



AQUIND Limited

AQUIND INTERCONNECTOR

**ExA WQ1 SE1.15.12 - Position Statement on
Planning Obligations in connection with the
Proposed Development**

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010, Rule 8(1)(b)

Document Ref: 7.7.6

PINS Ref.: EN020022

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DOCUMENT: 7.7.6

DATE: 6 OCTOBER 2020

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DOCUMENT

Document	ExA WQ1 SE1.15.12 - Position Statement on Planning Obligations in connection with the Proposed Development
Revision	001
Document Owner	WSP UK Limited
Prepared By	P. Hall
Date	6 October
Approved By	V. Temerko
Date	6 October

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1. INTRODUCTION

- 1.1.1.1. This statement is made on behalf of AQUIND Limited (the ‘Applicant’) in relation to the application for development consent to authorise the elements of AQUIND Interconnector within England and the waters adjacent to England up to seaward limits of the territorial sea (the ‘Proposed Development’)
- 1.1.1.2. The application for development consent in relation to the Proposed Development was made on 14 November 2019 (the ‘Application’). The Application was accepted for examination by the Planning Inspectorate (‘PINS’) on behalf of the Secretary of State on 12 December 2019.
- 1.1.1.3. The Examining Authority (‘ExA’) has issued a number of written questions in relation to the Proposed Development. This statement has been prepared in response to the ExA written question SE1.15.12, in relation to the use of planning obligations or contributions as part of the Proposed Development.
- 1.1.1.4. For ease of reference, the ExA written question SE1.15.12 states:
- “What consideration has the applicant given to using planning obligations or contributions as part of the Proposed Development to secure benefits to the local communities? (For example, for education, open space, local sourced workforce, apprenticeships, highways, healthcare.)*
- Please explain your intentions in this regard and, if none are proposed or intended, provide justification for the approach and position.”*
- 1.1.1.5. As discussed at Preliminary Meeting 1 (18 August 2020), the Applicant is amenable to entering into planning obligations where appropriate. However, it is the Applicant’s view that the use of planning obligations to provide mitigations in relation to the Proposed Development is not necessary and no obligations have been identified which the Applicant considers to meet the test set out in Paragraph 4.1.8. of NPS EN-1 (summarised below). Furthermore, to date none of the LPA’s have provided any clear indication of the planning obligations they would be seeking and the justification for these, and as such no heads of terms have been put forward at this time.
- 1.1.1.6. The purpose of this note is to demonstrate the consideration the Applicant has given to the use of planning obligations by summarising the relevant policies or guidance related to planning obligations and consider the relevance of such policy for the Proposed Development.

2. POLICY CONSIDERATIONS

2.1. NATIONAL POLICY STATEMENT EN-1

2.1.1.1. As set out in the Planning Statement (APP-108), Section 104 (3) of the Planning Act (2008) provides that the Secretary of State (SoS) must decide an application for development consent in accordance with any relevant National Policy Statement ('NPS'). The SoS directed that the relevant NPSs for this Application would be the 'Overarching National Policy Statement for Energy' (NPS EN-1). NPS EN-1 sets out the Government's policy for delivery of nationally significant energy infrastructure.

2.1.1.2. Paragraph 4.1.8. of NPS EN-1 explains that the SoS may take into account any development consent obligations that an applicant agrees with local authorities. These obligations must be:

- Relevant to planning;
- Necessary to make the proposed development acceptable in planning terms;
- Directly related to the proposed development;
- fairly and reasonably related in scale and kind to the proposed development; and
- reasonable in all other respects.

2.1.1.3. NPS EN-1 also makes specific references to instances when the use of development consent obligations are considered to be an appropriate means of securing mitigation. These include to mitigate any potential significant adverse effects on biodiversity and geological conservation, flood risk, green infrastructure and open space, historic environment, socio-economic, traffic and transport, waste management and water quality.

2.1.1.4. However, paragraph 5.1.3 confirms that the fact that the use of obligations are not expressly mentioned in relation to other impacts does not mean that they may not be relevant.

2.2. LOCAL PLANNING POLICY

2.2.1.1. Whilst NPS EN-1 represents the primary policy basis for the consideration of the Application, local planning policies from the relevant authorities can be 'important and relevant' considerations for the SoS in determining the Application, particularly in providing an understanding of the local issues and help to define the scope of appropriate mitigation.

2.2.1.2. Appendix 4 to the Planning Statement (APP-112) identifies what is considered to be the relevant local policies adopted by East Hampshire District Council ('EHDC'), Winchester City Council ('WCC'), Havant Borough Council ('HBC'), Portsmouth City Council ('PCC'), as well as the South Downs National Park Authority ('SDNPA') and Hampshire County Council ('HCC').

2.2.1.3. The relevant planning policy and guidance relating to planning obligations for each of the Local Planning Authorities is set out below.

EAST HAMPSHIRE DISTRICT COUNCIL

2.2.1.4. The relevant Development Plan documents for EHDC include the following:

- The Local Plan Part 1: EHDC and South Downs National Park Authority Joint Core Strategy adopted June 2014.
- The Local Plan Part 2: Housing and Employment Allocations adopted April 2016.
- Saved policies from The Local Plan Second Review 2006 adopted March 2006.

2.2.1.5. The Local Plan Part 1 Policy CP32 (Infrastructure) states that where the provision of infrastructure is necessary, to meet community or environmental needs associated with new development or to mitigate the impact of development on the environment, such works should be provided either on or off site, or the payment of financial contributions will be required through planning obligations and/or the Community Infrastructure Levy. This infrastructure will be co-ordinated and delivered in partnership with developers, public agencies, such as Hampshire County Council, and other authorities.

2.2.1.6. The Local Plan Part 1 CP5 (Employment and Workforce Skills) states that planning permission will be granted for development that, amongst other things, improves workforce skills and employability, secures local skills and training provision and employment on significant development, particularly with regard to construction skills and employment, and addresses barriers to employment for the unemployed people of East Hampshire.

2.2.1.7. EHDC have also adopted the East Hampshire Planning Contributions and Community Infrastructure Levy SPD (2016), which identifies where Section 106 planning obligations will be sought in line with Local Plan Policy CP32.

2.2.1.8. Section 4 of the SPD sets out the thresholds above which planning obligations will be sought. Paragraph 4.78 states that to deliver the policy aims of Policy CP5 of the Local Plan (as set out above), EHDC will require developers proposing schemes that will provide a new increase of 1,500 square metres or more of business or commercial floorspace to enter into a legal agreement to support local employment and training in the District.

2.2.1.9. A Local Employment and Training Agreement may include the use of measures such as a Local Employment and Training Plan, sought through S106 Agreements, and financial contributions paid to the Council to cover specific costs incurred by the implementation of the Plan. Following the granting of planning permission, if the developer does not provide the jobs and training as set out in the S106 Agreement, the developer will be required to make a financial contribution towards a local employment and skills initiative. This is calculated using a formula set out in the SPD.

WINCHESTER CITY COUNCIL

2.2.1.10. The relevant Development Plan documents for WCC include the following:

- Local Plan Part 1: WCC and SDNPA Joint Core Strategy adopted March 2013.
- Local Plan Part 2: Development Management and Allocations adopted April 2017.
- Denmead Neighbourhood Plan 2011-2031 adopted April 2015.
- Denmead Village Design Statement Supplementary Planning Document adopted February 2016.
- Draft Traveller Development Plan Document, pre-submission version published January 2018.

2.2.1.11. The WCC Local Plan confirms that on-site provision of infrastructure, or where this is not possible, financial contributions, will be sought from developers. Provision may be secured through S106 Agreements.

2.2.1.12. Local Plan Part 1 Policy CP21 (Infrastructure and Community Benefit) states that the WCC will support development proposals which provide or contribute towards the infrastructure and services needed to support them. It states that infrastructure provision or improvements should be provided on-site as an integral part of development wherever possible and appropriate. Any on-site provision or financial contribution should:

- “Meet the reasonable costs of provision to support the development or offset its impact; and
- Be related to the size and type of each development and the nature of the improvements required; and
- Take account of the cumulative impact of requirements on the viability of development, especially where the development meets a particular local need or provides particular benefits.”

2.2.1.13. WCC have not drafted or adopted a SPD that relates to the securing of planning obligations.

HAVANT BOROUGH COUNCIL

- 2.2.1.14. The relevant Development Plan documents for HBC include the following:
- Local Plan (Core Strategy) adopted March 2011.
 - Local Plan (Allocations) adopted July 2016.
- 2.2.1.15. Core Strategy Policy CS19 (Effective Provision of Infrastructure) states that development will be permitted in line with (but not limited to) the following criteria:
- If there is proven need for additional infrastructure, a programme of delivery has been agreed with the relevant infrastructure provider that coordinates contributions from the development with other investment streams before development begins;
 - It ensures that new infrastructure supports the local economy;
 - It safeguards the requirements of infrastructure providers, in particular relating to telecommunications equipment (particularly high speed broadband) and electricity power lines.
- 2.2.1.16. Core Strategy Policy CS21 (Developer Requirements) states that HBC will require on-site or off-site provision and/or contributions through planning obligations, agreements or tariffs in accordance with the relevant legislation for off-site provision. The need for contributions will depend on information and advice from infrastructure providers on the expected impacts of the development on all the infrastructure types.
- 2.2.1.17. HBC have published a Developer Contributions Guide which sets out the process for CIL charging within the Borough. For S106 contributions, this Guide sets out the tests for lawful planning obligations, and states at paragraph 5.05 that Section 106 contributions will continue to be used for site specific requirements, where they are needed to make a development acceptable. A separate Draft Developer Contributions Supplementary Planning Document was consulted on in 2011 but not adopted.

PORTSMOUTH CITY COUNCIL

- 2.2.1.18. The relevant Development Plan documents for PCC include the following:
- Portsmouth Plan (Portsmouth Core Strategy) adopted January 2012.
 - Saved policies of the Portsmouth City Local Plan adopted July 2006.
- 2.2.1.19. However, PCC's Development Plan does not include any policies which summarise or justify the Council's approach to seeking planning obligations.

SOUTH DOWNS NATIONAL PARK AUTHORITY AND HAMPSHIRE COUNTY COUNCIL

- 2.2.1.20. Neither SDNPA's nor HCC's Development Plan include any policies which summarise or justify the Authorities approach to seeking planning obligations and neither authority has adopted a specific SPD related to planning obligations or contributions.

3. JUSTIFICATION

- 3.1.1.1. The ES (APP-116 - 487) along with a number of supporting documents including the ES Addendum (Doc Ref 7.8.1), Habitats Regulations Assessment report (APP-491), the Onshore and Marine Water Framework Directive assessments (APP-372) and the Flood Risk Assessment (APP-439) have fully assessed the likely significant environmental effects of the Proposed Development and identified all reasonable mitigation.
- 3.1.1.2. Proposed mitigation includes the implementation of the Onshore Outline Construction Environmental Management (APP-505 Rev002), the Marine Outline Construction Environmental Management Plan (APP-488), Framework Construction Traffic Management Plan (APP-450 Rev002) and the Outline Landscape and Biodiversity Strategy (APP-506 Rev002).
- 3.1.1.3. The Updated Mitigation Schedule (APP-489 Rev002) sets out all mitigation measures identified in the ES and HRA and identifies the means by which those measures will be secured by the dDCO (APP-019 Rev002).
- 3.1.1.4. A summary of the impacts of the Proposed Development is provided at Section 7 of the Planning Statement (APP-108) along with a consideration of the balance of the Proposed Development's likely benefits and disbenefits, following the implementation of the proposed mitigation.
- 3.1.1.5. As set out at paragraphs 7.3.1.4. and 7.3.1.5. of the Planning Statement, after taking account of mitigation, no significant residual adverse effects were considered likely in relation to the NPS EN-1 Generic Impacts as they relate to the Marine Component of the Proposed Development.
- 3.1.1.6. In relation to the Onshore Component of the Proposed Development, no significant residual effects were considered likely in relation to air quality and emissions; biodiversity and geological conservation; coastal change; dust, odour and artificial light; flood risk; historic environment; and contamination (in relation to land use, waste management and water quality and resources).
- 3.1.1.7. On the basis of the assessment and proposed mitigation, it is the Applicant's view that the use of planning obligations are not necessary to mitigate against the effects of these impacts and no obligations have been identified or proposed.
- 3.1.1.8. Some likely significant adverse effects are however predicted in relation to Onshore Component of the Proposed Development, comprising:
- Temporary landscape and visual amenity effects during the construction stage and potential cumulative adverse impacts would result from the development of the Converter Station;

- Temporary the loss of agricultural land and impacts on five farm holdings during the construction stage;
- Temporary traffic and transport effects due to changes to the pedestrian and cycle amenity and traffic delay at the Converter Station Area and Onshore Cable Corridor during the construction stage;
- Temporary noise and vibration effects during the construction stage due to trenching works in specific locations;
- Socioeconomic effects due to the temporary reduced open space and Farlington Playing Fields car park during the construction stage, temporary disruption from changes to access, traffic, noise, air and visual amenity for tourist receptors for visitors to Southsea Leisure Park, impacts to the Victorious Festival and South-Central Festival and impacts due to the loss of amenity for pedestrians on Public Right of Ways at the Converter Station and reduced car parking for recreational open space at Eastney Beach and Fort Cumberland SINC;
- Waste management effects during the construction stage due to the requirement for imported specialist rock materials for the Marine Cable Corridor and possible cumulative adverse waste management effects during the construction stage when taken in combination with other schemes;
- Water quality effects as a result of the potential requirement for dewatering of groundwater aquifers during the construction stage of the Onshore Cable Corridor.

3.1.1.9. Whilst the Proposed Development will result in the above significant adverse effects, it is the Applicant's view (as set out in full within the Planning Statement, ES and ES Addendum) that all reasonable mitigation has been identified and secured by the Requirements of the dDCO (APP-019 Rev002) and that, on balance, the Proposed Development accords with NPS EN-1. The use of further planning obligations are not considered to be necessary to make the Proposed Development acceptable in planning terms and therefore planning obligations would not meet all five tests set out at Paragraph 4.1.8. of NPS EN-1.

3.1.1.10. Furthermore, there are no thresholds or specific local impacts identified by the local policies set out above (and in Appendix 4 of the Planning Statement) which would require the use of planning obligations and none of the Local Planning Authorities have provided any clear indication or justification of the planning obligations they would be seeking.

- 3.1.1.11. Finally, the Applicant is pleased to continue the discussions with the Local Planning Authorities throughout the Examination process and would be willing to consider the use planning obligations or contributions as part of the Proposed Development to secure benefits to the local communities, if such obligation are agreed to meet the test of Paragraph 4.1.8. of NPS EN-1.

