

**From:** [Jarvis, Martyn](#)  
**To:** [Aquind Interconnector](#)  
**Cc:** [Haddrell, Kath](#)  
**Subject:** AQUIND Interconnector: Procedural Deadline B - Submission by the Applicant  
**Date:** 01 September 2020 15:13:05  
**Attachments:** [AQUIND Limited - Submission for Procedural Deadline B.PDF](#)

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Dear Sirs,

In advance of the resumption of the Preliminary Meeting on Tuesday 8<sup>th</sup> September 2020 please see attached a written submission on behalf of the Applicant.

Yours faithfully,

Martyn Jarvis

**Martyn Jarvis**  
Senior Associate  
Herbert Smith Freehills LLP

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**AQUIND Limited**

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# **AQUIND INTERCONNECTOR**

Procedural Deadline B Submission

The Planning Act 2008

Document Ref: 7.9.2

PINS Ref.: EN020022



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Our ref  
18857/30985781  
Your ref  
EN020022  
Date  
1<sup>st</sup> September 2020

Dear Sirs

### **AQUIND Interconnector - Procedural Deadline B Submission**

Further to the Preliminary Meeting held on 18<sup>th</sup> August 2020 and in advance of the resumption of the Preliminary Meeting on 8<sup>th</sup> September 2020 we are writing to you on behalf of the Applicant to provide a written submission in relation to procedural matters relating to the proceedings of the preliminary meeting.

The matters which we address in this letter relate to the discussion at the Preliminary Meeting regarding planning obligations and regarding the consultation that was undertaken prior to the submission of the application for a Development Consent Order for AQUIND Interconnector (the 'Proposed Development') (the 'Application').

In relation to Agenda item 4, Mr Richard Turney acting on behalf of Hampshire County Council raised the question of the need for planning obligations and requested an addition to deadline 6 for a heads of terms to be submitted for any planning obligation by this date. As explained by Martyn Jarvis of this firm, whilst the Applicant is amenable to entering into planning obligations where necessary, to date there has been no clear request from any of the host local authorities regarding the planning obligations considered to be appropriate and, in consequence, as yet, no advanced justification for these (which will be by reference to the tests provided for at Regulation 122 of the Community Infrastructure Regulations 2010 (as amended)).

Having considered this matter further, it is the view of the Applicant that Deadline 6 is too late in the examination for this matter to be dealt with as it may not leave sufficient time for any required planning obligation to be drafted, agreed and available at the necessary time for the ExA to take this into account. Accordingly, we request on behalf of the Applicant that an addition is made to Deadline 1 to require the submission by the host local authorities of the planning obligations they are seeking in connection with the Proposed Development and the justification for these. Deadline 1 is considered to be an appropriate deadline, as that is the deadline for the submission by the

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local authorities of their Local Impact Reports, which will identify their views on the impacts of the Proposed Development and the need for planning obligations to mitigate those impacts.

The ExA will also recall that matters relating to the pre-application consultation were discussed by Mr Alistair Thompson. Further to that discussion, the Applicant has written to Mr Thompson providing a clear response to the concerns raised. A copy of that correspondence is enclosed with this letter.

At the Preliminary Meeting, it was stated that the ExA may listen to matters relating to any potential omissions in relation to the consultation process at an open floor hearing and include information relating to these matters in their recommendation on the Application to the Secretary of State.

The Applicant notes the ExA's clear statement made in the Rule 6 Letter dated 3 July 2020 that the Applicant's pre-application consultation is not a matter for the examination phase or the ExA, whose members were appointed after acceptance of the Application.

Further, we highlight that by accepting the Application for examination the Planning Inspectorate has determined on behalf of the Secretary of State in accordance with Section 55(3)(e) of the Planning Act 2008 (the 'Act') that the Applicant has complied with Chapter 2 of Part 5 (pre-application procedure) of the Act. That matter is now therefore closed and should form no part of the consideration of the Application.

As the ExA will be aware, once an application has been accepted for examination by the Planning Inspectorate on behalf of the Secretary of State the only manner in which the decision of the Secretary of State may be challenged is via the Courts, as provided for in Section 118(7) of the Act.

Accordingly, we would be grateful if the ExA could re-confirm at the resumed Preliminary Meeting that matters relating to the Applicant's pre-application consultation are not matters that are to be considered during the examination or which are to form part of their recommendation on the Application.

Yours faithfully,

*Herbert Smith Freehills LLP*

**Herbert Smith Freehills LLP**

Encl.

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Mr Alistair Thompson  
By email only

01 September 2020

Dear Mr Thompson,

**AQUIND Interconnector - Response further to discussion at the Preliminary Meeting on 18th August 2020 regarding the public consultation carried out in relation to the proposals for AQUIND Interconnector**

We are writing to you on behalf of AQUIND Limited (the 'Applicant') further to the discussion at the Preliminary Meeting in relation to the application made for the AQUIND Interconnector DCO (the 'Application') and the consultation carried out in relation to the proposals for AQUIND Interconnector (the 'Proposed Development').

The discussion at the Preliminary Meeting referenced and was further to previous correspondence issued by you and the response provided by ourselves relating to this matter. A copy of that correspondence and the response provided to it is attached to the email along with this letter.

**Summary of concerns raised**

At the Preliminary Meeting you expressed concerns regarding the consultation undertaken in relation to the Proposed Development, and in particular identified the following issues:

- The consultation carried out did not involve the placing of statutory notices in key areas where elements of AQUIND Interconnector (the 'Proposed Development') are proposed to be constructed, in particular Bransbury Park, Milton Common and the University of Portsmouth Langstone Campus;
- There was no form of local community consultation notification issued to any residents, such as a neighbourhood notification letter;
- Your discussions with some users of Bransbury Park confirmed these concerns, which whilst not scientific are believed to be indicative of the issues noted above;
- At a late stage of the consultation carried out between February – April 2019 statutory notices were placed in locations that they had not been placed in before;
- The statutory notices that were erected late in the consultation process were erected in poor locations;
- Important information on notices was on the back of cable tied notices and not able to be viewed by members of the public; and
- As a consequence of the above it was considered that many persons were completely unaware of the consultation whilst it was ongoing.

Further to the specific concerns identified above, you also identified that you did not consider that the consultation carried out was carried out properly for the following reasons:

- The consultation was not carried out at a formative stage of the proposals;
- Sufficient information was not provided on the proposals to allow intelligent consideration of them;

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- Sufficient time was not provided for the consultation and for responses to be provided to it; and
- The product of the consultation was not conscientiously taken into account by the Applicant when refining the proposals following the consultation and prior to the submission of the Application.

### **Background to and summary of the consultation undertaken with local communities**

Before responding to the above comments made at the Preliminary Meeting, it is helpful to detail the consultation carried out.

The first public consultation in relation to the Proposed Development was carried out between 3 January to 24 February 2018, an 8 week period. This consultation was carried out in accordance with the requirements for consultation provided by the Ten-E Regulations (Regulation (EU) No 347/2013). At this time the Proposed Development was not subject to the requirements of the Planning Act 2008 (the 'Act'), as the direction pursuant to Section 35 of the Act directing the Proposed Development is development for which development consent is required (the 'Direction') had not been issued. Therefore the pre-application requirements of the Act were not applicable.

A full summary of this first round of public consultation can be viewed at Section 8 of the Consultation Report submitted in support of the Application [Examination Library Reference APP-025]<sup>1</sup>. As a very brief overview of the engagement with the local communities:

- the Applicant issued a 2 page newsletter to 10,013 households and businesses in the vicinity of the Proposed Development;
- Detailed press releases were issued to the Portsmouth News, the Horndean Post, the Southern Daily Echo and the Hampshire Chronicle;
- Paid for adverts were also placed in the Portsmouth News, the Horndean Post, the Petersfield Post, the Clanfield Post and the Bordon Post proximate to when public consultation events were to be hosted;
- Facebook adverts were paid for which were viewable to approximately 300,000 individuals living within proximity to the area identified for the Proposed Development;
- Public consultation events were carried out in Portsmouth, Waterlooville and Lovedean;
- An information leaflet in relation to and a non-technical summary of the Proposed Development were produced and made available to the general public; and
- Feedback forms were made available for consultees to provide their views on the Proposed Development.

Following the first public consultation the Direction was issued, at which point the Proposed Development was then subject to the statutory requirements provided by the Act. As you may be aware, Section 47 of the Act provides a duty to consult with the local community regarding a proposed application and specifies how such consultation must be undertaken.

Section 12 of the Consultation Report provides information regarding the Statement of Community Consultation produced in relation to the consultation with local communities for the Proposed Development, including how this was consulted on with the host local authorities and how the Statement of Community Consultation was publicised.

Section 13 of the Consultation Report provides information regarding how the consultation carried out with local communities was publicised in accordance with the relevant requirements provided by the

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<sup>1</sup> The Consultation Report may be located on the Planning Inspectorates website at this link - <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN020022/EN020022-000478-5.1%20Consultation%20Report.pdf>

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Act, confirming that the consultation was advertised in national press and in local press, the latter on successive occasions, and that over 80 hard copies of the statutory notice were displayed in locations in or close to publicly accessible open space including parks, recreation areas/sports fields and public footpaths. Information on where the statutory notices were located is available at Appendix 1.5G to the Consultation Report [Examination Library Reference APP-094]<sup>2</sup>.

Section 14 of the Consultation Report provides information on the consultation that was carried out. The Applicant undertook consultation between 27 February 2019 – 29 April 2019, a period of 8 weeks, which is in excess of the minimum period required by the relevant Regulations<sup>3</sup>.

The Applicant used a wide variety of tools to provide information about the proposals and the consultation process to the local community in an accessible way to encourage feedback. These tools, in addition to the publication and placing of statutory notices, included:

- A community consultation newsletter, issued to 16,592 households and businesses in the vicinity of the area identified for the Proposed Development;
- A 132 page consultation document;
- The holding of 9 public exhibitions events;
- Provision of all consultation documentation at 10 deposit locations in the vicinity of the Proposed Development for the duration of the consultation;
- Provision of feedback forms; and
- Social media adverts.

In addition, the Applicant also made available a preliminary environmental information report and a non-technical summary of that report to enable consultees to develop an informed view of the Proposed Development.

For information, the full suite of consultation documents made available in advance of and during this consultation may be viewed here - <https://aquindconsultation.co.uk/consultation-materials/>.

The 9 public exhibition events held were attended by 709 individuals and responses to the consultation were received from 155 statutory consultees and members of the local community. A summary of the feedback received and how regard was had to that feedback by the Applicant is provided at section 14.6 of the Consultation Report.

### **Response to the concerns raised**

The Applicant takes the concerns you have raised very seriously and we therefore want to address them as comprehensively as is reasonably necessary.

The Applicant has undertaken comprehensive pre-application engagement with the local communities likely to be affected by the Proposed Development, noting that effective pre-application consultation will lead to applications which are better developed and better understood by the public, and in which the important issues have been articulated and considered as far as possible in advance of submission of an application.

With regard to your more general concerns raised, the Applicant is firmly of the view that consultation was carried out at appropriate formative stages of the proposals. As noted above, two rounds of consultation were carried out at the beginning of 2018 and 2019. Recognising the tension between consulting early, but also having proposals that are firm enough to enable consultees to comment in

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<sup>2</sup> Appendix 1.5G to the Consultation Report may be located on the Planning Inspectorates website at this link - <https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN020022/EN020022-000547-5.1.5G%20Consultation%20Report%20-%20Appendix%201.5G%20Site%20Notice%20Locations%20and%20Photos.pdf>

<sup>3</sup> See Regulation 4(3)(i) of the Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009

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an informed manner, the Applicant carried out an iterative phased consultation consisting of two stages.

Further, as has been set out above, a comprehensive suite of information was made available to consultees in relation to the proposals for the Proposed Development. The information made available at the second of the two rounds of consultation was more comprehensive than that made available at the first, in light of the proposals being further developed at that time and more information being available in relation to them.

Both of the consultations were carried out over an 8 week period, in excess of the minimum period required. The Applicant considers an 8 week period to be adequate and to provide sufficient time for responses to be provided, whilst ensuring that persons do not experience consultation fatigue as a consequence of the consultation going on for too long a period.

Lastly in relation to the general concerns raised, the Applicant firmly refutes that it has not taken into account conscientiously the feedback received to the consultation. The Applicant had regard to the feedback received and the Proposed Development has been amended as a consequence of it following both stages of consultation. How the Applicant has had regard to the feedback received is detailed in the Consultation Report.

Turning to the more specific concerns you have raised regarding the provision of site notices and the lack of a neighbourhood notification letter, the Applicant responds as follows:

- As noted above, over 80 statutory notices were placed along the linear route of the Proposed Development, including in proximity to Bransbury Park, around the perimeter of Milton Common and around the University of Portsmouth Langstone Campus. All statutory notices were erected on 26 February 2019 in advance of the consultation commencing. Inspections of the notices to check for damage or notices being removed were carried out on 20 March 2019 and 10 April 2019. Any notices that were observed to be damaged or removed were replaced and new notices were erected. A sample of photographs of the notices is available within Appendix 1.5G to the Consultation Report, and photographs of all notices are held by the Applicant and may be provided upon request.
- As noted above, in connection with the first round of consultation a 2 page newsletter was issued to 10,013 households and businesses in the vicinity of the Proposed Development. In relation to the second round of consultation, a community consultation newsletter was issued to 16,592 households and businesses in the vicinity of the area identified for the Proposed Development. The area within which this newsletter was delivered was the 'Primary Consultation Zone'. This area was extended for the second round of consultation, following the receipt of feedback from the host local authorities consulted with, including Portsmouth City Council, as part of the process of consultation with them on the Statement of Community Consultation. The extent of the 'Primary Consultation Zone' can be viewed in the Statement of Community Consultation, available at Appendix 1.4O to the Consultation Report [Examination Library Reference APP-094]<sup>4</sup>.
- All statutory notices were erected so that both sides of the notices were visible to persons reviewing them. In some instances notices were printed double sided, however in all such instances the notices were attached using the long edge, and therefore both sides of the notices could be freely viewed. The Applicant has no concerns with regard to the visibility of this information to persons who wanted to view it.
- In addition to the placing of over 80 statutory notices, the Applicant placed notices in the national press and local press, provided a community newsletter and advertised the consultation via social media. The Applicant considers this range of communication methods

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<sup>4</sup> Appendix 1.5G to the Consultation Report may be located on the Planning Inspectorates website at this link - <https://infrastructure.planninginspectorate.gov.uk/wp-content/jpc/uploads/projects/EN020022/EN020022-000529-5.1.4O%20Consultation%20Report%20-%20Appendix%201.4O%20Final%20SoCC%20as%20Published.pdf>

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in relation to the consultation to be comprehensive and more than adequate to ensure persons who wanted to participate in the consultation were informed of it and how they could participate.

According to our records you did not participate in the consultation on the proposals for the Proposed Development at any stage of the consultation. The first and only correspondence received by the Applicant from you in relation to the Application and the consultation carried out in relation to it was received on 20 January 2020, being your objection to the Application. This was some 11 months after the second round of consultation commencing. It is surprising that you held concerns relating to the consultation and gathered information to inform those concerns whilst the consultation was ongoing, but chose not to share them with the Applicant during the consultation or at any time before the Application was submitted.

It is also disappointing that given your views on the Proposed Development more generally you did not seek to engage with the Proposed Development in any way before the Application was submitted, which would have allowed the Applicant to have regard to your views on the Proposed Development at a formative stage.

We consider that the above provides a response to all of the points you have raised, and we hope this will address the concerns you have raised regarding the adequacy of the consultation undertaken in relation to the proposals for the Proposed Development. The Applicant also confirms that it has no concerns regarding the compliance of the consultation with the relevant legal requirements applicable to the consultation at the time it was undertaken.

As you will be aware, the Planning Inspectorate has already confirmed that it considers the Application has met the legal requirements for an adequate consultation by accepting the Application for examination. The matter of the adequacy of consultation is not, therefore, a matter on which it is necessary or appropriate for the examining authority to opine.

Should you wish, nevertheless, to discuss the consultation undertaken with us further we will be more than happy to do so.

Yours sincerely,

Tom Beckford  
*For and on behalf of AQUIND*

## Tom Beckford

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**From:** Alistair Thompson [REDACTED]  
**Sent:** 20 January 2020 11:11  
**To:** James Wood  
**Cc:** aquind@planninginspectorate.gov.uk  
**Subject:** Objection to the Aquind Interconnector proposal

Dear James,

I am writing you about the proposed Aquind Interconnector, which will land in Portsmouth.

The proposals and lack of public consultation is causing significant concern to residents along the route and users of the amenities that will be dug up during the process.

A feeling that this project and those behind it are happy to ride roughshod over local concerns has rapidly grown - I am sure this was not your intention.

Specifically there is considerable concern around the environmental damage the project will cause to areas used by Brent Geese, slow worms and other species and what steps will be taken to prevent exposure and release of materials buried in some of the land many years ago, the disruption to business and one of the City's major transport routes and the adversarial approach being taken by project team toward residents and the City Council.

There is also concern about the pace of this project and failure to engage with members of the Portsmouth community to explain what steps are being taken to mitigate these problems or finding ways of not causing them in the first place. There is a belief that your company has done less than minimum required under the law. I believe this was even the topic of a discussion between a representative of your company and the Planning Inspector in File Note: EN20022.

From a personal and selfish perspective the proposed route will cut across land that I and many others use for recreational purposes. Indeed this land is used by many children and includes a park and sports pitches.

Questions have been raised with me about the fact the project as I understand is not currently funded, intends to attach the cable to the Eastern Road bridge without testing this ageing structure, or indemnifying against the possible disruption that damage to this bridge might cause and many more.

I would be happy to discuss these concerns with you, or a representative and possible ways to mitigate them.

Until this has happened and all of the issues resolved, I wish to add my objection to this proposal.

Yours sincerely,

Alderman Alistair Thompson  
Resident of Lidiard Gardens, Eastney  
[REDACTED]

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## Tom Beckford

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**From:** Sian Wotherspoon <Sian.Wotherspoon@becg.com>  
**Sent:** 14 February 2020 14:53  
**To:** [REDACTED]  
**Subject:** RE: Objection to the AQUIND Interconnector Proposal  
**Attachments:** PEIR Red Line Boundary and Order Limits Comparison.pdf; AQUIND Interconnector - Acceptance Update Newsletter.pdf

Dear Alistair,

Thank you for your email and sorry for the delay in getting back to you. I wanted to take the opportunity to respond to the points raised in your email, taken in turn.

### Environmental considerations

As part of the DCO application, AQUIND has submitted an Environmental Statement (ES) which reports the environmental impact assessment undertaken for the Proposed Development, identifies likely significant environmental impacts which may be caused by the Proposed Development and details proposed measures to mitigate those impacts which will be secured and required to be carried out by the DCO, if granted.

The ES has taken into consideration the impact of the Proposed Development on the environment. Chapter 16 Inshore Ecology (document reference 6.1.16) and Chapter 18 Ground Conditions (Document reference 6.1.18) cover the factors you mention, such as the impact upon Brent Geese, Protected Species and Milton Common (former landfill). Mitigation is identified in the Mitigation Schedule (document reference 6.6) and the Onshore Outline Construction Environmental Management Plan (document reference 6.6) submitted with the application.

### Consultation

Before submitting the DCO application, AQUIND undertook two rounds of extensive consultation on the proposals with a wide range of stakeholders and communities: the first in January 2018 and the second between February and March 2019, to which almost 1,000 residents and stakeholders attended. The latter provided AQUIND with an opportunity to build on the consultation that AQUIND undertook in early 2018 and to present updated proposals.

Throughout the pre-application process, AQUIND has endeavoured to take into account feedback received and evolve the proposals. A summary of the key changes made to the proposals following the February – April 2019 consultation can be found in the attached Community Update Newsletter.

The meeting note you refer to in your email relates to AQUIND's consultation with landowners (not the wider community) who hold an interest in land that might be affected by the Development Consent Order (DCO) application for AQUIND Interconnector and best practice for refreshing this following statutory consultation and prior to submission.

### Funding

The Project is to be funded through project finance secured against the operating profits (revenues). This is not unusual for a project where the securing of funding is dependent on the securing of a development consent order.

### Public Space

In order to minimize the impact upon Farlington Playing Fields, it is proposed that work would be undertaken in phases, with different areas within the Order Limits restricted for use at different times. Until a construction contractor is appointed, the exact details of construction phasing and areas affected will not be known. However, at this stage in design it is possible to demonstrate how phasing of construction might be undertaken, which is shown in the attached document that was submitted as an appendix to the ES.

## Cable Route

The Onshore Cable Corridor will cross from the mainland to Portsea Island using a technique called Horizontal Directional Drilling (HDD). HDD is used to cross beneath areas where conventional construction methods cannot be used due to constraints (e.g. environmentally sensitive areas), where other methods may cause damage, or where access is restricted. The use of the Eastern Road bridge to make this crossing in the manner described is not proposed.

I hope this provides the information you were looking for, but please do not hesitate to contact us if you have any further queries.

Kind regards,

Sian

**Sian Wotherspoon**  
Account Executive

**becg**

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O: 020 3697 7630  
E: [Sian.Wotherspoon@becg.com](mailto:Sian.Wotherspoon@becg.com)

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-----Original Message-----

From: Alistair Thompson [REDACTED]  
Sent: 20 January 2020 11:11  
To: James Wood <[james.wood@becg.com](mailto:james.wood@becg.com)>

Cc: [aquind@planninginspectorate.gov.uk](mailto:aquind@planninginspectorate.gov.uk)

Subject: Objection to the Aquind Interconnector proposal

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Yours sincerely,

Alderman Alistair Thompson  
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