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To: [Aquind Interconnector](#)
Subject: Submission by Winchester City Council in respect of Procedural Deadline B
Date: 01 September 2020 12:51:25
Attachments: [Aquind Definitive PM Response letter Sept20.pdf](#)

Please find attached the Councils response to the matters raised at the Preliminary Meeting held on 18 August 2020. As we did with our earlier response dated 25 July, we have sent a copy of this letter directly to the applicants so they are aware of its contents.

Regards

Steve Cornwell
Winchester City Council

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Sent by email only.

1 September 2020

Your Reference: EN020022
My Reference:

Dear Sir

Subject: Response to invitation to comment on matters raised at Preliminary Meeting held online on 18 August 2020

Application by AQUIND Limited for an Order Granting Development Consent for the Aquind Interconnector Project.

Following the Preliminary Meeting of 18 August 2020, I am as invited, setting out the Councils further views on agenda items 3 and 6. This is not a direct replacement of the councils earlier letter of 24 July 2020 but responding to the specific areas at the invitation of the Examining Authority. Accordingly, the Panel is requested to note and take account of the contents of the previous letter.

1 Item 3 Initial Assessment of Principle Alternatives

Introduction

1.1 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, the Councils 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)

- 1.2 The issue which is at the heart of the concern 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 principle 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).
- 1.3 The Councils have been encouraged to work together to see if a common position can evolve. Whilst this paper has been shared between the authorities, it is the position of Winchester City Council that they wish to make an independent submission. This position has been taken on the basis of legal advice on the need to maintain sufficient flexibility to act or respond alone in the event of a legal issue arising. The Council also has a number of other points to raise in its response.

Legislative Background on the Consideration of Alternatives

- 1.4 The applicant has set out the legislative background at the beginning of chapter 2. There is no dispute that the correct relevant sections of both EN-1 and the Environmental Impact Assessment regulations 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”.
- 1.5 However, beyond the way in which alternatives are addressed in the NPS and in the Environmental Impact Assessment regulations, 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).

- 1.6 Accordingly, whilst Chapter 2 of the ES correctly identifies the duty to consider alternatives under the EIA Regulations, 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

- 1.7 This matter is covered in chapter 2 of the Environmental Statement. 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.
- 1.8 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.
- 1.9 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.
- 1.10 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.
- 1.11 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.
- 1.12 Section 2.4.11.5 does refer to consideration being given to shortening sections of the cable route by going off road across fields. 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.

- 1.13 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.
- 1.14 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.
- 1.15 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 Environmental Statement may well have been totally devoid of any reference to it.
- 1.16 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 an easy process considering the environmental impacts of a countryside route compared to that following an urban route. The countryside option will inevitably 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 cover 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. 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.
- 1.17 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 principle issue
 - (b) Its consideration at an ISH

Conclusion.

- 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. The only evidence to show that the applicant has considered the cross country route at any stage is in the response to the questions raised during the PEIR consultation process in April 2019.
 - 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 option. 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. This view is expressed without any favouritism being expressed for or against one option in comparison to the other. They are both recognised as holding positive and negative consequences.
 - 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.
- 1.18 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.

- 1.19 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 regulations and the adequacy of the optioneering process must be questioned.

Agenda Item 6

Open Floor Hearings

- 2.1 In developing its case, the council is in contact with the local parish councils of Denmead, Hambledon and Newlands. It may already be the intentions of the Examining Authority to hold an Open Floor Hearing (OFH) to allow all the communities along the route that are impacted by the proposed development to express their views on the scheme. Whether an OFH is being scheduled or not, it is requested that flexibility is provided within the timetable for the above bodies and their communities to be given the opportunity to speak. In the event face to face meetings are part of the examination process, it is also requested that a suitable venue is located close to the northern section of the scheme.

The sequence in which Hearings are held

- 3.1 The Council is continuing to review the details submitted with the application. Over the past few weeks the mechanism that the applicant is offering to secure the future retention and management of the landscape features at Lovedean has come under greater focus. Questions have arisen over the suitability of the use of a "deed of covenant" and whether this needs reinforcement. This may have relevance on the timing when any Landscape Issue Specific Hearing and the Compulsory Acquisitions Hearing takes place. The Examining Authority is requested to take this factor into consideration when setting the examination timetable.
- 3.2 Based on the information in the Book of Reference (APP-024) and on Land Plan sheet 1 of 10 (APP-008), the applicant is not proposing to take ownership of the land on which these features stand, but intends to enter into a deed of covenant with the relevant landowner. The Council is currently seeking further clarification on this approach. The progress in seeking to obtain greater confidence in this approach may have relevance on the timings when any Issue Specific Hearing on Landscape and the Compulsory Acquisitions Hearing (CAH) takes place. It is anticipated that this matter would be discussed at both events. If confidence continues to be low, this may have implications on what other option the applicant needs to investigate to secure these features. One option would be to extend the amount of land the applicant intends to take full ownership of. The Examining Authority is therefore requested to note this situation when programming the sequence of hearings.

Requests for Accompanied Site Inspections

- 4.1 Winchester City Council notes the unaccompanied site visits (USV) already undertaken by the Examining Panel to date and recorded in the Examination Library. WCC requests that the following two sections of the site are walked and that officers from the council are in attendance.
- 4.2 Firstly, the main site for the Converter Station including the access roadway. A request is made as to whether the four corners of the Converter Station compound under both micro siting options B(i) and B(ii) and the edges of the access road can be defined on the ground using marker posts so that the potential footprint can be readily observed.
- 4.3 The reason for this request is that the main site is not crossed by any nearby public right of way and the surrounding roads offer very limited views into the site. The proposed layout regarding the two micro sitings need to be considered with the implications on landscape features and new planting areas associated with them. The existing and proposed ground levels need to be appreciated for both the converter station compound and also the access road. The proximity of the surrounding residential properties needs to be considered. Finally, the landscape features identified on Land Plan sheet 1 of 10 to be subject to New Landscape Rights and their contribution to the scheme from a landscape and biodiversity context need to be noted.
- 4.4 Secondly, a request is made that a site inspection is undertaken on the land between Annmore Road and the Hambledon Road, which encompasses the Kings Pond and Denmead Meadows area. There are no public rights of way across this land and only limited views into it are available from the highway. The quality of the habitat cannot be appreciated at a distance. The majority of this land is designated a Site of Importance for Nature Conservation (SINC). The ecological interest is not uniform but even currently low value areas have the potential to be improved. This is the location where the applicant is proposing to partly Horizontal Directional Drilling (HDD) to install the cables, with the last section at the northern end to be open trenching. The potential impact on the ground flora and the groundwater system needs to be considered as part of the assessment of the extent of the HDD section and the impacts associated with establishing the temporary compounds. How the trenching will approach Annmore Road at the northern end of the field also needs to be considered, if one or both cable circuits are to turn eastward onto the road.

Attendance at Site Inspection by Ward Members

- 5.1 The local Denmead ward members have expressed an interest in attending the above accompanied site visits as representatives of the local community. Clarification on this matter is requested from the ExPanel. It is acknowledged that this would only be in the capacity as an observer and that they will not engage in any discussion. The presence of local representatives would raise local confidence in the examination process.

Registering to speak

- 6.1 Although no formal invitation to register to speak at the reconvened Preliminary Meeting on 8 September 2020 has been circulated, Winchester City Council

does wish to place on record its desire to speak on any of the above matters.
The council will be represented by Stephen Cornwell.

Full Disclosure

7.1 As part of its commitment to full engagement with the applicant, a copy of this letter has been sent to the applicant. They will therefore be fully aware of the points which are being presented to the meeting. This action is hoped to help facilitate a positive consideration of the points raised above.

If you have any queries or require further information, please do not hesitate to contact the Case Officer, Mr Stephen Cornwell.

Yours faithfully

Julie Pinnock BA (Hons) MTP MRTPI
Head of Development Management