration being given to shortening sections of the cable route by going off road across fields, but the primary approach was to look for routes following the road network. In the

assessment of the Eastney Portsea Island landfall to Lovedean option, no indication is given of the consideration of a cross-country route west of the A3.

Section 2.4.13 (UK Cable Routes Detailed Desk Studies of Route 1D & 3D) June 2017 indicates that a further assessment of the Eastney to Lovedean cable route was made. The section makes no reference to the consideration of the cross-country route being assessed against the road route. Again, this appears to reflect the "strategic" choice made by the applicant.

Section 2.6.4 outlines the response to the WCC and HBC Alternative Countryside Route which those authorities raised in their responses of April 2019 to the PEIR consultation exercise. Two comments are made in response to this section.

Firstly, this is the only point in the submission at which point the applicant addresses the cross-country route. The optioneering process is silent about any consideration of the cross-country route prior to this section. It seems likely that had the two councils not raised it in their responses to the PEIR then the ES may well have been totally devoid of any reference to it.

Secondly, the table as presented in 2.6.4 is not a fair assessment of the two options one against the other. It is not a straightforward process considering the environmental impacts of a countryside route compared to that following an urban route. The countryside option is highly likely to score higher on environmental impacts. What is lacking is a more detailed analysis beyond the simplistic observation that there will be some "temporary short-term impact on traffic" (2.6.4.5) if the road route is followed. Just as the Environmental impacts are listed in the table so the socio-economic impacts need identifying and weighing. These should include covering the potential delays to traffic including emergency vehicles and the potential to inhibit future work to maintain or enhance the road network or service future development through the presence of the cables in the road. Other impacts, such as the potential impact on highway trees have yet to be appraised. The fact the applicant has not explored these in a greater level of detail and that the level of impact is still emerging is viewed as a deficiency in the process.

Had a proper iterative assessment been carried out it is possible that the "strategic" approach of preferring a route laid through highway would have been identified as less preferable to a countryside route. And in that case the criteria that were then used to identify the preliminary routes from the shortlisted landfall sites as the preferred sites with "routes which follow roads, but avoid motorways" (as described in 2.4.6.5). As the assessment of alternatives was not undertaken in an iterative way it has failed to reach a

robust conclusion and would therefore benefit from more detailed and proper examination of the issue.

The Council takes issue with the adequacy of the applicant's analysis and it is this issue which they wish to be addressed through:

- (a) Its identification as a principal issue
- (b) Its consideration at an ISH

Conclusions

- i. Alternative route options may be legally relevant and important matters for the examination, particularly where adverse impacts of the selected route have been identified as is the case here. That is irrespective of whether and to what extent other options have been considered in the applicant's assessment in the ES or otherwise.
- ii. In August 2014, the applicant adopted 5 strategic principles that would be applied to the project. One of these was to follow the highway with any cable route from the landfall to grid connection point. There is a concern that the adoption of this principle has influenced the consideration of other alternatives.
- iii. As the optioneering process progressed, and it focused in on the cable route 3D (Eastney to Lovedean), no option other than burying the cables under the A3 and B2150 appears to have been considered. The Cable route desk study of February 2017 gives no indication of considering the cross-country option west of the A3.
- iv. The consideration of alternatives is an iterative process and there is an expectation on a developer to consider new options or reconsider previously discounted options as a project is being developed.
- v. Although the applicant addressed the cross-country route in response to the issue being raised in the PEIR, by this time the intention to follow the road route has already been expressed. The Councils take issue with the applicant's response, and consider that this issue needs to be carefully analysed.
- vi. This assessment should have formed part of the earlier cable route studies. Its absence from any earlier study raises the concern that the detail presented, was only put together in response to the matter arising at the PEIR stage.

- vii. WCC has consistently asked for the disclosure of any assessment of the cross-country route. To date no additional information has been forthcoming that may have answered this question.
- viii. It is not considered just a question of making an assessment of the two options. Any assessment of the cross-country route against the highway route needs to have a sufficient level of information regarding both options for any meaningful and reasonable assessment to be made. The timing of the assessment is therefore an important consideration.
- ix. It is accepted that no assessment can be made with full information on different options. However, there is a concern that the applicant has still not fully appreciated or acknowledged the technical and engineering difficulties of laying the cable circuits in the highway.
- x. The issues associated with the highway option are still emerging. This raises the question whether a reasonable assessment of the two options against each other has been made if some form of “blind” assessment has indeed taken place and which has not been disclosed to date.
- xi. The impacts of following the road route have the potential to be significant which adds to the need to undertake a balanced review of the two routes.
- xii. There is a further question as to the adequacy of consultation because consultees have not been asked to consider the relative merits of a cross-country route at any stage. Again, this heightens the need for proper examination of the issue.
- xiii. WCC highlighted the need for the applicant to seek clarification on this matter at one of the briefing meetings held with the Planning Inspectorate. This is recorded in the notes of a meeting held on 13 June 2019. The applicant does not appear to have acted upon this suggestion. The importance of this issue to the examination has therefore been identified for some time and by several local authorities.
- xiv. If the consideration of the cross-country route against the road route has merit, the Examining Authority is requested to consider the implications on public consultation. At neither the PEIR consultation stage or at the formal submission stage has the public been asked to express their views and preference for one route over the other? It is understood that public engagement is a fundamental part of the formulation of a scheme and in this instance that stage is missing.

- xv. The implication of not considering the cross-country route during the optioneering process is that the applicant has failed the test of reasonableness which is referred to in the EIA Regs and the adequacy of the optioneering process must be questioned.

Yours faithfully,

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