



AQUIND Limited

AQUIND INTERCONNECTOR

Applicant's Response to Written Representations

The Planning Act 2008

The Infrastructure Planning (Examination Procedure) Rules 2010 – Rule 8(1)(c)

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CONTENTS

1.	INTRODUCTION	1-1
1.1.	PURPOSE OF THIS DOCUMENT	1-1
1.2.	STRUCTURE OF THE APPLICANTS RESPONSES	1-1
2.	LOCAL AUTHORITIES	2-2
2.1.	PORTSMOUTH CITY COUNCIL	2-2
2.2.	SOUTH DOWNS NATIONAL PARK AUTHORITY	2-28
3.	STATUTORY CONSULTEES	3-42
3.1.	ADDLESHAW GODDARD LLP ON BEHALF OF SOUTHERN GAS NETWORKS	3-42
3.2.	DENTONS UK & MIDDLE EAST LLP ON BEHALF OF NETWORK RAIL INFRASTRUCTURE LTD	3-43
3.3.	NATIONAL GRID	3-44
3.4.	HISTORIC ENGLAND	3-44
4.	NON STATUTORY ORGANISATIONS	4-54
4.1.	CPRE HAMPSHIRE	4-54
4.2.	UNIVERSITY OF PORTSMOUTH	4-59
4.3.	APLEAL COMMUNITY ACTION GROUP	4-63
5.	MEMBERS OF THE PUBLIC AND LOCAL BUSINESSES	5-66
5.1.	INTRODUCTION	5-66
5.2.	SAINSBURY'S	5-66
5.3.	MEMBERS OF THE PUBLIC AND LOCAL BUSINESSES	5-69

TABLES

Table 2.1 - Applicant's Response to Portsmouth City Council's Written Representations	2-2
Table 2.2 - Applicant's Response to South Downs National Park Authority Written Representations	2-28
Table 4.1 - Applicant's Response to CPRE Hampshire's Written Representations	4-54
Table 4.2 - Applicant's Response to University of Portsmouth Written Representations	4-59
Table 4.3 - Applicant's Response to APLEAL Community Action Group Written Representations	4-63
Table 5.1 - Applicant's Response to Sainsbury's Written Representations	5-66
Table 5.2 - Applicant's Response to Members of the Public and Local Businesses Written Representations	5-69

APPENDICES

- Appendix 1 – Presentation to Members of the Allotment Holders Association**
- Appendix 2 – DCO Process Briefing Note**
- Appendix 3 – Highway Correspondence with PCC**

1. INTRODUCTION

1.1. PURPOSE OF THIS DOCUMENT

- 1.1.1.1. On 14 November 2019, AQUIND Limited (the ‘Applicant’) submitted an application (the ‘Application’) for development consent in respect of the Proposed Development comprised of the Onshore Components and Marine Components of AQUIND Interconnector, a 2,000 MW bi-directional electrical power transmission link (an Interconnector), situated respectively in England, the UK Territorial Water and the UK EEZ.
- 1.1.1.2. The Examination for the application for a Development Consent Order (DCO) commenced on 8 September 2020. Written Representations (WRs) from Interested Parties (IPs) were submitted to the Planning Inspectorate (the ‘Inspectorate’) at Deadline 1 on the 6 October 2020. The WRs were published on the Inspectorate’s website on 8 October 2020.
- 1.1.1.3. This document is submitted for Deadline 2 of the Examination and provides the Applicant’s responses to the WRs received, as categorised by the Inspectorate:
- 2 representations from local authorities;
 - 4 representations from statutory consultees;
 - 3 representations from non-statutory organisations; and
 - 69 representations from members of the public or businesses.

1.2. STRUCTURE OF THE APPLICANTS RESPONSES

- 1.2.1.1. The IPs have been grouped by the same categories used on the Inspectorate’s website, as set out above. A summary of the key points of the WRs is provided in each section, including the name and Inspectorate reference number of each WR. The WRs have also been categorised by the different themes raised and a response is provided to each of the themes.

2. LOCAL AUTHORITIES

2.1. PORTSMOUTH CITY COUNCIL

Table 2.1 - Applicant's Response to Portsmouth City Council's Written Representations

Reference	Summary of Written Representation	Applicant's Response
Summary		
01	Significant concerns regarding the timing of the scheme, in light of ongoing litigation in the CJEU, and the funding of the proposal due to the limited information provided.	See the response to 2.1 – 2.3 below.
02	Concerned the provision of the optical regeneration stations and fibre optic cables are unnecessary and exceed that which could be considered associated infrastructure under the Planning Act	Further information regarding the proposed use of the spare fibres within the fibre optic cable required as part of the Proposed Development is provided within the Statement in Relation to FOC submitted at Deadline 1 (REP1-127).
03	<p>Consider insufficient efforts to engage with PCC to acquire land by agreement, and that the evidence does not demonstrate that all of PCC's land is required for the development with the Order limits.</p> <p>Significant concerns in respect of the applicant's unreasonable intention to acquire highway subsoil, and engagement with Allotment Holders and intention to acquire rights over land currently in use as allotments.</p>	<p>The Applicant has engaged with Portsmouth City Council (PCC) regarding the Proposed Development since April 2017 as set out in the Consultation Report (APP-025). This engagement has focussed on numerous aspects of the Proposed Development including the rights necessary for its construction, operation and maintenance. Information regarding Compulsory Acquisition in connection with the Proposed Development is provided within the SoR. The Applicant's land agent has held a meeting with the Portsmouth City Council's land agent (appointed in September 2020) on 07 October 2020 and will continue to engage with the Council in their capacity as a landowner to seek to secure the rights required by agreement.</p> <p>Further information regarding the need to seek to acquire an easement over land beneath the land which forms the vertical plane of the highway, in the likely very limited instances where the Proposed Development is located in this land, is provided within the Statement in relation to highway subsoil acquisition (REP1-131). It is noted that PCC are not the assumed owner of this land.</p> <p>It should also be noted in relation to the Eastney and Milton allotments that the cable is proposed to be installed by Horizontal Directional Drilling (HDD) in this location at depth beneath the allotments, with no effect on the surface of the land during construction. This construction methodology was specifically proposed in this location to avoid affecting the continued use of the allotments. The Applicant has refined the Land Plans (REP1-011a)) to more clearly confirm the area over which rights of access are sought, which was clearly communicated to Portsmouth City Council on 28 September 2020, only following which any issues based on the misunderstanding were advance by representatives of the Council in the public domain.</p> <p>Representatives of the Applicant provided a presentation to members from the Allotment Holders Association, including Committee Members, on 22 November 2019, to provide an overview of the Proposed Development and answer any questions from the attendees. At that presentation (powerpoint presentation provided at Appendix 1)</p>

Reference	Summary of Written Representation	Applicant's Response
		<p>it was clearly stated that the Onshore Cable Route would be installed under the Milton and Eastney Allotments using horizontal directional drilling (HDD) at depth and not by open trenching. The presentation also provided details about the DCO Process including the period within which parties could register as Interested Parties. A Briefing Note in relation to the DCO Process was also distributed to attendees (see Appendix 2). The presentation and Briefing Note were sent to the secretary of the Allotment Association by email on 25 November 2019 along with contact details for the Applicant in case of further queries and an offer to hold a follow up meeting at a later stage should it be of benefit.</p> <p>The Applicant sent details of the updates to the Order Limits by email to the Secretary of the Allotment Holders Association Committee on 02 October 2020. This email was forwarded to the Chairman of the Allotment Holders Association on 07 October 2020 when the correct email address was received for him from the Council. This email further clarified that the Applicant was seeking to install the Onshore Cable Route under the Allotments by any process other than HDD.</p> <p>Prior to this, in October 2018 the Applicant had further engagement with the Council in relation to a programme of Ground Investigations (i.e. boreholes) which took place in the Allotments to underpin the technical feasibility of the approach to installation using HDD. This included agreeing a joint communications strategy which the Council which resulted in notifications being provided to local residents and a number of posters being erected at the entrances of the allotments to make allotment holders aware of the purpose of the works. A meeting was also organised to take place between representatives of the Applicant, the Council's parks team and members of the Allotment Committee, however it was not attended by any members from the Allotment Committee.</p>
04	<p>Significant concern over the likely implications for traffic management, congestion and the implications of the application proposal on Air Quality. The timeliness and accuracy of traffic modelling and understanding of the worst case scenario has raised concerns throughout the pre-application period and are retained. The applicant's intention to seek deviation from or disapplication of the NRSWA 1991 is also considered unnecessary and unreasonable.</p>	<p>Responses to concerns regarding traffic impacts of the proposals are further detailed in the Section 2.4, 4.6, 4.7, 4.8, 4.12 and 5.2.</p> <p>There is no intention to disapply the New Roads and Street Works Act 1991, and there has not been at any stage. The New Roads and Street Works Act 1991 is evidently applicable in accordance with Requirements 11 and 12 of the dDCO (REP1-021). The permit scheme is to be disapplied, so as to ensure the works can come forward in accordance with and subject to the requirements of the Framework Traffic Management Strategy (REP1-068), which is necessary to ensure the Proposed Development is delivered in an efficient manner which reduces the adverse impacts associated with the installation. This is a clear and compelling reason for the approach to be taken.</p>
05	<p>Further significant concerns regarding the proper management of ground contamination and onshore ecology are also retained with considered additional work needed on this matters that are not considered appropriate to be deferred to post consent requirements.</p>	<p>Responses are provided with regards to ground contamination and ecology in sections 11 and 12 below.</p>

Reference	Summary of Written Representation	Applicant's Response
Introduction		
1.5 – 1.6	PCC set out its views and position in respect of Aquind's application for a DCO in its Relevant Representation (RR-185) and asks the Examining Authority ('the ExA') to have regard to the RR together with the Local Impact Report.	The comment is noted, and the Applicant directs the ExA and PCC to the Applicant's Response to Relevant Representations (REP1-160).
Procedural and Legal Issues		
2.1 – 2.3	<p>Consider significant legal issues related to the current litigation being conducted before Court of Justice of the European Union ("CJEU"). Two cases, Aquind v ACER, Case T-735/18 and Aquind and Others v Commission, Case T-885/19 are still pending before the CJEU. In Aquind v ACER, Case T-735/18, Aquind has specifically pleaded that the CJEU acknowledge "<i>the legal impossibility for the applicant to operate the proposed interconnector in France without an exemption</i>".</p> <p>PCC consider the litigation to be a serious impediment, and raises questions of timing of any implementation of the Proposed Development within the seven year time limit sought by the Applicant and the scheme's viability</p>	<p>The Applicant has responded to the ongoing litigation in the CJEU in its Relevant Representation Response (REP1-160) and has also provided a response regarding the application for an exemption and confirming the progress currently being made in relation to relevant matters in the Applicant's response to ExA WQ CA 1.3.2 (REP1-091).</p> <p>The position with regard to progress in respect of, and the anticipated timescales to obtain, the required consents to permit the elements of the Project located in France is explained in the updated Other Consents and Licences document (REP1-029).</p>
2.4	<p>Concerns about one of the route options passing Solent Infant School on Eveleigh Road. Flag existing congestion, and proposed construction works resulting in significant disruption and a significant detrimental effect on residents.</p> <p>Raise further exacerbation when accidents occur on the nearby M27 / A27, when Farlington Avenue is used as an alternative route.</p>	<p>Section 7 of the Framework Traffic Management Strategy (FTMS) (REP1-068) includes programme restrictions that prohibit construction work taking place on Farlington Avenue and Eveleigh Road within term time. As is set out in Table 17, Table 18 and Table 19 of the FTMS, works will only be permitted on Farlington Avenue or Eveleigh Road during the February, May and October half-terms, the Easter school holidays, and the summer school holidays. This mitigation measure prevents the traffic management associated with cable duct installation from interacting with school traffic.</p> <p>The draft Development Consent Order (REP1-021) contains protective provisions for the protection of the highways and traffic (Part 5 of Schedule 13) to mitigate the impact of construction where there are accidents or other unforeseen circumstances. Paragraph 10 of the protective provisions (for the protection of the highway) provides the ability for the highway authority to provide direction in relation to the works:</p> <ul style="list-style-type: none"> • Where an emergency occurs or where necessary to secure the safety of the public; • Where works are being carried out in any manner which constitutes or is likely to constitute a danger to any person or class of persons or to affect the stability or integrity of any structures or apparatus including the public highway; and • Where, as a consequence of unforeseen circumstances, in the reasonable opinion of the relevant highway authority any part of the works being carried out or to be carried out within the public highway are causing or are likely to cause serious disruption to traffic that will endanger the safety of the public.

Reference	Summary of Written Representation	Applicant's Response
		<p>Paragraph 4(2) of the protective provisions for the protection of the highway provides for any detailed traffic management strategy to be revised where necessary in the event of unforeseen circumstances.</p> <p>The protective provisions were provided to Portsmouth City Council for engagement in July, with a response yet to be provided. The Applicant looks forward to engaging with the Council in relation to these protective provisions.</p>
2.5 – 2.6	<p>PCC understands that matters related to the adequacy of the applicant's compliance with relevant pre-application procedures and in particular its attempts to consult with the public and relevant authorities are not principal issues in themselves, given that the application was accepted. However, PCC does consider it is important, appropriate and relevant that these matters are brought to the ExA's attention.</p> <p>This is on the basis first, that these actions prior to the application belie and add to the weakness of the applicant's case that the DCO should be granted when there is a series of errors which are material that the applicant is only now seeking to address at the examination stage (which is far too late) and secondly, the applicant's conduct prior to the application is relevant in any event to the ExA's assessment of the applicant's justification for grant of powers of compulsory acquisition of land and rights through the DCO (and which are addressed in the next section).</p>	<p>The Applicant confirms that it has engaged with PCC regarding the Proposed Development since April 2017 as set out in the Consultation Report (APP-025). The Applicant also refers to its response within the Applicant's Response to Relevant Representations (REP1-160) and further notes the comments contained in the Planning Inspectorate's letter of 11 May 2020 (PD-008), confirming that matters relating to pre-application consultation precede and therefore lie outside the remit of the Examination process. There are no errors with the consultation carried out that the Applicant is seeking to address at the examination stage.</p>
2.7	<p>Those errors include a fundamental failure to determine the route of the proposed development (combined with a failure to justify its initial decision as to the landfall location) which has in turn led to a clear excess of proposed land take within the Order limits and an excess in the limits of deviation when the route is more determined.</p>	<p>Further information regarding the alternatives, including the landfall location and the Applicant's reasoning, is provided in the Supplementary Alternatives Chapter (REP1-152).</p> <p>Whilst the Applicant has made some amendments to the Order limits to in the main to reduce these, this is a matter that can be considered during the Examination, and it is noted that save for one very small parcel of land all land included has been assessed and consulted on already.</p> <p>The limited limits of deviation provided for by the Order limits are entirely necessary so as to ensure the Proposed Development can be delivered without risk of impediment. The Applicant has provided a response to ExA WQ CA 1.3.17 providing examples of where a similar approach has been taken in other made DCOs (REP1-091).</p>
2.8 – 2.9	<p>PCC advises that it has been informed by the Applicant of the proposed changes to the Order limits (reduction and addition) at a meeting on 28 September 2020 and will comment on these changes when submitted. General expectation that where changes lead to less impact and less land take and are beneficial.</p>	<p>The Applicant directs the ExA and PCC to the Position Statement in relation to the refinement of the Order Limits (REP1-133).</p>
2.10	<p>In terms of the legal and procedural implications of a series of changes which are material, PCC reserves its position.</p>	<p>The comment is noted, and the Applicant will continue to engage with PCC throughout the Examination.</p>

Reference	Summary of Written Representation	Applicant's Response
2.11 – 2.12	<p>Consider the limits of deviation and land take are also affected by the inclusion of telecommunications infrastructure (including commercial as “associated development”).</p> <p>Consider only the minimal fibre optic cables required for monitoring the interconnector appear to be justified as part of the NSIP, with the remaining commercially related fibre optic cables; two optical regeneration stations at Eastney and two telecommunications buildings within the Converter Station Area have nothing to do with the interconnector (making reference to section 5.3 of the Statement of Reasons (APP-022)).</p>	<p>The comment is noted, and the Applicant draws attention to its Statement in Relation to FOC (REP1-127) submitted at Deadline 1, which provides the Applicant's position in relation to the proposed commercial use of the spare capacity in the fibre optic infrastructure required to be provided as part of the Proposed Development.</p>
2.13	<p>Draw attention to the fact that no other interconnector schemes involve any optical regeneration stations nor fibre optic cables for commercial use.</p>	<p>The comment is noted, however the Applicant advises that each proposal is subject to a different set of parameters, including the distance between the Converter Stations and choice of technology. Further information on the FOC and associated infrastructure can be found in the Statement in Relation to FOC (REP1-127) submitted at Deadline 1.</p>
2.14	<p>The Secretary of State's direction under s35 of the 2008 Act on 30 July 2018 directed that the Proposed Development, together with any development associated with it, is to be treated as development for which development consent is required. There is nothing within the Direction that suggests that the telecommunications infrastructure in whole or in part meets the definition of “associated development”.</p>	<p>Section 1.2.1.3 of 5.5 Design and Access Statement [REP1-031], submitted at Deadline 1, provides a summary of the Proposed Development which includes the various aspects of the Telecommunications Infrastructure. Further information on the s35 Direction, including the Applicant's Request, and the Secretary of State's Direction can be found in section 3 of the Statement in Relation to FOC (REP1-127), submitted at Deadline 1, with the statement more generally confirming the appropriateness of the FOC Infrastructure constituting associated development.</p>
2.15	<p>PCC refers to a Direction from Ofcom under section 106(3) of the Communications Act 2003 ('CA 2003') applying the electronic communications code, granting Code rights under Sch 3A of the CA 2003 but makes it clear that “Ofcom...set the scope of the Code powers to exclude the UK Aquind Interconnector Fibre which would be deployed in the Aquind Interconnector. The Applicant has indicated that it will seek development consent for this part of the electronic communication network under the Planning Act 2008.”</p>	<p>The comment is noted, and the Applicant draws attention to Annex 1 (row 5 (iv) of the Statement in Relation to FOC (REP1-127), submitted at Deadline 1.</p>
2.16 – 2.17	<p>Identify that commercial related aspects of any telecommunications infrastructure, must, to be treated as ‘associated development’ under the 2008 Act needs meet the following in accordance with the relevant PINS Guidance.</p>	<p>The Applicant draws attention to Annex 1 of the Statement in Relation to FOC (REP1-127) which demonstrates how the core principles within the Department for Communities and Local Government Guidance on associated development applications for major infrastructure projects April 2013, particularly paragraph 5, are met in relation the commercial use of the FOC.</p>
2.18	<p>As a result, the limits of deviation provide for non NSIP development and are therefore unlawful under the PA 08.</p>	<p>The Applicant maintains that the commercial aspect of the FOC is associated development, and as such may lawfully be approved in accordance with the Planning Act 2008.</p>
2.19	<p>In addition, the limits of deviation are excessive in any event based upon the premise of a level of uncertainty acknowledged now given the final route, its form and detail of</p>	<p>The Applicant has refined the Order limits in light of the relevant representations and Written Questions (ExQ1 CA1.3.6 and CA1.3.20). The Position Statement in relation</p>

Reference	Summary of Written Representation	Applicant's Response
	<p>the laying of the cabling is to be left to the as yet to be appointed contractors to resolve. This includes in particular the contractor having to resolve local issues regarding routing in the vicinity of Farlington Avenue / Eveleigh Road and Havant Road. For further details of this concern please see PCC's response to Examination question CA.1.3.108 and PCC's Local Impact Report ('the LIR')</p>	<p>to the refinement of the Order Limits (REP1-133) provides an overview of the changes made to the Order limits, and how these changes relate to the options and required flexibility included within the Application.</p> <p>The limited limits of deviation provided for by the Order limits are entirely necessary and proportionate so as to ensure the Proposed Development can be delivered without risk of impediment. The Applicant has provided a response to ExA WQ CA 1.3.17 providing examples of where a similar approach has been taken in other made DCOs (REP1-091).</p>
<p>Compulsory Acquisition</p>		
<p>3.1</p>	<p>Whilst the question of the justification for the compulsory acquisition powers as well as the temporary possession powers sought by the applicant overlap with the procedural and legal issues, PCC considers it is necessary to consider these issues under a separate heading.</p>	<p>The comment is noted.</p>
<p>3.2 – 3.4</p>	<p>Consider the Applicant has made no efforts to engage to acquire land by agreement prior to compulsory acquisition powers and raise concerns on engagement about the compulsory acquisition sought of PCC land and compensation, lack of heads of terms, and lack of proposed Order land plans prior to acceptance.</p>	<p>The Applicant has engaged with PCC regarding the Proposed Development since April 2017 as set out in the Consultation Report (APP-025). This engagement has focussed on numerous aspects of the Proposed Development including the rights necessary for its construction, operation and maintenance. Information regarding Compulsory Purchase in connection with the Proposed Development is provided within the Statement of Reasons (REP1-025 and 026).</p> <p>The Applicant has engaged with PCC regarding the Proposed Development since April 2017 as set out in the Consultation Report (APP-025). Regular meetings have taken place since then. Whilst the landowner has stated its objection to the Applicant's Proposed Development from an early stage of engagement, the Applicant has continued to engage with the landowner to provide more information about the Proposed Development, such as the rights necessary for its construction, maintenance and operation, including the approach to be taken in relation to the subsoil beneath the highway.</p> <p>In September 2020 the Council appointed a land agent to act on its behalf. A meeting took place on 07 October 2020 between the Applicant's agent and the Landowner's agent to progress discussions in relation to the Proposed Development. The Applicant is hopeful that negotiations with the Council's agent will be able to progress more productively than previous discussions which have taken place to date following this appointment.</p>
<p>3.5 – 3.6</p>	<p>The applicant's evidence does not demonstrate that all of PCC's land is required for the development or is required to facilitate or is incidental to the proposed development (s122 PA 2008).</p> <p>This is once again because the final cable route through the City of Portsmouth has not been identified and the breath of the order land sought is purposefully too wide for</p>	<p>The Applicant has refined the Order limits in light of the relevant representations and Written Questions (ExQ1 CA1.3.6 and CA1.3.20). The Position Statement in relation to the refinement of the Order limits (REP1-133) provides an overview of the changes made to the Order limits, and how these changes relate to the options and required flexibility included within the Application.</p>

Reference	Summary of Written Representation	Applicant's Response
	<p>what Aquind purportedly need and is more than is reasonably required for the development.</p>	<p>With regards to the breadth of the Order limits, the detailed design of the Onshore Cable Route is required to be confirmed in accordance with dDCO (REP1-021) Requirement 6. The Proposed Development must be constructed in accordance with those approved details. The powers of acquisition of rights, which are applicable in relation to the Onshore Cable Route where permanent land acquisition is not sought as it is not necessary and would not be proportionate, is limited to the acquisition of rights over so much of the land as is required for the construction, operation or maintenance of the authorised development or to facilitate it, or as is incidental to it (Article 23 of dDCO (REP1-021)). As such, a test of necessity applies in relation to the extent of the land over which rights and restrictions in connection with the Onshore Cables may be acquired or imposed respectively.</p> <p>The limited limits of deviation provided for by the Order limits are entirely necessary and proportionate so as to ensure the Proposed Development can be delivered without risk of impediment. The Applicant has provided a response to ExA WQ CA 1.3.17 providing examples of where a similar approach has been taken in other made DCOs (REP1-091).</p>
<p>3.7</p>	<p>In addition, this is once again because the land said to be required for the commercially related telecommunications infrastructure is not associated development and/or is not 'needed' for the NSIP as identified in the s35 direction. The compulsory acquisition of the land for these works is therefore not reasonably necessary for the purpose of the interconnector development and is not proportionate. Such powers therefore cannot lawfully be provided under the DCO.</p>	<p>The Applicant refers to the Statement in Relation to FOC (REP1-127), submitted at Deadline 1, and the response to references 2.11, 2.12, 2.14 and 2.18 above.</p>
<p>3.8</p>	<p>The proposed interference with the Council's rights in land and the public's rights to use that land (highway, public open space and allotments) for the commercial telecommunications is not for a legitimate purpose and is not necessary or proportionate.</p>	<p>The Applicant refers to the Statement in Relation to FOC (REP1-127), submitted at Deadline 1, and the response to reference 2.18 above.</p>
<p>3.9</p>	<p>Further, the applicant has the benefit of an Electricity Interconnector Licence and is therefore a statutory undertaker for the purposes of the New Roads and Street Works Act 1991 (NRSW). The acquisition of highway subsoil is not necessary where NRSWA can be applied.</p>	<p>The Applicant refers to the 'Highway Subsoil Acquisition Position Statement' (REP1-131) for the response to this question. To be clear, the New Roads and Street Works Act does not apply to land which does not form part of the highway. Only in limited instances where the cables may need to be located below the depth of the highway is the ability to acquire rights in land not forming part of the highway sought. Where the cables are located in the highway, they will be installed pursuant to statutory authority conferred by the New Roads and Street Works Act 1991 in accordance with Article 11 to the dDCO (REP1-021).</p>
<p>3.10</p>	<p>In addition, the Applicant has stated in terms that it was not the intention to negotiate the rights sought in the highway land. This is an explicit statement confirming the Applicant's intention not to acquire by agreement, in contradiction to the Guidance, and its stated position in the Statement of Reasons (Chapter 7.4 of Application document 4.1; APP-022).</p>	<p>The Applicant refers to the 'Highway Subsoil Acquisition Position Statement' (REP1-131) for the response to this question. The position in relation to compliance with the guidance where this approach is taken is fully explained in that statement.</p>

Reference	Summary of Written Representation	Applicant's Response
<p>3.12 (1), 3.11, 3.12 (2)</p>	<p>There is no compelling case in the public interest to justify the compulsory acquisition of PCC's interests in land. The public benefit does not outweigh the loss that the Council, its residents and users of the land within the Order Limits (including the highway, public open space and allotments) will suffer.</p> <p>The applicant is also seeking to acquire permanent rights, restrictive covenants, access rights as well as temporary use of all of the order land, during construction and subsequently for maintenance and monitoring purposes once the development is operational. The applicant also seeks to extinguish existing rights.</p> <p>The applicant therefore seeks wide ranging and excessive powers to interfere with existing rights and interests not only during the construction of the development but also afterwards.</p>	<p>The justification for the proposed grant of powers to authorise the compulsorily acquisition of land and rights in connection with the Proposed Development, including the reasons why there is a compelling case in the public interest given the national significance of the Proposed Development, is explained within the Statement of Reasons (SoR) (REP1-025). As is also explained in the SoR (para 7.2.3) the location and extent of the land onshore has been carefully considered and designed to optimise the route, to cause as little disruption and to affect the minimum amount of land possible and also to avoid the sterilisation of undeveloped land in the future. The Applicant's response to ExA WQ CA1.3.30 (REP1 – 091) is relevant to explain the approach taken by the Applicant in this regard.</p> <p>By virtue of the dDCO (REP1-021) Articles 20 and 23, the Applicant will only ever be in a position to acquire only so much of the Order land as is required for the construction, operation or maintenance of the authorised development or to facilitate it, or as is incidental to it, which provides a test of necessity. It is not the case that the Applicant would be authorised to acquire permanent rights over the whole of the Order limits, which represent the limits of deviation within which the Proposed Development, or more particularly the Onshore Cables, are to be installed.</p>
<p>3.13</p>	<p>A large proportion of the land which the applicant seeks to interfere with is land over which the public has rights i.e. the public highway, public open space and allotments. As set out in the PCC's LIR this will significantly and adversely affect the existing and future use, character and nature of the Council's land and the enjoyment as well as rights of the public and residents of Portsmouth.</p>	<p>Section 7 of the Statement of Reasons (REP1-025 and 026) clearly explains the consideration given to the powers of compulsory acquisition sought and the European Convention on Human Rights and why the potential interferences are considered by the Applicant to be proportionate and necessary, striking a fair balance between the public benefit and interest in the Proposed Development being delivered and the interference with the rights that will be affected. Once the Proposed Development is constructed, and noting the very minimal maintenance requirements associated with infrastructure of the type of the Proposed Development, there will be very minimal impacts on any land within Portsmouth.</p>
<p>3.14</p>	<p>The applicant is seeking compulsory acquisition of rights of special category land. This land comprises of allotments, public open spaces (including Portsmouth Primary Public Sports Fields) .As set out in the PCC's LIR the proposals will be devastating to the recreational facilities across the City, including numerous playing fields (circa 17) taken out of use, some for years.</p>	<p>Measures to reduce recreational impacts are set out in 5.12.4.1 - 5.12.6.1 of the Onshore Outline Construction Environmental Management Plan (CEMP) (REP1-087 and 088) and include information for users, signing alternative spaces, review of events programme and maintaining pitches as far as possible within the Order limits and secured in Requirement 15 of the dDCO (REP1-021). Further detail is provided in Appendix 13 of the ES Addendum (Framework Management Plan for Recreational Impacts) (REP1-144), which reviews the phasing of works and usage requirements of each recreational space, taking account of measures set out in the Onshore Outline CEMP.</p> <p>The initial draft of the Framework Management Plan for Recreational Impacts was first provided to PCC on 16 June 2020, discussions are ongoing.</p> <p>It is acknowledged that during construction there will be some disruption, however it unfair to categorise this as devastating, or to contend that areas will not be able to be used for some years, given the construction of elements of the Proposed</p>

Reference	Summary of Written Representation	Applicant's Response
		Development will be undertaken over short periods in particular locations within the overall duration of construction of the Proposed Development.
3.15	Once again lack of timely and meaningful engagement with PCC has resulted in the failure to adequately mitigate the impacts on critical recreational facilities either through provision of replacement land through the draft DCO (see paragraph 15.14), or through any proposed accommodation works, and as such there are outstanding impediments to the use of compulsory acquisition powers (paragraph 19 (second bullet) of the Guidance).	Engagement has been ongoing with PCC since 2017, and this engagement has included discussions regarding recreational impacts. In light of these discussions and acknowledging the need to provide further information to inform the development of those discussions as per 3.14 a draft of the Framework Management Plan for Recreational Impacts (REP1-144), was provided to the Council in June 2020. Comments have been sought on this document since then. The document was discussed in a call with PCC on 08 October 2020. Any comments on this document are yet to be received.
3.16	With regard to allotments land and open, space Article 23 of draft DCO seeks to grant compulsory acquisition of rights and the imposition of restrictive covenants for the allotments and public open space. PCC's view is that the developer has not satisfied the requirements of s132 of the Planning Act 2008 on the basis that it has identified such allotment land and open space as special category land (see Book of Reference (APP-024)). The applicant argues that the use or enjoyment of such land will not be affected as the development will not affect the surface of such land and no replacement land is therefore being offered.	<p>The relevant considerations in relation to special category land and section 132 of the PA 2008 are contained at paragraph 8.1 of the Statement of Reasons (APP-022). Paragraph 8.1.4 confirms there will be no physical infrastructure on the surface of special category land which the compulsory acquisition of rights is proposed to be authorised, and the acquisition of those rights over land will not affect the character of that land following the construction of the Proposed Development, since the surface of the land is required to be restored to its former condition in accordance with Requirement 22 (Restoration of land used temporarily for construction) of the draft DCO (REP1-021). Accordingly, the land will be no less advantageous than it was before to the persons specified in Section 132(3) of the Planning Act 2008.</p> <p>Therefore, the Applicant considers that such rights are not required to be subject to special parliamentary procedure in accordance with Section 132(3) and there is no need for any replacement land as there will be no land permanently affected.</p> <p>In relation to the Milton and Eastney allotments the cable is to be installed by HDD in this location, with no effect on the surface of the land during construction or in relation to maintenance, with maintenance in relation to HDD elements of cables undertaken from the joint bays which are not to be located on this land (they are located at the drilling locations). This construction methodology was specifically proposed in this location to avoid affecting the continued use of the allotments.</p>
3.17	In addition, as with the applicant's approach to acquisition of highways subsoil land, there has been no proper attempt to negotiate with the Council as freehold owners of the subsoil of the allotments and open space nor with the tenants of the allotments. Indeed with regard to the latter, there is no reference to these tenants' interests at all within the Book of Reference or anywhere on the face of the application.	<p>The Applicant has engaged with PCC regarding the Proposed Development since April 2017 as set out in the Consultation Report (APP-025). Regular meetings have taken place since then. Whilst the landowner has stated its objection to the Applicant's Proposed Development from an early stage of engagement, the Applicant has continued to engage with the landowner to provide more information about the Proposed Development, such as the rights necessary for its construction, maintenance and operation, including the approach to be taken in relation to the subsoil of the highways.</p> <p>In September 2020 the Council appointed an agent to act on its behalf. A meeting took place on 07 October 2020 between the Applicant's agent and the Landowner's agent to progress discussions in relation to the Proposed Development. The Applicant</p>

Reference	Summary of Written Representation	Applicant's Response
		<p>is hopeful that negotiations with the Council's agent will be able to progress more productively than previous discussions which have taken place to date.</p> <p>The Highway Subsoil Acquisition Position Statement (REP1-131) further sets out the position in relation to the subsoil of highways.</p> <p>Attempts were made to identify the tenants of the Allotments through diligent inquiry including checks of HM Land Registry, issue of Land Interest Questionnaires, site notice requests for information and requests with Portsmouth City Council for this information. No responses were provided to these requests for information, however we ensured that the tenants were fully consulted and notified under section 42(1)(d) and section 56(2)(d) of the Planning Act 2008 with site notices. Following finalisation of the design for DCO submission, the depth of the HDD in this area is expected to be deeper than the tenancies of the allotments and as such it is not considered that the tenants of the Allotments, who have a tenancy of Allotment Gardens, have an interest in the subsoil to the Allotments. The interests are therefore not included within the Book of Reference.</p> <p>The Applicant continues to seek to negotiate for the voluntary acquisition of land with PCC, and looks forward to continuing the recent engagement by PCC in this regard.</p>
<p>3.18</p>	<p>Specific concerns relate to Parcels 10-13 and 10-14 as shown on the Land Plans. Setting aside whether as tenants the allotments holders have any interest in the subsoil, the new connection rights as well as the permanent access rights sought over the allotment land clearly grant future access rights over the surface of the allotments in order to maintain; repair or monitor the cables and equipment beneath once construction is complete and it is operational. Such tenants clearly have an interest in the land and therefore are affected persons within the meaning of the 2008 Act.</p>	<p>Plot 10-13 has been corrected to relate to the access roads only, with only rights of access sought over these in connection with inspections during the construction and maintenance of the Proposed Development. It is understood that the Allotment Tenants have tenancies of the individual allotment gardens, but that they do not have a tenancy of the access roads which are located within the allotments.</p> <p>With regard to Plot 10-14, the installation in this location is to be via HDD. There will be no works on the surface of this land in connection with construction or maintenance, with maintenance to be undertaken from the joint bays.</p>
<p>3.19 - 3.20</p>	<p>PCC is aware of recent discussions by the applicant with the allotment holders namely the Milton & Eastney Allotment Association on 29 September 2020. It is not aware that the applicant has informed them that they are such affected persons and indeed are Interested Parties under s.102 and 102B of the 2008 Act. The examination has not had representations from any such allotment holder.</p> <p>This is a matter of serious concern which PCC brings to the ExA's attention in its capacity as the freehold owner and landlord but also in its capacity as a public authority.</p>	<p>Representatives of the Applicant provided a presentation to members from the Allotment Holders Association, including Committee Members, on 22 November 2019, to provide an overview of the Proposed Development and answer any questions from the attendees. At that presentation it was also clearly stated that the Onshore Cable Route would be installed under the Milton and Eastney Allotments using horizontal directional drilling (HDD) and not by open trenching. The presentation also provided details about the DCO Process including the period within which parties could register as Interested Parties. A Briefing Note in relation to the DCO Process was also distributed to attendees. The presentation and Briefing Note were sent to the secretary of the Allotment Association on 25 November 2019 along with contact details for the Applicant in case of further queries and an offer to hold a follow up meeting at a later stage should it be of benefit. A copy of the presentation and Briefing Note have been provided as attachments to this document (see Appendix 1 and 2 respectively).</p> <p>The Applicant provided a presentation to numerous representatives of the Council on 28 September 2020. During this presentation the Applicant clearly reconfirmed the</p>

Reference	Summary of Written Representation	Applicant's Response
		<p>Onshore Cable Route would be installed under the Milton and Eastney Allotments using horizontal directional drilling and not by open trenching. The Applicant also provided further information in relation to a correction of the Order limits at Plot 10-13 of the Land Plans (APP-008) which has subsequently been updated at Deadline 1.</p> <p>The Applicant sent details of the updates to the Order limits by email to two members of the Allotment Holders Association Committee on 02 October 2020. This email was forwarded to the Chairman of the Allotment Holders Association on 07 October 2020 when the correct email address was received for him from the Council. This email was also sent to dispel any rumours that the Applicant was seeking to install the Onshore Cable Route under the Allotments by any process other than HDD following social media posts by a senior representative of PCC that the allotment land would be affected, with those comments made following the provision of the further clarification by the Applicant to PCC that the allotment plots would not be affected as the installation method is via HDD and the incorrect identification of access rights over 10-13 was to be corrected. It was unfortunate such comments were made by senior representatives of PCC, which appear to have created unnecessary anxiety in relation to the Proposed Development amongst allotment tenants and other residents of Portsmouth.</p> <p>The Applicant also had significant engagement with the Council in relation to a communications strategy which was agreed prior to the Applicant undertaking a series of ground investigations (i.e. boreholes) at the allotments in October 2018 to underpin the feasibility of the HDD approach.</p> <p>It is noted that when responding to the Land Interest Questionnaire no such interests were identified by PCC.</p> <p>Please see the responses above to 3.16, 3.17 and 3.18 regarding the Applicant's understanding of the allotment tenants interests and why these are not affected by the Proposed Development.</p>
3.21	Any attempt to grant rights over allotment land without proper procedure will also clearly involve breaches of the European Convention on Human Rights (ECHR) i.e. Article 1 of the First Protocol – a right to protection of property and Article 6 – a right to a fair trial, which includes determination of the issues (i.e. compensation) within a reasonable time.	<p>Section 7 of the Statement of Reasons (REP1-025 and 026) explains the consideration that has been given to the powers of compulsory acquisition sought and the European Convention on Human Rights and why the potential interferences are considered to be proportionate and necessary, striking a fair balance between the public benefit and interest in the Proposed Development being delivered and the interference with the rights that will be affected.</p> <p>No rights are sought by the Applicant over the allotment plots. Acquisition of rights over the surface of allotment plots is not required for the construction, operation or maintenance of the authorised development or to facilitate it, or as is incidental to it, taking into account the HDD installation methodology, and therefore is not sought and would not be authorised by Article 23 of the dDCO (REP1-021).</p>

Reference	Summary of Written Representation	Applicant's Response
3.22	Overall, PCC considers that the applicant has failed in any event to take into account the nature and character of the land over which such rights are being sought and the persons currently benefitting from the land. The Applicant has not adequately considered alternatives, or modifications to the scheme which would have a lesser impact on such land (as is required under Paragraph 8 the Guidance).	<p>The responses within this section above address how the Applicant has considered the nature and character of the land over which rights are sought.</p> <p>In addition to ES Chapter 2 (Consideration of Alternatives) (APP-117), the Applicant has produced a Supplementary Alternatives Chapter submitted as part of the Environmental Statement Addendum (REP1-152) at Deadline 1 which provides further clarity on the alternatives considered by the Applicant.</p> <p>The Applicant strongly refutes the comments of PCC in this regard and will be happy to further demonstrate how it has considered the alternatives and modifications to the scheme to lessen its effects.</p> <p>The nature and character of the land over which such rights are being sought has clearly been considered, as evidenced by the HDD construction methodology in relation to the allotments and the commitment to not install joint bays or any above ground infrastructure on Special Category Land.</p>
3.23	PCC has referred above to the likely serious impediment to the underlying scheme represented by the current and ongoing CJEU litigation which raises questions over the timing of any implementation of the Proposed Development within the 7 year time limit sought by the applicant or within a reasonable timescale or at all.	The Applicant refers to their response to reference 2.1 – 2.3.
3.24 – 3.25	PCC refer to Para 19 of the CA Guidance and advise it considers that the applicant has neither managed the risks to implementation properly (or at all) and has failed to take this guidance into account or accord with it.	<p>The Applicant refers to their response to reference 3.12 (1), 3.11, 3.12 (2).</p> <p>The Applicant has demonstrated how the Application is firmly rooted in policy in the planning statement (APP-108).</p> <p>Any potential risks or impediments to implementation of the scheme have been properly managed by virtue of the incorporation of the required level of flexibility provided by the limits of deviation within the Order limits. The position with regards to negotiations to acquire the land required to deliver the Proposed Development are detailed in the Statement of Reasons (REP1-025).</p> <p>It is not considered there are any physical and legal matters pertaining to the application, including the programming of any necessary infrastructure accommodation works and the need to obtain any operational and other consents which may apply to the Proposed Development which have not been taken into account. The DCO sought will provide for the delivery of the scheme without impediment, and the position in relation to the need to obtain other consents and obtaining those consents and licences is clearly detailed in the Other Consents and Licences Document (REP1-029).</p>
3.26	As well as the issues raised above there are clear issues as to the scheme's viability not only as a consequence of the legal issues and impediments which will either prevent the scheme from proceeding but also will in any event delay it until any of these matters can be resolved.	The Applicant has addressed the issues raised by PCC in the responses within section 2 Procedural and Legal Issues above.

Reference	Summary of Written Representation	Applicant's Response
3.27 – 3.28	Further advises that the CA Guidance also requires consideration of resource implication of the proposed scheme with regard to the justification for compulsory acquisition and proof of funding. PCC consider the information provided to be wholly insufficient.	The Applicant refers to its response to 4.1 – 4.2 below.
Funding		
4.1 – 4.5, 4.7 – 4.8, 4.12 – 4.24	<p>Comments on Aquind Limited's Funding Statement, and identify that PCC considers it to be manifestly insufficient in detail on proposed project costs/breakdown, and funding.</p> <p>Specifically comment that the Funding Statement states "<i>the Project does not have the benefit of full funding at this stage</i>", and in fact given that "<i>funding for the project is expected to be subject to grant of the development consent order</i>" and thus indicates the project is almost entirely unfunded and at risk.</p>	The Applicant refers to its response regarding funding provided in its response to Written Question ExQ1 (REP1-091) CA1.3.1, to which it is considered the Applicant has demonstrated that funding for the Project is likely to be available to enable the compulsory acquisition within the 7-year period provided for in the dDCO (REP1-021) for the exercise of such powers following the Order being made.
4.6	Refer to an equal split of the estimated overall cost of the project between the elements in France and in the UK, and consider this simplistic, and question of the construction elements are similar.	The Applicant refers to its response to Written Question ExQ1 (REP1-091) CA1.3.76 regarding the construction elements and costs.
4.9	Aquind Limited's Funding Statement asserts that "the costs of interest and other debt servicing will be met from revenues generated by the Project". To reiterate the comment made above, the Funding Statement is silent on what levels of revenue will be generated by the project and whether these would be sufficient to meet the costs of interest/debt servicing (as well as providing security for the project finance funding).	The Applicant refers to its response to Written Question ExQ1 (REP1-091) CA1.3.10 and CA1.3.104.
4.10	The land acquisition costs stated within the Funding Statement exclude the valuation of the Crown Estate's seabed interest. There is every chance that this is a material cost which would further add to the sizeable unfunded capital cost estimate of the project and would require additional funding to be identified and secured.	The Applicant refers to its response to Written Question ExQ1 (REP1-091) CA1.3.54. The cost of the Crown Estate Seabed Licence, for which an option is secured, has been appropriately factored into the overall land acquisition and projects costs, and the Applicant can confirm that the cost of the seabed licence is unsurprisingly not a material cost which has any material impact on the ability to secure funding for the Proposed Development once consented.
4.11	Aquind Limited also do not anticipate any claims for blight will arise, which is a rather disingenuous position given a project of this scale and the proposed route of the HVDC onshore cables. If they do arise they would add to the unfunded proposed development cost estimate.	The Applicant refers to its response to Written Question ExQ1 (REP1-091) CA1.3.4.
Highways, Traffic and Transport		
5.1	PCC has set out an assessment of the traffic and highways impact from the Proposed Development in the LIR.	The comment is noted and the Applicant has responded within the Applicants Response to the PCC Local Impact Report (LIR) (document reference 7.7.13).

Reference	Summary of Written Representation	Applicant's Response
Draft DCO highways issues		
5.2 - 5.4	<p>The Draft Development Consent Order (DCO) contains a number of articles pertaining to Highways; these include (but are not limited to) use and/or purchase of land, rights to undertake works and powers to alter the operation of the highway.</p> <p>As the ExA will know, Portsmouth City Council as the Local Highway Authority (LHA) strongly objects to the compulsory acquisition of any part of the highway subsoil and disagree that this is justified or necessary especially given the intended status of the applicant as statutory undertaker and the powers available in that event.</p> <p>In the event however that the applicant is granted powers to compulsorily acquire the highway subsoil this could potentially impede the LHA from exercising its statutory powers as LHA, for example in respect of the operation or alteration of the publicly maintained highway in future. Further, it is possible that other statutory undertakers with apparatus already in-situ may be impeded from altering or maintaining said apparatus in future.</p>	<p>The Applicant refers to its response to Written Question ExQ1 (REP1-091) CA1.3.94.</p> <p>The Applicant wishes to clarify that there will be no acquisition of the subsoil which forms part of the highway. This is not proposed or sought in the dDCO (REP1-021). Where the cables are installed within the highway, they will be installed pursuant to statutory authority in accordance with Article 11 conferred by the New Roads and Street Works Act 1991.</p> <p>No freehold acquisition of the highway subsoil is sought in any event, with only rights sought for in the very limited instances it may be necessary to install the cables at a depth which is below the vertical plane which forms the highway.</p> <p>The comment that this could potentially impede the LHA from exercising its statutory powers as LHA, for example in respect of the operation or alteration of the publicly maintained highway in future is made without any foundation. This is clearly not the case, with the onshore cables being akin to other utility infrastructure in the highway and installed on the same basis.</p> <p>The position with regard to other utility operators apparatus in connection with the construction of the Proposed Development is to be regulated by protective provisions, and once constructed will be regulated like all other utility apparatus in accordance with the requirements of the New Roads and Street Works Act 1991. Again, the comment made is without any foundation.</p> <p>Engagement with other statutory undertakers whose apparatus are located within the Order Limits is ongoing, as detailed in the Statement of Reasons (REP1-025).</p>
5.5	<p>As the ExA again will be aware Portsmouth Council in its role as LHA ('the LHA') objects to any deviation from or disapplication of the NRSWA 1991 ('the '91 Act'). Statutory undertakers (such as Aquind following the grant of its Electricity Interconnector Licence) are provided with sufficient rights and protections under the 91 Act to install and maintain any apparatus or carry out any other activity related to the operation of that apparatus.</p>	<p>The Applicant refers to its response to Written Question ExQ1 (REP1-091) CA1.3.94.</p> <p>There is no intention to disapply the New Roads and Street Works Act 1991, and there has not been at any stage. The New Roads and Street Works Act 1991 is evidently applicable in accordance with Requirements 11 and 12 of the dDCO (REP1 - 021). The permit scheme is to be disapplied, so as to ensure the works can come forward in accordance with and subject to the requirements of the Framework Traffic Management Plan (REP1-068), which is necessary to ensure the Proposed Development is delivered in an efficient manner which reduces the adverse impacts associated with the installation. This is a clear and compelling reason for the approach to be taken.</p>
5.6	<p>The LHA objects to an undertaker having rights to make, alter, impose and enforce Traffic Regulation Orders (both permanent and temporary) as if it were the LHA. The LHA will be unable to properly manage and control its network should the Undertaker be given such powers. The LHA already has robust set of processes for drafting, advertising and making TROs (both permanent and Temporary) that are used successfully for other undertakers carrying out works on the Highway. There appears</p>	<p>With regard to the rights to make, alter, impose and enforce Traffic Regulation Orders (see Article 16 of the draft DCO), the Explanatory Memorandum (REP1-023) provides an explanation of these provisions and why the Applicant considers them to be necessary in connection with the Proposed Development. It should be noted that the ability to use the powers afforded by this Article is only with the consent of the relevant highway authority and only where necessary in connection with the Proposed Development (with it not being anticipated that any permanent Traffic Regulation</p>

Reference	Summary of Written Representation	Applicant's Response
	<p>to be no justification for the modification or exclusion of the normal statutory controls for TROs the result of which is disproportionate in this instance.</p>	<p>Orders will be required in connection with the Proposed Development), and the extent of any such measures will be confirmed when the detailed traffic management strategies are approved by the relevant highway authority. It is therefore not considered that the ability to make, alter, impose and enforce Traffic Regulation Orders for the purposes of or in connection with the authorised development will impact on the ability of the relevant highway authorities to properly manage and control its network as stated.</p> <p>By seeking for these matters to otherwise be dealt with outside of the DCO PCC appears to fundamentally misunderstand the purpose of obtaining a DCO, which is to provide a single consent for development in so far as is possible to ensure the delivery of projects of national significance and the significant national benefits which they provide.</p>
<p>5.7 – 5.8</p>	<p>Art 8(3) disapplies the Traffic Management (Hampshire County Council) Permit Scheme Order 2019 (the Permit Scheme) and in its place proposes to adopt a statutory approvals process broadly in line with provisions of the 91' Act as described in Article 10 of the draft order.</p> <p>Portsmouth are a permitting authority and consider the continued application and use of the mechanisms available under the Permit Scheme create the appropriate level of management and protection for traffic to allow for any works consented to as a consequence of a grant of a DCO for the Proposed Development. To that end PCC does not consider the Permit Scheme should be disapplied. In addition, it is likely that PCC will seek powers to implement a lane rental scheme during 2021. Should consent be granted for the Proposed Development any future works associated with this development will also need to take that rental scheme into account as will to comply with the street works process in place in Portsmouth at the time of those works taking place. The Permit Scheme would allow for all these works to take place in but in a controlled fashion.</p>	<p>The Applicant understands that PCC has implemented a permit scheme, which became operational on 17 August 2020.</p> <p>The Applicant maintains the approach to use the NRSWA and bespoke provisions in the DCO to streamline the design approvals and the related highway mitigations. The permit scheme is to be disapplied, so as to ensure the works can come forward in accordance with and subject to the requirements of the Framework Traffic Management Strategy (REP1-068), which is necessary to ensure the Proposed Development is delivered in an efficient manner which reduces the adverse impacts associated with the installation. This is a clear and compelling reason for the approach to be taken.</p> <p>The protective provisions for the protection of highways and traffic, included at Part 5 of Schedule 13 to the dDCO (REP1-021), have been purposefully drafted with the legal duties of the highway authority in mind and with regard to permit scheme requirements, to ensure the necessary level of information required by the highway authority to approve the works is provided, and to ensure each highway authority is able to comply with their legal duties to provide an efficient, safe and co-ordinated highway network. The Applicant looks forward to PCC engaging on the protective provisions so as to confirm any comments they may have in relation to these.</p>
<p>5.9</p>	<p>Concern "onshore site preparation works" is excluded from the definition of "commence". Consider such works should be controlled by a Construction Environment Management Plan (CEMP) relevant to that phase of works. Where within the Highway, it should adhere to the network booking process.</p>	<p>The Applicant refers to its response to its response to Written Question DCO1.5.44 (REP1-091), and considers Article 2 to be appropriate as drafted.</p> <p>The position in relation to the approval and timing of works in the highway is provided for in the protective provisions for the protection of highways and traffic, included at Part 5 of Schedule 13 to the dDCO (REP1-021), in relation to which the Applicant look forward to PCC engagement.</p>
<p>5.10</p>	<p>Where the term "phase of the works" is used, it is not clear how these phases currently defined; how many phases of work the applicant expect there to be; nor how many separate CEMP documents will be submitted for consideration. It is imperative</p>	<p>In accordance with Requirement 3, the Applicant would determine the phases of the Authorised Development and would submit a written scheme setting out all the phases to the relevant planning authority. The Authorised Development would be</p>

Reference	Summary of Written Representation	Applicant's Response
	<p>that the Local Highway Authority (LHA) know how many documents to expect and in what timeframe so as to be able to adequately resource teams to review and respond to the applicant within set timescales.</p>	<p>carried out in accordance with the submitted and approved written scheme. The CEMPs will relate to all works in the relevant phase in accordance with the Outline Onshore CEMP (REP1-087 and 088).</p> <p>The Applicant has confirmed its willingness to enter into a post-consent PPA to cover the costs of resourcing for the necessary approvals and looks forward to engaging on this with PCC, with the aim of ensuring the PPA is entered into before the end of the Examination.</p>
<p>5.11</p>	<p>The Draft DCO at Art 2 of Part 1 sets out various definitions including of the term "maintain". This covers the areas included within section 48 of the New Roads and Street Works Act 1991 (the '91 act) but appears to extend the definition to also include "extending, enlarging....any part of the development". It is not clear what this might relate to and if it would be applicable anywhere within the confines of the order limits or even extend beyond the order limits. PCC therefore objects to this wording.</p>	<p>The definition of maintain in the dDCO (REP1-021) provides as follows:</p> <p><i>"maintain" includes inspect, upkeep, repair, adjust, alter, improve, preserve and further includes remove, reconstruct and replace any part of the authorised development, provided such works do not give rise to any materially new or materially different environmental effects to those identified in the environmental statement and "maintenance" must be construed accordingly;</i></p> <p>It is not clear what PCC is referring to, as the words "extending, enlarging....any part of the development" do not feature at any point in any draft of the DCO.</p>
<p>5.12</p>	<p>Art 2 defines "subsoil" as "any stratum of land that is below the surface of the ground". Where highways are considered it is not clear if this definition relates to the area immediately below the surface course of the highway, beneath the full depth of construction of the highway or from some other point beneath the highway. Note: the applicant has subsequently set out that in their opinion, only the first metre beneath the surface may be regarded as "highway" and for that reason they require ownership/rights over the "subsoil" however this is different to the approach of all other statutory undertakers who regularly place apparatus at a depth exceeding 1m beneath the surface of a road. This needs to be properly reflected on the face of the DCO and PCC objects to this wording as currently shown.</p>	<p>It is not understood where PCC considers it has been set out that only 1m below the highway is considered to form the depth of the highway. An e-mail sent by the Applicant's solicitors confirming the position provided by caselaw in relation to the zone of ordinary use which forms the highway is appended to these responses at Appendix 3.</p> <p>It is not clear what, if any, amendments, PCC are seeking to this definition.</p> <p>The Applicant's position in relation to highway subsoil is set out in the Highway Subsoil Acquisition Position Statement (REP1-131).</p> <p>The Applicant is happy to discuss this further with PCC as necessary.</p>
<p>5.13 – 5.14</p>	<p>Art10 relates to the Power to alter layout etc. of streets. Para 7.5 of explanatory memorandum to the draft DCO refers to the "need for flexibility" in delivering the development and as a consequence asserts it is "not feasible to provide details of the alterations required in connection with the carrying out of the authorised development".</p> <p>It is not clear what this means and would be unreasonable to give authority for the undertaker to alter any street without consent/approval of the LHA. For example, this provision would seem to make it possible for a CEMP/TMP to be agreed for a cable route across an area of land only to find that it is not feasible, and that section then be diverted into live carriageway without any further permissions from the LHA.</p>	<p>The position set out by PCC is not correct. The detailed design of the onshore cables and the works to deliver them is required to be confirmed in accordance with Requirement 6, and in relation to works in the highway in accordance with the protective provisions for the protection of highways and traffic located at Part 5 of Schedule 13 to the dDCO (REP1-021). Article 10 (3) is clear that the powers conferred by paragraph (1) must not be exercised without the approval of the relevant street authority and the approval of the exercise of the powers within a traffic management strategy will constitute approval for the purposes of this paragraph. As such, all works are required to be approved by PCC before being implemented. Carrying out works not in accordance with such approvals will be a breach of the relevant provisions of the dDCO.</p> <p>The comment that a section of cable could be diverted into live carriageway without any further permissions from the LHA is not understood, and appears to</p>

Reference	Summary of Written Representation	Applicant's Response
		<p>misunderstand the power which allows for alternations to the highway, not alternations to the works in the highway.</p> <p>Again, PCC appears to fundamentally misunderstand the purpose of obtaining a DCO, which is to provide a single consent for development in so far as is possible to ensure the delivery of projects of national significance and the significant national benefits which they provide. Article 10 is included for this purpose, follows a very common form, and the power is always only able to be exercised with the requisite approvals provided by PCC.</p>
5.15	<p>Para 7.7 of the Explanatory memorandum covers Article 11 (street works) and the additional powers added to a model provision that the undertaker would have. The paragraph goes on to say that the "consent of the highway authority is not required in connection with the carrying out of works pursuant to this power within the order limits". It is not clear whether this refer only to the additional powers or to all of the powers within the model provision. Further, it seems to exempt the undertaker from requiring a licence or complying with the permit scheme which is wholly unacceptable to the LHA. Article 11(2) then refers to sections 48(3) & 51(1) of the '91 act as justification for the powers requested in 11(1) however those sections of the '91 act require undertakers to gain consent from the street authority and consequently it does not so follow.</p>	<p>Article 11 provides statutory authority for the undertaker to carry out works in the highway. Article 12 ensures this statutory authority is subject to the relevant statutory controls provided for by the New Roads and Street Works Act 1991. The purpose of these articles is to ensure that there is not a need to obtain a separate licence, and that the undertaker is subject to the controls provided for by the New Roads and Street Works Act 1991. This is a common approach to most, if not all, made DCO's.</p> <p>Again, these comments evidence that PCC appears to fundamentally misunderstand the purpose of obtaining a DCO, which is to provide a single consent for development in so far as is possible to ensure the delivery of projects of national significance and the significant national benefits which they provide.</p> <p>The permit scheme is to be disapplied so as to ensure the works can come forward in accordance with and subject to the requirements of the Framework Traffic Management Strategy (REP1-068), which is necessary to ensure the Proposed Development is delivered in an efficient manner which reduces the adverse impacts associated with the installation. This is a clear and compelling reason for the approach to be taken.</p> <p>The works in the highway are to be governed by the relevant provisions of the New Roads and Street Works Act 1991, and the protective provisions for the protection of highways and traffic provided for at Part 5 of Schedule 13 to the dDCO (REP1-021). The Applicant looks forward to PCC engaging on these protective provisions.</p>
5.16	<p>Article 11(3) seems to prevent the LHA from refusing use of a street outside of the order limits which is again wholly unacceptable to the LHA.</p>	<p>It is correct that PCC cannot unreasonably withhold consents to enter on so much of any other street whether or not within the Order limits required for the purposes of carrying out the works, which is necessary to ensure there is no impediment to the delivery of the Proposed Development, as evidenced by this comment from PCC.</p>
5.17	<p>Object to Article 16 powers to make, impose and enforce Traffic Regulation Orders, giving the undertaker equal standing to the LHA.</p> <p>The representation then includes extracts of PCC's Relevant Representation with text coloured red relating to PCCs updated comment on:</p>	<p>The Applicant refers to its response to reference 5.6 above regarding TROs.</p> <p>The Eastern Road Traffic Assessment Technical Note is included in Appendix E and summarised in Section 5.4 of the Supplementary Transport Assessment (REP1-142). The Eastern Road Technical Note assesses the impact that traffic management would have between Tangier Road and Eastern Avenue. The results of the assessment undertaken with the Eastern Road Technical Note demonstrate that Traffic</p>

Reference	Summary of Written Representation	Applicant's Response
	<ul style="list-style-type: none"> 4.6 - Traffic modelling and the Eastern Road Technical Note, including potential for cumulative effects, safety implications of traffic management and mitigation. 4.7 - Abnormal loads – their definition and inclusion in the assessment. 4.8 – CTMP and whether this is sufficiently detailed to capture phasing when a Contractor has not yet been appointed, including staff numbers and site access. 4.13 - Transforming Cities Fund and potential for conflict with schemes under this programme. 4.12 – 4.14 Portsmouth's Permit Scheme and NRSWA 1991. 	<p>Management between Tangier Road and Eastern Avenue yielded similar results in terms of traffic delay and journey time changes to those in in the Traffic Management scenario assessed within the SRTM between Airport Service Road and Burrfields Road. Given that there will only ever be a single instance of Traffic Management on the A2030 Eastern Road at any one time there will not be greater cumulative effects of more than one Traffic Management location. The further assessment in this Technical Note confirms that the assessment of the A2030 Eastern Road completed in the Transport Assessment (APP-448) and using the SRTM is robust and representative.</p> <p>Further to this the Applicant is producing a Road Safety Technical Note which considers the safety implications of increased traffic flows on links, and increased queueing at junctions and traffic management locations within Portsmouth. Suitable mitigation will be identified within the Road Safety Technical Note where the Applicant considers it is appropriate.</p> <p>In relation to abnormal loads, it is acknowledged that there was an error in the definition of 'abnormal vehicle' included within the submission, and the Applicant refers to Written Question TT1.16.12 (REP1-091) to confirm the definition reflected in the updated Framework Construction Traffic Management Plan (FCTMP) (REP1-070) and Supplementary TA (REP1-142), which also includes an assessment of abnormal load movements associated with the delivery of cable drums to indicative Joint Bay locations along the Onshore Cable Route. The assessment of the indicative Joint Bay locations has shown that access will be achievable to all locations without the need for significant highway layout alterations and without generating significant environmental effects.</p> <p>The Applicant recognises that each of the relevant highway authorities has specific guidance pertaining to the movement of abnormal loads and AILs and will adhere to this guidance when programming the movements of AILs across their highway networks as stated in section 2.7.7 of the FCTMP (REP1-070 and 071).</p> <p>In relation to comments on construction phasing and the CTMP, the duration of impacts is determined by the installation rate of the Onshore Cable Route based upon professional experience of similar projects. All assessments of impacts are based upon worst-case installation rate assumptions derived by professional experience of similar projects, further detail in relation to which is provided within Section 3.3 of the ES Addendum (REP1-139). The duration of impact has also been fully considered when determining the magnitude of impact at each location stated within the Chapter 22 and therefore increases in the duration of construction are unlikely to alter the significance of effect already determined. As such, the Applicant considers the duration of works set out in the FTMS (REP1-068 and 069) are realistic and achievable.</p>

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		<p>Sustainable travel to and from the construction site at the Converter Station Area will be promoted via the Construction Worker Travel Plan, which is included in Appendix 6 of the Framework Construction Traffic Management Plan (FCTMP) (REP1-070 and 071).</p> <p>The Applicant is aware that PCC has recently secured funding from the Transforming Cities Fund (TCF) towards the introduction of transport improvement schemes. The Applicant understands that schemes are to be built by 2023. The Applicant will seek to discuss TCF schemes with PCC.</p> <p>The Applicant has already clearly explained its position in relation to the New Roads and Street Works Act 1991 and the disapplication of the permit scheme in responses above, including for example at the response to 5.15. The Applicant cannot stress enough that it has never intended to disapply the New Roads and Street Works Act 1991, and that this has been explained to PCC on several occasions. It is not understood why this misconception has arisen, but it is hoped the responses provided make further clear the position and will lead to engagement by PCC on the protective provisions for the protection of highways and traffic.</p>
Air Quality & Noise		
5.1	Refer to ClientEarth challenge the government's Air Quality plans, and the subsequent four Ministerial Directions issued to PCC. These place a legally binding duty on the Council to undertake a number of steps to improve air quality in the city, in particular to reduce air pollution concentrations across the city to within legal limits in the shortest possible time.	<p>With reference to Chapter 23 of the ES (REP1-033), paragraph 23.5.1.6, it is noted that PCC is expected to deliver a modelling report to Defra at the end of November 2020 which will determine the specific conditions of the Clean Air Zone (CAZ) mandated under the Ministerial Direction. Therefore, it has not been possible to incorporate information relating to the impact of the CAZ on traffic flows and air quality into the assessment.</p> <p>As described in paragraph 23.5.7 of the ES (REP1-033), CAZ is one of a number of measures identified in the Outline Business Case for air quality action which, in combination, will be sufficient to bring air quality in compliance with Directive 2008/50/EC in the shortest time possible. The project will meet all requirements mandated by the CAZ with respect to vehicles and plant.</p>
5.2	Identify Eastern Road water bridge is a 'near exceedance' location, due to high nitrogen dioxide concentrations as a result of queuing traffic travelling northbound. Note no lane closures are proposed along the water bridge, consider the use of temporary traffic management along the length of Eastern Road has potential to lead to queuing traffic in this location. Concern that the lane closures on Eastern Road will result in increased queuing time for vehicles which will have a detrimental impact on air pollution concentrations at the 'near exceedance' location, potentially pushing this site into exceedance. Additional concern that the lane closures on Eastern Road could	Appendix 23.8 of the ES (APP-330) provides a full description of the impacts of the development in the Eastern Road area in which the impact of road closures and diversions to facilitate cabling on Tangier Road / Eastern Road is considered to be slight adverse and the effect significant. This incorporates the anticipated increase in queuing. Although the results are predicted to be worse during cabling, it should be noted that the maximum prediction in AQMA No.9 is over 8 µg/m ³ under the objective and exceedances of the health-based objective are unlikely.

Reference	Summary of Written Representation	Applicant's Response
	also result in traffic rerouting via the M275 with additional traffic travelling through the exceedance locations, which are sensitive to increases in traffic volumes and queuing.	
5.3	Mitigation measures included in the Operation Management Plan and ES (chapter on Air Quality) are considered sufficient in reducing some of the air quality impacts of the proposal, however it is noted that there is uncertainty in the modelling and therefore "it cannot be determined with certainty that an exceedance of the NO2 annual mean objective will not occur as a result of diverted traffic."	<p>All model predictions are subject to uncertainties which are mitigated through the application of conservative assumptions as described Chapter 23 of the ES (REP1-033) paragraph 23.4.8.1. The judgements of significance summarised in Table 23.116 take into consideration this conservatism and the model results to provide the best possible representation of future air quality impacts.</p> <p>Where necessary, the mitigation of emissions from diverted traffic will be undertaken through measures set out within the Detailed CEMP documents, which are to be in accordance with the measures included in the Onshore Outline CEMP (REP1-087).</p>
5.4	Government require PCC to implement a Class B charging Clean Air Zone (CAZ) in order to reduce the nitrogen dioxide emissions to within legal limits. Advise if legal limits of concentrations of nitrogen dioxide are not met by the end of 2022, PCC could be required to implement a more stringent CAZ. PCC cannot support risking achievement of this legal objective unless sufficient mitigation of the impacts can be found.	As described in paragraph 23.5.7 of the ES (REP1-033), the CAZ is one of a number of measures identified in the Outline Business Case for air quality action which, in combination, will be sufficient to bring air quality in compliance with Directive 2008/50/EC in the shortest time possible. The project will adhere to all requirements mandated in the Ministerial Direction to ensure emissions are minimised and as construction traffic operation is expected to be transitory and temporary in nature, is not expected to impact on national obligations under the Directive.
5.5	Key noise concern is the potential for disruptive overnight construction work. Consider further noise assessment will be necessary, with clarity on mitigation measures.	<p>The areas within PCC's administrative boundary where works outside of core working hours are required are in Section 5, Section 6 and Section 8 of the Onshore Cable Corridor. The predicted impacts for these sections are contained in Paragraphs 17.3.2.43 to 17.3.2.71 of the ES Addendum (REP1-139).</p> <p>No further noise assessment to that contained in Chapter 24 of the ES (APP-139) and Chapter 17 of the ES Addendum (REP1-139) is considered by the Applicant to be necessary because the information available provides a robust and sufficient basis to identify the likely significant noise and vibration impacts on sensitive receptors.</p> <p>The noise mitigation measures relevant to works outside of core working hours are contained in section 6.2.8 of the Onshore Outline CEMP (REP1-087), which includes avoiding 'noisy works' during night-time hours in Sections 6 and 8.</p> <p>Paragraph 24.8.1.6 of the ES Chapter 24 (APP-139) confirms that until a contractor is appointed, and detailed work plans are produced, it is not practicable to identify further specific physical mitigation measures that will be employed. However, the contractor appointed will engage with local residents affected by the works and the environmental health department at the local planning authorities to agree additional mitigation to reduce noise and vibration effects as far as reasonably practicable.</p> <p>Regardless of which contractor will be carrying out the works, they will be required to comply with the mitigation contained in the Onshore Outline CEMP which must be incorporated in a detailed CEMP to approved by the relevant planning authority.</p>
Impact on Trees		

Reference	Summary of Written Representation	Applicant's Response
8.1	<p>Trees are a valuable component of the City's green infrastructure network.</p> <p>PCC do not to TPO trees on its land holdings or in its guardianship. As such the revised proposal tabled by AQUIND on 29 September [The Applicant comment - meeting took place on 28 September] namely proposing to run the cables through Zetland Field will have a likely adverse effect on trees in this area that has not been properly and fully considered.</p> <p>PCC are not satisfied that the extent of powers sought by the applicant over trees along and adjacent to works are proportionate and appropriate and the necessary requirements to the order should reflect the need for PCC to retain control over the protection and, if exceptionally required, replacement of trees following a full arboriculture assessment based on the accurate route and associated minimum land take.</p>	<p>The decision by PCC not to apply a Tree Preservation Order (TPO) to their own trees does not affect the assessment of their retention category. The aim of the Proposed Development is to remove as few trees as possible.</p> <p>The Tree Survey carried out by the Applicant is compliant with British Standard 5837:2012, taking account of the trees physiological and structural condition at the time of inspection. This in turn informs the retention category which does not take into account trees designated by TPOs. It should be noted that a TPO does not, by virtue of designation, warrant a high retention category. It is not uncommon for trees that are subject to TPOs to be awarded lower retention categories due to declined physiological or structural condition as a result of pest disease or other factors beyond the tree owners' control.</p> <p>Notwithstanding, the Applicant will seek to avoid all impacts on trees where possible as identified within paragraph 6.3.2.1 of the updated Onshore Outline CEMP (REP1-087). Where this is not possible, all pruning and felling works will be specified by a suitably trained and experienced arboriculture consultant and will be carried out by a suitably trained and experienced arboriculture contractor, in accordance with the updated Outline Landscape and Biodiversity Strategy (OLBS) (REP1-034) at Section 1.3.4, secured by requirement 15 of the dDCO (REP1-021).</p> <p>There have been no amendments made to the Order limits which potentially increase impacts on trees. Indeed, the amendments made at Baffins Milton Rovers FC, Furze Lane and Zetland Field have been made to reduce impacts on trees. With regard to Zetland Fields, the row of trees which runs parallel to Eastern Road has been removed from the Order Limits. It is noted trees at the southern end of the cable route at Zetland Field have already been cleared and thus will not be affected by the Proposed Development.</p>
Socio-Economics/Human Health		
9.1	Concerns in respect of effects to playing pitches, open space, community assets and local businesses is contained within PCC's LIR.	The Applicant has responded within the Applicant's Response to the PCC LIR (document reference 7.7.13).
Ground conditions/contamination		
11.1 – 11.2	<p>Advise Milton Allotments raises issues of public health due to the previous history of the land, and advise Milton Allotments occupy reclaimed land (formerly a tidal inlet that was reclaimed from the sea and then landfilled with inert and non-inert waste).</p> <p>Suggest that in order to demonstrate that it is not contaminated land, AQUIND must carry out a Phase I Desk Study, the production of a Conceptual Site Model (CSM), Site Investigation, a Generic/Detailed Risk Assessment, and if required a Remedial Options Appraisal, prior to implementation, and a verification report. PCC also propose the potential need for ongoing/long-term monitoring.</p>	<p>The previous land uses are identified in Section 18.5.4 of ES Chapter 18 (Ground Conditions) (APP-133), and Section 3.10, 9.1.3, 9.2 and 10 of Appendix 18.1 (Preliminary Risk Assessment and Generic Quantitative Risk Assessment) of the ES (APP-429).</p> <p>Mitigation measures in relation to exposure to buried materials including landfills are contained in Section 5.5 of the Onshore Outline CEMP (REP1-087).</p> <p>A Preliminary Risk Assessment (PRA) and a Generic Quantitative Risk Assessment (GQRA) have been produced and can be found in Appendix 18.1 (Preliminary Risk</p>

Reference	Summary of Written Representation	Applicant's Response
	<p>Advise that upon completion of the process, the site should not pose a significant risk to future users or the surrounding environment.</p>	<p>Assessment and Generic Quantitative Risk Assessment) of the ES (APP-429). A Site Investigation was carried out by WSP in 2018 with the results incorporated into the GQRA. For further information on the PRA/GQRA please refer to the response within the Applicants Response to Relevant Representations (REP1-160).</p> <p>Remediation Options Appraisal, Remedial Strategy, verification reports and subsequent monitoring are covered under Requirement 13 of the dDCO (REP1-021). For further information on Requirement 13 please refer to the response within the Applicants Response to Relevant Representations (REP1-0160).</p>
<p>Onshore Ecology</p>		
<p>12.1</p>	<p>Consider greater clarity on the final cable route is required to inform the potential for significant effects on bird disturbance to the Solent SPAs and Functionally Linked Land or inform measures for mitigation to reduce impacts to acceptable levels to ensure the Conservation of Habitats and Species Regulations 2017 (the Habitat Regulations).</p>	<p>The assessment of Chichester and Langstone Harbour SPA and associated functionally linked land (namely Solent Waders and Brent Goose Strategy (SWBGS) sites) has been updated in the Habitats Regulation Assessment (REP1-081) which is informed by the Environmental Statement Addendum Appendix 18 - Construction Noise Impacts on SWBGS Sites (REP1-149). Following the consideration of mitigation with respect to noise impacts (through the application of six working principles) and commitment to restoration of SWBGS sites before the onset of the wintering period it is concluded that there are no adverse effects on site integrity. This conclusion has been agreed with Natural England and is confirmed in the Statement of Common Ground with Natural England (REP1-105).</p>
<p>12.2</p>	<p>PCC advise Eastern Solent Coastal Partnership have raised concerns surrounding the adequacy of the impact mitigation for the mitigation secured as part of coastal defence projects given the cumulative impacts are based on inaccurate information and requires updating to reflect overlap in construction.</p> <p>Further advise the DCO needs to ensure any flood defences are retained or replaced, to ensure the same level of flood protection is maintained and Aquind reduce any cumulative impacts and disruption, to ensure ecological mitigation of sea defence works remains effective.</p>	<p>The Applicant has provided an update on cumulative impacts within Chapter 10 of the ES Addendum (REP1-139) and the HRA Report (REP1-081 and 082). This includes consideration of the East Solent Coastal Partnerships North Portsea Island Coastal Flood Defence Scheme, Phase 4B - Coastline Between Milton Common and Kendall's Wharf Eastern Road (19/01368/FUL) with respect to potential cumulative impacts on bird features of Chichester and Langstone Harbours SPA and functionally linked SWBGS sites. The HRA and ES Addendum conclude that on consideration of mitigation (notably restoration of SWBGS sites and restriction of noise emitting works in the winter period) there are no adverse effects on site integrity.</p> <p>The flood defences will be subject to approval or exemption of environmental permits, and require the integrity of the features are not negatively impacted as per section 5.7 of the Onshore Outline CEMP (REP1-087).</p>
<p>Designated Sites and works</p>		
<p>12.3</p>	<p>PCC is satisfied that the ES and supporting documents make sensible recommendations regarding mitigation and enhancements to ensure a negligible residual effect on Statutory Designated Sites.</p> <p>However, it advises the measures proposed are not yet sufficiently detailed to be able to be secured and implemented. PCC are of the strong view that further information</p>	<p>The Applicant notes that PCC is content with the recommendations made with regards to mitigation on statutory designated sites. Further details have been provided with respect to the restoration of functionally linked land to Chichester and Langstone Harbours SPA (i.e. SWBGS sites) within the ES Addendum (REP1-039) and the HRA Report (REP1-087).</p>

Reference	Summary of Written Representation	Applicant's Response
	regarding the specific details of mitigation are still required, and the absence of the relevant detail at this stage of the application is of significant concern.	Chapter 10 of the ES Addendum provides detail on non-statutory designated sites and habitats of Principal Importance including timing of work, seed harvesting and turf storage measures. These actions have been captured and secured within the Onshore Outline CEMP (REP1-087). These aspects are however not relevant to European sites and are not required in order to determine no adverse effects on site integrity.
12.4	<p>The likely cable route will either follow the sea defence footpath east of Milton Common or follow the southern and western boundaries of Milton Common.</p> <p>Milton Common SINC underwent a detailed botanical survey confirming the habitats as mainly disturbed and widespread, with an area of better quality MG5 grassland being a result of mitigation seeding for the recent coastal defences work.</p> <p>Temporary loss of 10.5ha of Milton Common SINC is expected, with habitat to be reinstated post-completion. Advise that provided the outline mitigation measures are implemented, there should be no net loss.</p> <p>While temporary loss is of less concern PCC believes that it is essential that the applicant provides detail on the programming of this work to ensure its ecological function is maintained and to describe any interim measures for protecting green infrastructure and maintaining the ecological network. Micrositing of the cable along the chosen route to further minimise impacts is welcomed.</p>	As suggested one of the options in the vicinity of Milton Common SINC will result in temporary loss of habitat within Milton Common SINC but will be significantly less than 10.5ha (It should be noted that the Order limits as submitted, comprising both options, only covers 9.54ha of the SINC). As noted, habitats will be reinstated upon completion of the construction phase, and mitigation to preserve of soil horizons (and therefore soil structure) will cover works at Milton Common SINC. Programming of works and corresponding detailed plans for implementation of ecological mitigation commitments at Milton Common SINC will be included as part of the Biodiversity Management Plan which will be produced in accordance with Requirement 9 of the DCO (REP1-021) for the approval of PCC.
12.5	The measures in the Outline CEMP include employment of an Ecological Clerk of Works (ECoW) for the scheme. Advise the specifics of the role have not been provided and consider this unacceptable.	Details of implementation of ecological mitigation measures and definition of the ECoW role will be included as part of the Biodiversity Management Plan which will be produced in accordance to Requirement 9 of the DCO (REP1-021) and approved by PCC.
Habitats		
12.6	<p>Comment that the draft Biodiversity Position Paper reports a significant predicted increases for hedgerow units (+5.1%) and calcareous grassland (+157%), with an overall post-development net loss of 18.92% across all area-based habitats.</p> <p>The proposals do not comply with local plan policy (PCS13) as an overall net loss is proposed, nor that the proposal results in sufficient benefit to outweigh the harm.</p> <p>PCC do not believe the applicant has adequately demonstrated consideration of all alternatives available that would result in less ecological harm.</p>	Please see the Biodiversity Position Paper (REP1-138) for details of the position with regard to local and national policy and the actions taken to avoid, minimise and remediate potential impacts on biodiversity. These actions result in bespoke management (at Denmead Meadows) or net gains for all habitats of principle importance (priority habitats) as included within the OLBS (REP1-034 and 035).
Protected Species		
12.7	Highlight that bat surveys were restricted to the Converter Station Area, with none undertaken within Portsmouth.	Although survey work focussed on the Converter Station Area, the assessment of impacts on bats within ES Chapter 16 Onshore Ecology (APP-131) was not restricted to this area and covered the Zone of Influence (Zoi) of the Proposed Development.

Reference	Summary of Written Representation	Applicant's Response
	<p>Mitigation at the Converter Station will restrict construction work to daylight hours and in areas where street lighting is absent and request clarity how this will consider impacts within PCC.</p> <p>Raise the temporary loss of suitable bat foraging habitat from Milton Common, and advise if classed as low suitability for bats, the Bat Conservation Trust (BCT) Bat Surveys for Professional Ecologists: Good Practice Guidelines (Collins, 2016) recommend one visit per season in spring, summer and autumn to conduct transect and automated bat detector surveys which have not been undertaken.</p> <p>PCC also note the CEMP states that the lighting strategy for Farlington Playing Fields will be designed in accordance with BCT guidance, but no detail for other construction areas.</p>	<p>The assessment was supported not only by survey data from the Converter Station, but by desk study data, habitat survey data and roost appraisal work covering trees.</p> <p>Given the temporary nature of habitat loss at Milton Common and its limited extent (see response to 12.4 above), desk study data and habitat survey data are considered sufficient to inform the assessment of impacts on bats at this location and more widely outside the Converter Station Area. This approach allowed satisfactory evaluation of potential effects on bats in the local context and the wider study area. No trees or buildings suitable to support roosting bats will be disturbed as part of the construction phase, and no habitat fragmentation will occur at Milton Common SINC as a result of vegetation clearance (e.g. hedgerow removal) which could affect bat commuting routes. Mitigation to control nocturnal lighting during construction will maintain Milton Common as a foraging area for any local bat species for the duration of construction works in this location. Thus, ES Chapter 16 Onshore Ecology (APP-131) has concluded the Proposed Development would not have residual effects on bats.</p> <p>Implementation of mitigation commitments for construction phase lighting, including those at Farlington Playing Fields and across the Order limits as a whole, will be included as part of the Biodiversity Management Plan which will be produced in accordance with Requirement 9 of the DCO (REP1-021) to be approved by PCC.</p>
<p>12.8</p>	<p>Seven bird species of conservation interest were recorded breeding within the site during the breeding bird surveys.</p> <p>The ES chapter describes the breeding bird community as important at the Local scale, however PCC would assess the survey area to be at least of County importance due to presence of black redstart. Note no direct impact, and that 'the works' will be timed to avoid the breeding bird season. However, additional plans to avoid certain works during the wintering season would restrict construction to September.</p> <p>Concern that without a detailed programme of ecological works to explain how relevant works will be scheduled within these constraints, PCC consider there to be an unmitigated adverse impact on protected birds.</p>	<p>As noted by PCC, black redstart was recorded outside of the defined survey area (and Zol) from the Proposed Development and does not influence the importance given to breeding birds in the ES Chapter 16 Onshore Ecology (APP-131).</p> <p>Mitigation to avoid effects on breeding birds described within Chapter 16 comprises clearance of vegetation outside of the bird breeding season (March-August) to make way for work, which can then proceed. This is complemented by a set of winter working principles that have been refined by the recent ES Addendum (REP1-139). Both of these measures allow sufficient working time for Proposed Scheme to be constructed without residual effects on breeding and wintering birds.</p>
<p>12.9</p>	<p>Similar concerns are raised regarding the reptile assessment, and raise specific concern on temporary loss of suitable reptile habitat within Milton Common. Advise slow-worm has been recorded on Milton Common and common lizard has been recorded in the Land West of Fort Cumberland SINC, adjacent to the site, with potential for direct harm if suitable mitigation is not implemented.</p> <p>Note a Precautionary Method of Working is outlined for reptiles in Section 16.8.9 of the ES Onshore Ecology chapter.</p>	<p>The assessment of impacts on reptiles within ES Chapter 16 Onshore Ecology (APP-131) covers not only the Converter Station Area, but the Order limits as a whole, as stated in Sections 16.5.1.43 to 16.5.1.46 ("Reptiles (Sections 1-10)"). ES Chapter 16 Onshore Ecology does not state that the Precautionary Method of Working to avoid effects on reptiles (Section 16.8.9) is limited to the Converter Station Area; it will cover works at the Converter Station Area, Milton Common SINC, and all other suitable reptile habitat within the Order Limits. The Precautionary methods to avoid effects on reptiles is secured in section 1.5.1.14 of the Outline Landscape and Biodiversity Strategy (REP1-034), compliance with which is secured by Requirement 9 of the DCO (REP1-021).</p>

Reference	Summary of Written Representation	Applicant's Response
Outline Landscape and Biodiversity Strategy		
12.10	<p>The Outline Landscape and Biodiversity Strategy sets out the applicant's intentions for providing mitigation for the effects of the proposals on landscape and biodiversity, and enhancements.</p> <p>Note this is intended to provide for a 5-year aftercare period. PCC would suggest that a reasonable expectation for the management plan for biodiversity to prescribe measures for the lifetime of the operational phase of the development.</p> <p>PCC are also concerned that Paragraph 1.3.2.7 of the outline plan states that no reptiles were recorded within the Landfall during surveys. However, the Reptile Survey Report appears not to include it.</p>	<p>It is not expected that the operational phase of the Proposed Development would have any notable effects on Biodiversity features. Therefore, a 5 year aftercare period for the limited effects in the construction phase is considered appropriate and proportionate.</p> <p>While no surveys of reptiles were undertaken at the landfall, as there is no suitable habitat within the Order limits which comprise a hard standing car park, the assessment of impacts on reptiles within ES Chapter 16 Onshore Ecology (APP-131) covered the Converter Station Area and the Order Limits as a whole, as stated in Sections 16.5.1.43 to 16.5.1.46 ("Reptiles (Sections 1-10)").</p>
Impact on Coastal Flood Defences		
13.1	<p>The project proposes HDD from Farlington to the north-west of Kendall's Wharf to avoid impacts on Langstone Harbour and Phase 1 of the North Portsea Island (NPI) coastal defence scheme. The project identifies a construction compound use of the yard to the south-west of Kendall's Wharf. Depending on timing there is the potential for conflict with delivery of NPI Phase 4 coastal defence works that already has its construction compound there.</p>	<p>The applicant is aware of the NPI Phase 4 works, and have held and will continue discussions with ESCP regarding the programming of the works to ensure both sets of works are able to come forward alongside one another.</p>
13.2	<p>To the south of Kendall's Wharf there are options for cabling (a) to the west of the Baffins Milton Rovers FC playing pitch, through the cricket pitch and the second southern football pitch before crossing a car park and into Eastern Road or (b) along the eastern side of the Baffins Milton Rovers FC pitch. If the latter option is used it would likely affect the landscaping/screening that will be installed as part of the NPI Phase 4 works to mitigate disturbance to birds using the Core SWBGS site (P11) from re-routing of the footpath landward of the Andrew Simpson Watersports Centre/Tudor Sailing Club.</p>	<p>Option B along the eastern side of the Baffins Milton Rovers FC pitch has been removed from the Order limits. Therefore, there will be no effect to the landscaping/screening that will be installed as part of the NPI Phase 4 works.</p>
13.3	<p>Between Airport Service Road and the northern end of Milton Common the cabling options are in the carriageway and/or verge of the highway. The cumulative construction traffic effects and potential impacts on access to the NPI construction compounds/haul roads requires assessment. However, the Access and Rights of Way Plans includes land to the east of the highway that raises potential concern that (a) south of the Langstone Harbour Viewing Car Park, this land will be realigned in 2022 as part of the NPI Phase 4 coastal defence works and (b) on the northern end of Milton Common, this area will be used as a construction compound during the NPI Phase 4 works and based on the current programme will be unavailable from April 2021 until September 2022.</p>	<p>The North Portsea Island Coastal Defence Scheme is being developed by East Solent Coastal Partnership (ESCP) and was included in the cumulative assessment as project ID 62 in ES Chapter 29 (Cumulative Effects (APP-144)). The Applicant continues to engage with ESCP (last meeting held on 12/08/20) and both parties have agreed to continue this engagement during detailed design and construction to mitigate impacts. If the construction programme for both projects were to coincide, the Eastern Road would be able to accommodate additional movements given that these are likely to be limited in number (the NPI Phase 4 Traffic Management Plan, February 2019, anticipates an average of 18 per day), and would not affect the significance of effects assessed in ES Chapter 22 (APP-137). Existing mitigation measures for the Proposed Development relating to both management of construction traffic movements and access would be equally applied to the North Porth Portsea Island Coastal Defence Scheme (Appendix 22.1A Framework Traffic Management</p>

Reference	Summary of Written Representation	Applicant's Response
		Strategy REP1-068 and Appendix 22.2 Framework Construction Traffic Management Plan REP1-070).
13.4	Across Milton Common, it is anticipated that the cable will progress through the corridor adjacent to the path which runs from north-to-south through the Common, parts of which form the coastal flood defences. At the northern part of the coastal defences, a short HDD will be required below the bund of the coastal defences. The cable would then continue south, adjacent to the path to the south-east corner of Milton Common. This suggests that only the crossing of the secondary defence will be HDD and the remainder of the route across the common will be open trenched.	Correct, other than the short HDD in the north of Milton Common the remainder of the route will be installed using open cut trenching. It is not possible to use HDD across Milton Common given its historic landfill nature and the ground conditions which result.
13.5	The HRA (ref 6.8.1) and the Winter working restrictions (ref 6.3.16.14) documents indicate that no works will be undertaken in SWBGS core, primary or secondary sites during October to March. There should, therefore, be no impact on the bird usage of the mitigation areas ESCP propose on Milton Common to offset the impact of the NPI Phase 4b Compound 6 on the SWBGS core site P23R during the winter (NB Aquind ES refers to P23R and P23A – in the latest [2018] version of the SWBGS these polygons have been merged and are both now included within P23R). However, these mitigation areas are very close and potentially overlapping the proposed route north-south across the common. The project must ensure that it would not inadvertently impact on the mitigation areas during construction works in the summer months and their need to be returned to grass by the end of September.	It is the Applicant's understanding that the East Solent Coastal Partnership's North Portsea Island Coastal Flood Defence Scheme, Phase 4B - Coastline Between Milton Common and Kendall's Wharf Eastern Road (19/01368/FUL) has revised its Construction Environmental Monitoring Plan and does not now include mitigation areas on Milton Common. The ES addendum (REP1-139) and updated HRA report (REP1-081) have undertaken an appropriate cumulative assessment according to these latest submissions. Both the ES addendum and updated HRA Report provide full details of restoration measures to be taken on SWBGS sites.
Cumulative Effects		
14.1	New development at Fraser Range Eastney. A planning application has been formally submitted for new housing (for 134 dwellings) with sea defence works, which is pending consideration.	This development (19/00420/FUL) was considered as part of the original long list of developments in the original ES. The ES addendum (REP1-139) took into account all changes to submissions of the original long list, as well as any new additions to cumulative developments, up to the 31 May 2020.
14.2	<p>Planning application for Phase 4A of the North Portsea Island defence scheme, between Kendall's Wharf and the A2030 (Eastern Road), was granted planning permission in July 2019. Construction of the Phase 4A works is underway.</p> <p>Planning application submitted for Phase 4B, between Kendall's Wharf and Milton Common, has been resolved to be in February 2020 and the intended construction programme will form a continuation of the Phase 4A works.</p>	The ES addendum (REP1-139) has undertaken an appropriate cumulative assessment according to these latest submissions of the both Phase 4A (19/00706/FUL) and Phase 4B (19/01368/FUL).
14.3	The HRA in-combination assessment for onshore defers to the onshore ecology cumulative effects assessment. The NPI Phase 4 sea defence project (see above) has been screened out of cumulative effects with the Aquind project at Stage 2 on the basis that it "...will not interact with the Proposed Development to lead to cumulative effects." This cannot be accepted as correct. Based on the potential interactions outlined under 'Onshore Ecology' and 'Impact on Coastal Flood defences' and, in	It is the Applicant's understanding that the East Solent Coastal Partnerships North Portsea Island Coastal Flood Defence Scheme, Phase 4B - Coastline Between Milton Common and Kendall's Wharf Eastern Road (19/01368/FUL) has revised its Construction Environmental Monitoring Plan and does not now include mitigation areas on Milton Common. The ES addendum (and updated HRA report (REP1-081) including Appendix 3 which lists plans and projects considered) have undertaken

Reference	Summary of Written Representation	Applicant's Response
	particular, the potential of the cable route and construction works to impact mitigation measures incorporated into the NPI Phase 4 works to avoid an adverse effect on the SWBGS sites there clearly would be such effects. The final cable route and its timing/access would require close working with the ESCP to ensure no adverse effect on brent geese and waders	an appropriate cumulative assessment according to these latest submissions. Both the ES addendum (REP1-139) and updated HRA Report (REP1-081) provide full details of restoration measures to be taken on SWBGS sites.

2.2. SOUTH DOWNS NATIONAL PARK AUTHORITY

Table 2.2 - Applicant's Response to South Downs National Park Authority Written Representations

Reference	Summary of Written Representation	Applicant's Response
Alternatives		
1.1	<p>The South Downs National Park Authority (SDNPA) objects to the proposal for the development of a Converter Station in close proximity to the National Park and the associated Development Consent Order (DCO) application on two grounds:</p> <p>i) Alternatives - Based on the limited information provided, that the selection of the site for the Converter Station has not been taken with regard to National Park purposes, as required by Section 62 of the Environment Act, 1995.</p>	<p>The Applicant refers to the Applicant's Response to Relevant Representations (REP1-160) submitted for Deadline 1 which sets out where alternatives were considered within the ES and that the proposals for an interconnector at Lovedean Station do not conflict with the purposes of the National Park. The impacts of the Proposed Development on the National Park have been fully taken into account by the Applicant at all stages of the assessment of the Proposed Development.</p>
4.4-4.5, 4.8-4.9	<p>SNDDPA refers to the requirement to consider alternatives identified in Planning Inspector's Scoping Opinion (App-366) and limited information available in this respect, stating that the final choice of connection point was commercial.</p> <p>National Grid identified 10 substations which could accommodate the Interconnector, of which 7 were then rejected (paragraph 2.4.2.4 of Chapter 2 of the Environmental Statement, examination reference APP-117). Limited information is provided on the metrics used and considerations made in this selection process. However, National Grid is a Statutory Undertaker and therefore is required to have regard to the purposes of the National Park under section 62 of the Environment Act 1995. There is no evidence of how that duty has been met in the consideration of the various sites and how this was weighted against other considerations. Access to the contemporaneous options appraisal (or similar) undertaken at the time would be helpful.</p> <p>Of the 3 remaining substations, one was then rejected as it would require a rebuild of the substation and additional reinforcements of the wider network. However, this site in Chickerell sits within a more urban location than the current development proposal, it is not adjacent to a National Park and is over 1km from an Area of Outstanding Natural Beauty. Again there is no indication here of how the duty to have regard to the purposes of the National Park was considered in this process, much less met.</p>	<p>The Applicant refers to the Applicant's Response to Relevant Representations (REP1-160) and Supplementary Alternatives Chapter (Appendix 3, REP1-152) submitted for Deadline 1 which sets out further information in relation to the assessment of alternatives carried out by the Applicant, and the extent to which information provided by National Grid in the selection of the connection point to the national grid was taken into account by the Applicant in its assessment of the alternatives.</p> <p>Section 5 of the Supplementary Alternatives Chapter provides further information on the grid connect point and assessment of the shortlisted options, namely Chickerell, Bramley and Lovedean substations. In addition, further information regarding the outcomes of the connection and infrastructure options note (CION) prepared by NGET is provided in section 5.4 of the Supplementary Alternatives Chapter (REP1-152).</p> <p>Further detail can be found in section 2.2 of the Applicant's Responses to Relevant Representations (REP1-160) in response to RR-049. The Applicant's assessment of the suitability of Chickerell substation can be found in section 5.2 of the Supplementary Alternatives Chapter (REP1-152).</p>

Reference	Summary of Written Representation	Applicant's Response
4.8	It is understood a position close to the substation is required so as to reduce the length of AC cables between the converter and the substation (due to efficiency and trench requirements of DC cables), however, similar systems at Daedalus (Fareham) and the FAB Link at east Devon comprise much greater lengths of AC cables (approximately 5km in the case of the FAB Link) and that raises the question of whether alternatives further south of Lovedean may be more suitable.	The Applicant has responded to this specific query as a part of Written Question MG1.1.1 (REP1-091) submitted for Deadline 1 which explains in more detail why the Converter Station needs to be close to the National Grid Lovedean Substation.
Landscape and Visual Impact on the SDNP		
1.1	<p>The second objection states:</p> <p>ii) That the development proposal (namely the Converter Station and associated above ground development) would cause significant harm to the setting of the National Park in relation to landscape character and visual amenity and to views to and from the National Park. In light of the statutory and policy protection for National Parks this is a significant issue for the application and could justify withholding development consent.</p>	<p>See the response to 4.11; 4.26-4.28; 4.37-4.39 below.</p> <p>It is not considered that the impacts of the Converter Station on the National Park would be sufficient to justify withholding development consent, taking into account the need for the Proposed Development, the significant benefits which it will provide of national importance, particularly in relation to addressing the energy trilemma and achieving climate change goals, and the Proposed Development's compliance with National Policy for energy infrastructure. In relation to national policy and with particular regard to landscape impacts, whilst it is acknowledged that that the Proposed Development will lead to impacts on the surrounding landscape, it is purposefully acknowledged in the relevant national policy that virtually all nationally significant energy infrastructure projects will have effects on the landscape, by virtue of their size as a requirement of their function. The Proposed Development has been sited and designed carefully taking into account of the impacts on the landscape, having regard to siting, operational and other relevant constraints to minimise harm to the landscape, providing reasonable mitigation where possible and appropriate. With regard to the mitigation proposed, given the necessary size of the Converter Station taking into account its functional requirements it will always have a post mitigation residual impact. However, the Converter Station has been sited in a sloped area to allow the natural landform to be taken advantage of and cut into the landscape in so far as is possible without giving rise to adverse groundwater impacts to reduce its visual presence. Further, the mitigation planting, whilst it cannot completely mitigate the visual presence of the Converter Station, has been carefully considered to provide appropriate vegetation sympathetic to the surrounding landscape and effective over its period of maturity to provide visual screening in so far as is possible from long and short distance views. The Applicant has also sought necessary powers over appropriate existing vegetation to manage and maintain the existing natural mitigation screening provided in this location.</p>
4.11	<p>A summary of SDNPA's concerns in respect of landscape and visual impact is as follows:</p> <p>i) The adverse impact from siting buildings of the large size and scale proposed so close to the National Park (within the National Park's setting). The proposed Converter Station buildings are significant both in terms of footprint and height.</p>	<p>The Applicant's response is as follows:</p> <p>For point (i) please refer to the Applicant's Response to Relevant Representations South Downs National Park Authority (RR-049)(REP1-160) submitted for Deadline 1 and point 4.16 below of this document.</p>

Reference	Summary of Written Representation	Applicant's Response
	<p>ii) The functional and utilitarian appearance of the buildings will be prominent and will have the effect of changing the character of the landscape and the perception of it when viewed from the SDNP from one with a rural character to one which is far more industrial.</p> <p>iii) The Converter Station will be visible in both close range views and those from higher locations within the National Park looking towards Portsmouth and the South Coast. The Converter Station will harm local views out of the National Park, including from Monarchs Way (a long distance trail).</p> <p>iv) The long access track proposed (1.2km long and up to 7.3m wide) will widen the extent of the land directly impacted by the development beyond the immediate confines of the proposed buildings (including providing a further urbanising access to Broadway Lane, which is currently rural in character).</p> <p>v) Adverse impact of the Converter Station and associated development on the tranquillity of the National Park (one of its special qualities)</p> <p>vi) A lack of information about the design and appearance of the Converter Stations, leaving most of this to post approval consideration. In respect of the building design the applicant has focussed attention on the colour of the proposed building which, although important, taken on its own only has a small influence on assimilating a very large building into the National Park's setting.</p> <p>vii) Concerns about the landscaping strategy proposed, including that not all of the proposed mitigation areas appear to be in the applicant's control, the lack of a strategy to deal with Ash die back and the need to use a bigger range of planting sizes to help provide screening at an earlier stage.</p>	<p>For point (ii) please refer to the Applicant's Response to Relevant Representations of East Hampshire District Council (RR-162) and CPRE Hampshire (RR-181) (REP1-160) submitted for Deadline 1 and Appendix 1 Converter Station Design Approach (MG1.1.3) (REP1-092) and point 4.17 of this document, below.</p> <p>For point (iii) please refer to the Applicant's Response to Relevant Representations South Downs National Park Authority (RR-162) and CPRE Hampshire (RR-181) (REP1-160) submitted for Deadline 1 and point 4.24 of this document regarding the Monarch's Way, below.</p> <p>For point (iv) please refer to the Applicant's Response to Relevant Representations of South Downs National Park Authority (RR-049) and East Hampshire District Council (RR-162)(REP1-160) submitted for Deadline 1 and point 4.23 of this document, below.</p> <p>For point (v), the ES Chapter 15 (APP-130) considers the effects on tranquillity during construction at Section 15.8.3.</p> <p>As noted in Appendix 15.5 South Downs National Park (APP-403), the adjacent part of the SDNP is the "Dip Slope." The SDNPA Local Plan lists the Special Qualities that apply to each area of the Park. Special Quality 2 "Tranquil and unspoilt places" is not referred to in relation to the Dip Slope, a judgement which must equally apply to the context of the Converter Station Area.</p> <p>Appendix 15.5 Table 1 considers the relative tranquillity of the Converter Station Area and finds that it is mixed. "Positive factors which contribute to tranquillity include the relatively unmanaged woodland / hedgerows, native deciduous trees, sense of openness and panoramic views on higher ground, and peace and quiet in specific locations. This contrasts with the unsettled nature of some of the surrounding properties and land uses including those set aside for horiculture and recreation, presence of overhead lines clustering around Lovedean Substation and an associated low "hum". The criteria used in this table were taken from the South Downs Landscape Background Paper which drew on factors defined by Natural England to assess natural beauty.</p> <p>For point (vi) please refer to the Applicant's Response to Relevant Representations of East Hampshire District Council (RR-162) and Winchester City Council (RR-198) (REP1-160) submitted for Deadline 1, the separate Position Statement on design submitted alongside ExA WQ MG1.1.3 (REP1-091) and the updated Design and Access Statement (REP1-031 and 032) submitted for Deadline 1.</p> <p>For point (vii) all elements of the proposed landscape mitigation plan fall within the Order Limits. As referred to in the SoCG paragraph 4.3.10 submitted for Deadline 1 (REP1-121) the Applicant has explained that hedgerows within the Order Limits will be managed through the mechanisms set out in the updated OLBS (REP1-034).</p>

Reference	Summary of Written Representation	Applicant's Response
		<p>The Applicant has commissioned an ash dieback survey and will share the findings of the survey in due course and this was discussed in the SoCG paragraph 4.3.7 (REP1-121).</p> <p>The updated OLBS (REP1-034) at paragraph 1.6.7.1 recognises the need for a mix of plant stock (of local provenance where practicable) including larger trees in specific locations and native 'pioneer' species to create variations in the woodland structure and mix. This will provide the 'instant screening and structure'.</p> <p>The OLBS will be secured through the submission and approval of a detailed landscaping scheme as required by draft DCO Requirement 7 which includes specific reference to the location, species, size, planting protection measures and planting density of any proposed planting. The discharging authority is required to consult with SDNPA as part of the approval process. Requirement 8 secures the maintenance of landscaping. From an ownership perspective, compulsory acquisition of the land on which the existing hedgerows are located would not be justified and is not sought. The Applicant is seeking rights and restrictions through the Order over those existing hedgerows, which is a proportionate and appropriate approach.</p>
Landscape Character		
4.12	<p>The applicant's Landscape and Visual Impact Assessment (LVIA) is quick to scope out the National Character Areas (NCA) as part of the baseline assessment and this is queried. In particular with reference to the NCA125 – South Downs. This NCA is 90% contained within the designated landscape but also includes the proposed interconnector site. It is suggested that there are sections of the character description which would be helpful and provide high level structure to the character baseline assessment in the LVIA.</p>	<p>The decision to scope out the NCA 125 South Downs was made in the PEIR and no subsequent comments were received from LPAs in this regard (Appendix 15.1 Consultation responses – APP-339). Both the PEIR and ES Chapter 15 (APP-130) explain that whilst character areas designated at a national level have a role to play they are too extensive for there to be any potential for them to be significantly altered by any one development (paragraph 15.5.1.5).</p> <p>The NCA character descriptions informed the applicant's understanding of the landscape baseline. Refer to Appendix 15.8 para 1.2.3.3 and Appendix 15.4 (APP-406 and APP-402 respectively).</p>
4.13	<p>The NCA description understandably emphasises the importance of this landscape and the SDNP. In relation to landscape change for example, on page 36, it states that:</p> <p><i>The open landscape has been vulnerable to urban edge pressures extending from the heavily built up coastal fringe onto the Downs, as well as from prominent communication masts on exposed skylines and from pylons and transport corridors in the principal chalk valleys.</i></p>	<p>The ES Chapter 15 (APP-130) states that guidance within the NCAs on landscape opportunities were referred to and reviewed as part of the development of mitigation proposals (paragraph 15.5.1.6) and key characteristics and opportunities are referred to in Appendix 15.4 Landscape Character (APP-402).</p>
4.14	<p>The LVIA does not give due weight to the sensitivity of the existing landscape character in this location in considering the proposals – this landscape is recognised in the South Downs Integrated Landscape Character Assessment (SDILCA) as being under considerable developmental pressure due to incremental change, which this development proposal would substantially add to. The following development management recommendation is made in the SDILCA (page 149) which specifically refers to this area of the setting of the National Park, but it has not been referred to or included in the LVIA:</p>	<p>The ES Chapter 15 Appendix 15.4 Landscape Character (APP-402) refers to the management strategy for Landscape Character Area D2a Hambledon and Clanfield Downland Mosaic in the SDILCA and Landscape Character Area 3a Clanfield Downland Mosaic in the East Hampshire District Landscape Character Assessment. Both outline the need to “monitor incremental change on the edge of Horndean, consider opportunities to enhance integration of the urban edge to</p>

Reference	Summary of Written Representation	Applicant's Response
	<i>Monitor incremental change on the edge of Horndean, consider improved integration and prevent urban overspill into this character area to maintain the tranquil, rural character of the downs.</i>	maintain the tranquil, rural character of the downs.” This reflects the development management recommendation. Whilst further text to cover the existing landscape sensitivities could have been added this would not change the conclusions of the assessment and this will be discussed further in progressing the SoCG with SDNPA.
4.15	The LVIA also fails to acknowledge the relationship between the LCAs of the various authorities (i.e. East Hampshire and Winchester) and, in particular, the relationship with the SDILCA. Landscape character is not confined to or defined by the boundary of the SDNP. The boundary of the SDNP identifies the edge of the National Park, not a change in landscape character (although that can happen).	The ES Chapter 15 (APP-130) paragraph 15.5.3.10 does recognise the landscape character type / area of the two LPAs that the Converter Station Area straddles and acknowledges that the key characteristics are similar. Paragraph 15.5.3.17 states that following desk-based studies and site visits, a local landscape review was undertaken as part of this LVIA. The review agreed with WCC, EHDC and HBC local landscape character assessments. On this basis the LVIA does not propose to alter the LCAs/LCTs or their boundaries other than focusing in detail on specific local landscape features where relevant to the Converter Station Area. Whilst additional text to acknowledge the relationship between the LCAs of the various authorities could have been added, this would not change the conclusions of the assessment.
Visual impact of the proposed Converter Station		
4.16	The proposed Converter Station development is significant both in term of its footprint and height. The extent of this is immediately apparent in the wireframe photomontages particularly from within, and on, the boundary of the SDNP. There are no comparable built forms within the landscape at this elevation on the Downland Mosaic Landscape Character Area and the buildings would appear alien and over dominant.	Please refer to the Applicant's Response to Relevant Representations South Downs National Park Authority (RR-049)(REP1-160) submitted for Deadline 1. The Applicant notes the Converter Station is located in close proximity to the existing industrial feature of the Lovedean Substation and the associated overhead line terminal towers, which are relevant in the context of the overall visual nature and landscape character of the location of the Converter Station.
4.17	The buildings would have a functional and utilitarian appearance which will be very prominent and, although close to the existing substation, will not be seen against a backdrop of other industrial or urban development. The buildings will in many places be higher than the proposed trees to be planted and the effect of the screening is to merely foreshorten views. Overall, the effect of the building and landscaping will be to change the character of the landscape and the perception of it when viewed from the SDNP from one with an essentially rural character to one which is far more industrial. This is clearly shown in the view from Portsdown Hill (Viewpoint 9) and viewpoint 2 photos which both illustrate how large the building is within the foot slopes of the Downs where there are no other buildings visible at that scale. Viewpoint 2 shows clearly how the scale of the building is unrelated to the surrounding settlement scale. It would therefore appear incongruous and intrusive.	Please refer to the Applicant's Response to Relevant Representations of East Hampshire District Council (RR-162) and CPRE Hampshire (RR-181) (REP1-160) submitted for Deadline 1, which refers to the nature of effects, why the functional nature of the infrastructure has influenced its design and the design principles discussed with the LPAs. The form of the buildings of necessity reflect their function, however the Applicant would rebut the suggestion that they are 'utilitarian'. They have been carefully designed to be of interest to immediate visual receptors (including users of Old Mill Lane, Monarch's Way, PRoW to the south and residential receptors) where they are visible at close range and less than one kilometre away from the buildings, whilst being visually recessive when viewed from further afield. Appendix 1 Converter Station Design Approach (MG1.1.3) (REP1-092) is relevant to explaining the design approach to the Converter Station alongside the updated

Reference	Summary of Written Representation	Applicant's Response
		<p>Design and Access Statement (REP1-031) submitted for Deadline 1 and supporting design principles within the document.</p> <p>The buildings are, again of necessity, higher than some of the trees to be planted, at least in the short to medium term, and it is acknowledged in the ES that the buildings will be visible from higher ground in the SDNP, particularly from some more distant viewpoints. However, the prime function of this screen planting is to substantially reduce the visibility of the buildings in near and middle distance views. In addition, as stated in the updated OLBS (REP1-034), the landscape design has been revised to include a wider range of planting stock including a proportion of larger trees, to provide a greater degree of immediate mitigation.</p> <p>The immediate landscape of the Converter Station Area will inevitably result in development change. However, whilst it is currently rural, the existing Lovedean Substation and, particularly, the overhead line towers characterise the area. The ES (at Section 15.8.4) finds that there would be a significant effect on the setting of the SDNP within 3km on completion but that this would fall over time as the mitigation planting matures, becoming non-significant by 20 years. The 3 km radius was agreed with the SDNPA and others to focus on potentially significant effects.</p> <p>Contrary to the assertion of the SDNPA, the Applicant considers that Viewpoints 2 and 9 illustrate the degree to which the buildings would be both screened by intervening trees and backdropped by more distant landscape, such that whilst visible, the Converter Station buildings would neither be intrusive in the view nor change the essential character of the scene.</p>
<p>4.18</p>	<p>The applicant has used the presence of the existing substation as a detrimental impact to justify the proposed buildings - however the applicant's own assessment identifies the existing substation as being 'well screened by a belt of deciduous woodland' (LVIA paragraph 15.5.3.59). The size, scale and appearance of the existing substation is not comparable to the proposed interconnector building.</p>	<p>The Applicant disagrees.</p> <p>The existing substation is well screened but remains partially visible, more clearly so in winter. Critically however, the major part of the visual effect of the substation arises from the overhead line terminal towers which are nearly three times the height of the substation (paragraph 15.5.3.34, ES Chapter 15 (APP-130))</p> <p>Whilst the Applicant agrees that terminal towers cannot be directly compared with the substation, in terms of effects, the towers are of an undisguised industrial nature. The proposed Converter Station is acknowledged to be a large building but care has been taken to produce a design that in itself is sympathetic and visually recessive.</p>
<p>4.19</p>	<p>The assertion is made in the LVIA (paragraph 15.5.3.67) that any view from within the SDNP which is panoramic is not significantly impacted because viewers can look at some other part of the view instead. This does not take account of the transition of character in these views from the human activity around Portsdown Hill and its visual relationship with Portsmouth to the lower and upper slopes of the South Downs where there is little evidence of human activity in the views. That transition is what makes these views so key in the setting of the SDNP.</p>	<p>The point of this paragraph is not that viewers would look away but that from more elevated locations beyond the 3km study area, the Converter Station would occupy a small proportion of the view.</p>

Reference	Summary of Written Representation	Applicant's Response
4.20	Regarding views from the scarp slope (paragraph 15.5.3.67) providing an alternative view, this is not the case. Views over the scarp are unrelated and in separate locations to those over the dip slope. On Butser hill for example the views are not 360 degrees from the top. They are focussed sequentially in a particular direction because the top of the hill is large and very slightly domed. When at the top of the scarp slope it is very unusual to have views simultaneously to the north and south and this does not occur in the Hampshire Mosaic LCA.	The response to point 4.19 applies equally to this criticism. The Applicant is not suggesting that there are 360° views at every point but that walkers along the scarp would appreciate views in different directions and, that in the broad views towards the coast the Converter Station would occupy only a small proportion of the view.
4.21	There are instances where the combination of views of the converging pylons and the proposed buildings are likely to cause significant impact on views, for example from Viewpoints A, C, 4, 10 and 14. The proposed buildings are particularly incongruous in these views owing to their scale which rises well above surrounding mature trees and woodland due to the buildings' height and extent. Viewed against the height of the pylons the buildings appear even larger thereby increasing the sense of being completely unrelated to the surrounding landscape pattern.	<p>It is acknowledged in the ES that the buildings will inevitably have a significant impact in close views, some of which, despite mitigation, will remain significant in the long-term. This is an inevitable consequence of an energy development such as this, as acknowledged by NPS EN-1. Viewpoints A, C, 4 & 10 referred to by the SDNPA are between 340 m and 770 m from the Converter Station Area. Viewpoint 14, where the building is partly visible behind a hill is at under 1.7 km. It is notable that from the closest viewpoint, C, mitigation planting would by 20 years almost completely screen the building.</p> <p>The Applicant disagrees that viewing the building against the OHL towers affects the perception of scale of the Converter Station.</p>
4.22	The viewpoint assessment included in the LVIA (Appendix 15.6 Visual Amenity) describes the 17 representative viewpoints for the Converter site and the 3 photomontages. 8 of the 17 viewpoints are within the SDNP. All of these 8 viewpoints and the 3 photomontages show the Converter as being visible to varying degrees from within the National Park. In many of these views the backdrop is the coastal plain and views over the coast to the Isle of Wight, Portsmouth, Portsdown Hill, Farlington Marshes and Langstone Harbour AONB. The presence of the building would periodically block these views in itself, but it is the proposed mitigation planting to screen the proposed converter which will block views more consistently towards the south along the dipslope of the Downs to a greater degree. Viewpoint C clearly shows this – from Monarchs Way	<p>It is acknowledged that in certain views the mitigation planting will obstruct longer views, however this inevitable consequence was taken into account in drawing conclusions about significance in the assessment and the balance of the mitigation to be provided.</p> <p>The proposed development would only block a substantial part of this backdrop in close views, such Viewpoint C. It should be borne in mind that viewpoints are a static view from a single location: for example, Viewpoint C shows the effect that would be experienced from several hundred metres of the Monarch's Way – an 87 km long distance footpath.</p>
4.23	<p>Of further concern is the proposed long access track (1.2km long and up to 7.3m wide) which will be retained after construction is complete. It will widen the extent of the land directly impacted upon by the development beyond the immediate confines of the site itself. It will:</p> <ul style="list-style-type: none"> i) Cut across historic field boundaries and run through the centre of fields, contrary to their character, dissecting the inherited field pattern and being more obvious in views compared to if existing hedgelines/field boundaries were followed. ii) Negatively affect the character of Broadway Lane – becoming more industrial and less rural/agricultural and introducing another access point which alongside the proposed battery storage may lead to three vehicular accesses within approximately 100m. iii) Prevent the re-connection/improvement of nationally important habitats (Ancient Woodland). 	Regarding points i) & ii), the Applicant refers to the Applicant's Response to Relevant Representations of South Downs National Park Authority (RR-049) and East Hampshire District Council (RR-162) (REP1-160) submitted for Deadline 1 and how measures have been sought to reduce the visual prominence of the access track through planting and a specific design principle. The location and alignment of the access track is substantially determined by the engineering requirements of bringing large indivisible loads into the site, whilst avoiding the belt of ancient woodland directly south of the Converter Station, set back from PRow along the south of the site and set back from Broadway Cottages. As noted in the Applicant's Comments to Responses to ExA Questions (LV1.9.5) (document reference 7.4.2) this has provided the opportunity to introduce new hedgerows to improve ecological connectivity and smaller fields were created which replicated those to the west of Stoneacre Copse.

Reference	Summary of Written Representation	Applicant's Response
		<p>The nature of the permanent surfacing of the road and landscape will be subject to detailed design approvals as referred to in the dDCO (REP1 - 021).</p> <p>Regarding point (iii), please refer to the Applicant's Response to Written Questions, LV1.9.39 (REP1-091) submitted for Deadline 1, which explains that the proposed landscape mitigation measures seek to tie the adjacent woodland into its surroundings (as far as reasonably practicable) given the location of the overhead lines, Access Road and associated easements. Revisions to the indicative landscape mitigation plans Figure 15.48 and 15.49 (REP1-036 and 037 respectively) and landscape mitigation plans for Option B(ii)(REP1-137) submitted for Deadline 1 seek to improve connectivity further with the ancient woodland.</p>
Impact on the Monarchs Way		
4.24	<p>The Monarchs Way is a long distance trail and is therefore considered to be of a higher status and a more sensitive receptor than a standard PRow. It runs from the more urban communities in the Horndean area giving residents direct access into the National Park. It is clear that this proposal will negatively impact on the experiential impacts of walkers by introducing an industrial scale building into the rural area through which this path runs; the impact of which will be longer lasting than the actual duration of view.</p>	<p>Please refer to the Applicant's Response to Relevant Representations of South Downs National Park Authority (RR-049) (REP1-160) submitted for Deadline 1.</p> <p>The importance of the Monarch's Way is acknowledged by the ES which finds that there would be a significant visual effect on recreational users on completion, falling to non-significant after 20 years as mitigation planting matures. By its very nature, the views from the Monarch's Way are many and varied, with urban sections as well as rural, and the significant effects discussed would be experienced over slightly more than a kilometre of this 87 km long distance footpath.</p>
Landscape Design		
4.25.iv)	<p>The SDNPA wish to make the following points on this matter:</p> <p>iv) It would be helpful if the colour selected for the Converter Station buildings were more recessive and also responded to the height of the building by perhaps greying out colours towards its top. The building is viewed from all sides and this makes it problematic to select one colour swatch for all sides. It is suggested that the approach is developed with more nuance and relation to the direction of sunlight, shadow, backdrop, skyline and view orientation. Each side of the building may need a different colour approach in order to successfully integrate it into the landscape.</p>	<p>The Applicant notes this response and as referred to in the SoCG para 4.3.13 with SDNPA (REP1-121) design group meetings between the Applicant, the SDNPA, WCC and EHDC resumed in August 2020 to progress discussions on the proposed colour scheme. The Applicant has confirmed that it is necessary for a colour palette to be agreed at this stage so that sufficient clarity is included for how the detailed design will be progressed and this matter will not be left unresolved until post consent, which would not be appropriate as this can be determined now. Further work is being undertaken to progress discussions for the next design team meeting.</p>
4.25.v)	<p>There is a large amount of landform change to achieve the building platform, for the Converter Station buildings which is set at 85m – this means that the platform is half cut (north) and half fill (south). It is unfortunate that the building could not be set lower in the landscape to help ameliorate the extensive height of the building.</p>	<p>The Applicant refers to Appendix 3 Proposed Site Level and Earthworks Design Approach (MG1.1.6) (REP1-094) submitted for Deadline 1. This is to ensure that the cut and fill is undertaken so far as is possible without giving rise to adverse effects on the underlying principal chalk aquifer.</p>
4.25.vi)	<p>The landscape mitigation proposals are relatively complicated and we would suggest that additional new woodland planting is proposed. For example, whilst the limitations on</p>	<p>The landscape mitigation proposals are of necessity relatively complex because they respond to a series of landscape, visual and ecological mitigation requirements and engineering and site constraints. They have been influenced by</p>

Reference	Summary of Written Representation	Applicant's Response
	<p>woodland planting along the perimeter security fence are acknowledged, this does not preclude more significant woodland planting further away.</p>	<p>a number of fixed offsets and standoffs required due the range of utilities (including constraints associated with National Grid overhead lines in line with NG operational requirements – Energy Network Technical Specification 43-8 issue 4:2015 “Overhead Line Clearances”) and landscape and ecological constraints present on site.</p> <p>The extent of new woodland planting balances the impact on viable agricultural land. The Applicant has, following discussions with the LPAs, made revisions to the indicative landscape mitigation plans Figure 15.48 and 15.49 (REP1-036 and 037 respectively) Option B(i) and indicative landscape mitigation plans for Option B(ii) (REP1-137) submitted for Deadline 1 to include additional areas of woodland planting, particularly to the south and west of the Converter Station Area.</p> <p>Whilst it would always be possible to increase mitigation by more woodland planting off-site, this would affect other landowners and their land uses. A pragmatic balance has to be struck and the landscape design already includes some substantial blocks of new woodland or woodland reinforcement beyond the area required for construction and operation.</p>
<p>4.25.vii)</p>	<p>We recommend the new hedgerows which currently serve to accentuate the proposed access drive should be more closely aligned with the existing field pattern.</p>	<p>The indicative landscape mitigation plans have sought to reconnect existing field boundaries lost as a consequence of construction works and where unconstrained by underground services. A new hedgerow has been introduced to the north of the Converter Station which follows a historic field boundary. To the south of the substation, and along either side of the access road, the existing fields change from small to large and open – the latter increasing in size as a result of an intensification in agricultural practices. If the plans were aligned with the existing pattern of field boundaries in this location the extent of hedgerows would be limited. Given the need for visual screening and ecological connectivity hedgerows were introduced and smaller fields were created replicating those to the west of Stoneacre Copse.</p>
<p>4.25.viii)</p>	<p>The treatment of the western/northern boundary is very rectilinear in contrast to the surrounding field patterns and will not provide a seamless interface between the new and the existing landscape pattern.</p>	<p>The Applicant has, following discussions with the LPAs made revisions to the indicative landscape mitigation plans Figure 15.48 and 15.49 (REP1-036 and 037 respectively) to include additional areas of woodland planting particularly to the south and west of the Converter Station Area which seek to “soften” this rectilinear edge where practicable.</p> <p>The detailed landscape mitigation plans will be produced post consent. Requirement 7 of the dDCO (REP1-021) refers to a detailed landscaping scheme to be submitted for approval to the relevant discharging authority prior to any phase of the works being carried out and, where relevant to the Converter Station Area, for this approval to be in consultation with the SDNPA.</p>
<p>4.25.ix)</p>	<p>The LVIA acknowledges the impact that the proposed new entrance(s) off Broadway Lane will have and the design of the entrances should take account of this. At quarry entrances, for example, it is desirable to limit views down into the site and entrances are designed to have</p>	<p>The Applicant disagrees that a quarry entrance is a reasonable comparison to the Access Road for the Proposed Development. The Applicant refers to the Applicant's Response to Relevant Representations of South Downs National Park</p>

Reference	Summary of Written Representation	Applicant's Response
	<p>bends which limit these views. Careful design of entrances to reduce the scale is required with security measures set back from the access point. Realignment of Hinton Daubney Lane [<i>Applicant comment – it is assumed that SDNPA means Broadway Lane</i>] to achieve access adds further to the cumulative creep of industrial scale features, and loss of historic character in this landscape of narrow lanes.</p>	<p>Authority (RR-049) and East Hampshire District Council (RR-612)(REP1-160) and paragraph 4.3.12 of the SoCG with SDNPA (REP1-121) submitted for Deadline 1 which refer to how measures have been sought to reduce its visual prominence through planting. The nature of the permanent surfacing of the road and landscape will be subject to detailed design approvals as referred to in the dDCO (REP1-021).. Only one access is proposed in connection with the Converter Station. There are not multiple entrances as implied.</p>
<p>4.25.x)</p>	<p>We would ask whether some of the areas of remaining arable farmland remain viable for agriculture. If they are not they could be more usefully converted to (wooded) pasture which would be in accordance with LCA and catchment guidance.</p>	<p>The Applicant has agreed Heads of Terms for an Option Agreement with the landowner and tenant farmer of the land in question. The planting proposed on their landholding has been designed to provide the visual screening function required for the Proposed Development whilst also minimising the impact on continued long-term arable farming of this area (e.g. the majority of landscaping supplements existing boundary features at the edges of productive fields or leaves suitably shaped tracts of land which can be farmed without significantly impacting productivity. As such, the converting of additional areas of remaining arable farmland, the majority of which is ALC Grade 3a as shown on Figure 17.2 of Chapter 17 of the ES (APP-295) and, as such, falls into the category of 'best and most versatile' land, to woodland pasture in accordance with the LCA and catchment guidance is not preferred.</p>
<p>4.25.xi)</p>	<p>In Appendix 15.7 to the Environmental Statement (examination reference APP-405) all of the planting is proposed at installation to be 2 year old whips and feathered stock. Typically for large infrastructure schemes a wider range of heights and sizes would be planted to achieve an improved screening effect. It is requested that standard, heavy standard and extra heavy standard trees are included in the woodland blocks (not only as specimen trees) to broaden the age of the stand, increase the range of canopy height and provide instant screening and structure planting during the early years of the project.</p>	<p>The Applicant has broadened the reference to plant stock. The updated OLBS (REP1-034) at paragraph 1.6.7.1 recognises the need for a mix of plant stock (of local provenance where practicable) including larger trees in specific locations and native 'pioneer' species to create variations in the woodland structure and mix. This will provide the 'instant screening and structure' referred to.</p> <p>Requirement 7 of the dDCO (REP1-021) which requires the submission and approval of a detailed landscaping scheme includes specific reference to the location, species, size, planting protection measures and planting density of any proposed planting. The discharging authority is required to consult with SDNPA as part of the approval process.</p>
<p>4.25.xii)</p>	<p>The applicant has provided no evidence of how they will manage and proactively deal with Ash die back.</p>	<p>The Applicant has commissioned an ash dieback survey and will share the findings of the survey, and any proposals in relation to this unfortunate natural occurrence, in due course.</p>
<p>4.25.xiii)</p>	<p>It appears that not all of the landscape mitigation areas are in the applicant's control so we question how it will ensure continued management of these areas for the purposes of mitigation. In addition, no assessment appears to have been made of the age, condition or species of trees in the existing areas to be used for mitigation.</p>	<p>All the proposed landscape mitigation planting falls within the Order Limits. As referred to in the SoCG paragraph 4.3.10 (REP1-121) the Applicant has explained that hedgerows within the Order limits will be managed through the mechanisms set out in the updated OLBS (REP1-034) which are secured through the submission and approval of a detailed landscaping scheme as required by draft DCO Requirement 7.</p>

Reference	Summary of Written Representation	Applicant's Response
		Requirement 8 secures the maintenance of landscaping. From an ownership perspective, compulsory acquisition of the land on which the existing hedgerows are located would not be justified and is not sought. The Applicant is seeking rights and restrictions through the Order over those existing hedgerows, which is a proportionate and appropriate approach to ensure the screening is maintained without overreaching in terms of acquisition.
4.25.xiv)	Limited detail is provided in respect of the proposed landscaping bunds referred to in the draft Development Consent Order (APP-019) at page 38. Landscaping bunds would not be a characteristic intervention in the landscape here.	As referred to in Table 1.2 Appendix 15.1 Consultation Responses (APP-399) there was a difference of opinion over the introduction of bunds. Whilst it is appreciated that they are not a characteristic intervention of the landscape here, they have been used to partially screen Lovedean Substation and will assist in screening the Converter Station. The location of the bunds or areas of reprofiling are shown on the updated indicative landscape mitigation plans Figure 15.48 and 15.49 (REP1-036 and 037 respectively) for Option B(i) and landscape mitigation plans for Option B(ii) (REP1-137) submitted for Deadline 1. The DCO will not permit anything which is not in accordance with the control documents of which it is subject to.
SDNPA comments on Appendix 15.5 South Downs National Park (APP-403)		
4.26	This document is a response to the location of the proposed Converter Station within the setting of the South Downs National Park. It is not supported by a local landscape character assessment, choosing instead to refer to the SDILCA and the spatial portrait set out in the South Downs Local Plan. It also refers to the SDNPA's Partnership Management Plan but does not respond to the policy or outcome aspirations set out in the plan.	Appendix 15.5 (APP-403) undertook an assessment of the landscape and visual setting of the SDNP within 3 km of the Converter Station. The assessment used criterion in the South Downs Landscape Background Paper to the Local Plan (South Downs National Park Authority, September 2017), and considered in this context Special Quality 1 of the National Park. As part of this review, tranquillity was considered as part of its contribution to landscape character. The assessment of landscape character is referred to in ES 15 Landscape and Visual Amenity Appendix 15.4 (APP-402) and the main body of the ES Chapter 15 (APP-130).
4.27	In terms of an assessment process the document concentrates on considering the presence of designation criteria for protected landscapes within the study area of the LVIA. This is looking purely at landscape quality and is not a landscape character approach and is not helpful in considering whether the proposal will conserve and enhance the National Park. Much of the landscape referred to is not within the National Park and it is logical that the landscape beyond the boundary does not meet the designation criteria. What is relevant is how the landscape character and intervisibility of the setting of the SDNP is affected by the proposals.	Landscape character is discussed in Appendix 15.4 (APP-402) and the main body of the ES Chapter 15 (APP-130) where consideration is given to the landscape value, susceptibility to change and sensitivity to change including the extent of inter visibility of each landscape character area / type. Whilst Appendix 15.5 (APP-403) focuses on the reasons for designation a specific point regarding intervisibility is made in paragraph 1.5.1.3 which states that "Inter visibility between the Converter Station and Converter Station Area and the SDNP within a 3 km radius is limited in short distance views to the immediate edge of Old Mill Lane, Broadway Lane (east), and an unnamed road (U218) connecting the two, to the north. Whilst in the middle distance there are likely to be views of the Converter Station from higher ground partially screened by the intervening topography and relative position of surrounding vegetation."
4.28	It would be helpful if the study: i) Identified detracting influences within the setting of the SDNP;	The Applicant has considered points i) to iv) in ES Chapter 15 (APP-130) and supporting Appendices.

Reference	Summary of Written Representation	Applicant's Response
	<p>ii) Assessed whether the proposals would add to these detracting influences;</p> <p>iii) Measured whether there are likely to be direct and cumulative effects;</p> <p>iv) Considered how the proposed converter would assist with mitigating for the direct and cumulative effects.</p> <p>v) Demonstrated how the proposals would conserve and enhance the SDNP</p>	<p>For point (i) and (ii) ES Chapter 15 paragraph 15.5.3.4 states that “the existing Lovedean Substation, associated pylons and overhead lines are dominant elements in the landscape of the Converter Station Area and immediate surrounding area” and specific reference is made in Appendix 15.5 (APP-403) South Downs National Park to the detracting influences within the setting of the SDNPA. The LVIA assessed the proposal alongside other detracting influences and on the basis of whether the proposal would add to them. As noted at point 4.17 the substation and the OHL towers are of an undisguised industrial nature: the proposed Converter Station is acknowledged to be a large building, but care has been taken to produce a design that in itself is sympathetic and visually recessive.</p> <p>For points (iii) and (iv) the LVIA did consider in-combination cumulative effects and concluded that there would be localised adverse significant effects as referred to in section 15.9 of ES Chapter 15, Appendix 15.9 (APP-407) and Appendix 15.10(APP-408).</p> <p>For point (iv) landscape mitigation measures (cut and fill, reprofiling, and retention and management of existing planting and new planting) have sought to mitigate effects as referred to in the Applicant's Response to Relevant Representations Hampshire County Council (RR-093) and Natural England (RR-181) (REP1-160) submitted for Deadline 1. The Applicant disagrees with point v).</p> <p>The Converter Station Area will not compromise the purposes of the National Park and it has been designed having due regard to the purposes of the National Park, carefully taking into account impacts on the landscape, having regard to siting, operational and other relevant constraints to minimise harm to the landscape and to provide reasonable mitigation where possible and appropriate.</p>
<p>SDNPA Comments on Outline Landscape and Biodiversity Plan</p>		
<p>4.29</p>	<p>It is noted where the retention of existing hedgerows, hedgerows with trees and areas of woodland is proposed. However, some of these features are of variable quality and we support the inclusion within the landscape mitigation plan of the intention to improve these existing hedgerows, and would wish to see similar action in areas of existing woodland where replacing lost, dangerous or dying trees would be of benefit to biodiversity (and screening).</p>	<p>The Applicant notes this response. The updated Outline Landscape and Biodiversity Strategy (REP1-034) submitted for Deadline 1 refers to the replacement of planting throughout the operational lifetime of the Converter Station and this is covered in requirement 8 of the dDCO (REP1-021) paragraph 8(3) “All landscaping provided in connection with Works No2 and the optical regeneration stations within Works No. 5 must be retained, managed and maintained during the operational period.”</p>
<p>4.30</p>	<p>A new native hedgerow is proposed to the north of the Converter Station linking an area of National Grid mitigation tree planting to the east with an existing hedge to the west. This would appear to be an opportunity to create a far deeper hedge or include further woodland planting.</p>	<p>Revisions have been made to the indicative landscape mitigation plans Figure 15.48 and 15.49 (REP1-036 and 037 respectively) and landscape mitigation plans for Option B(ii) (REP1-137) submitted for Deadline 1 which widen the hedgerow in this location. Overhead lines to the north and proximity to the Converter Station to the south prohibit the introduction of new woodland planting.</p>
<p>4.31</p>	<p>We are concerned about the new hedgerow with trees shown on the southern edge of the new roadway. This introduces a lengthy linear feature into the landscape running parallel with</p>	<p>This suggestion will be considered and will be introduced into the next revision of the SOCG. The Applicant will review the feasibility of introducing woodland copses</p>

Reference	Summary of Written Representation	Applicant's Response
	the track and footpath. We would like to see this feature 'broken up' with consideration given to the introduction of areas of woodland planting which may create more of a linear copse.	without impacting on the viability of adjacent agricultural land within the Order limits. However, caution must be applied because this would affect a grade 3a arable field and such a change may not justify the acquisition of the land required to provide it.
4.32	We are not clear why the new woodland planting area to the immediate south of the most southerly attenuation pond appears to leave the potential for a line of sight from the residential area to the south up the line of the access towards the Converter Station.	Revisions have been made to the indicative landscape mitigation plans Figure 15.48 and 15.49 (REP1-036 and 037 respectively) and landscape mitigation plans for Option B(ii) (REP1-137) submitted for Deadline 1 to restrict the sight line from the residential property to the south up to the Converter Station.
4.33	Mill Copse to the north-east of the site partially restricts views from the SDNP towards the Converter Station and existing sub-station but is not within the red line boundary and we query why this is the case.	Mill Copse is not within the Order limits as it is not considered it was necessary to include it given its existing presence and location and that this predominantly screens views of the existing Lovedean substation. The position in relation to Mill Copse may be reviewed following the review of the results of the recent Ash Dieback survey undertaken by the Applicant.
Matters on which the Authority is undertaking further work with the applicant Design of the Converter Station Buildings		
4.34	The SDNPA has taken part in a number of discussions with the applicant and neighbouring local planning authorities on the design of the Converter Station buildings. This is without prejudice to the SDNPA's view that this element of the proposal harms landscape character and the setting of the National Park and that a lack of information about the design and appearance of these buildings in the application leaves too much, in SDNPA's view, detail to post approval consideration.	The Applicant refers to the Applicant's Response to Relevant Representations of East Hampshire District Council (RR-162) and Winchester City Council (RR-198)(REP1-160), paragraph 4.3.13 of the SoCG with SDNPA (REP1-121), a separate Position Statement on design submitted alongside ExA WQ MG1.1.3 (REP1-092.) and the updated Design and Access Statement (REP1-031) submitted for Deadline 1. An entirely appropriate level of design information has been submitted which provides clear principles for how the Converter Station will be designed in the future, which will be subject to approval by the relevant local planning authority in consultation with the SDNPA.
4.35	The SDNPA has been participating in these discussions in order to try and mitigate the visual harm the buildings will cause. A recent focus of discussion has been the colour scheme of the proposed Converter Station buildings. We have asked the applicant to carry out further work on this (which they have agreed to) thus this matter is still under discussion.	As referred to in the SoCG para 4.3.13 (REP1-121) submitted for Deadline 1 design group meetings between the Applicant, the SDNPA, WCC and EHDC resumed in August 2020 to progress discussions on the proposed colour scheme. The Applicant has confirmed that it is necessary for a colour palette to be agreed at this stage so that sufficient clarity is included for how the detailed design can be progressed and this matter will not be left unresolved post consent. Further work is being undertaken to progress discussions for the next design team meeting.
Design of the proposed new 1.2km access road		
4.36	Further discussions are being held in respect of the new access being created opposite the National Park and the 1.2km long, up to 7.3m wide access road. Currently this results in the loss of rural lane character which is marked in this location/part of Hampshire.	The Applicant notes this response and refers to the Applicant's Response to Relevant Representations of South Downs National Park Authority (RR-049) and

Reference	Summary of Written Representation	Applicant's Response
		East Hampshire District Council (RR-162)(REP1-160) and paragraph 4.3.12 of the SoCG with SDNPA (REP1-121) submitted for Deadline 1.
Dark Night Skies		
4.37- 4.38	<p>As set out in our Local Impact Report the South Downs National Park is an International Dark Sky Reserve and was designated as such in 2016.</p> <p>The SDNPA is in discussions with the applicant on appropriate mitigation measures in respect of lighting for construction and for the operation of the Converter Station buildings, together with how these measures might be secured.</p>	<p>The updated Onshore Outline CEMP (REP1-087) states at paragraph 5.2.2.1 that the appointed contractor will develop a Lighting Scheme for the Construction and Operational Stages of the Converter Station Area.</p> <p>Requirements are included in the dDCO (REP1-021) in relation to external construction lighting (Requirement 16) and operational lighting (Requirement 23), the latter of which confirms there will be no external lighting of Works No.2 during the hours of darkness save for in exceptional circumstances, including in the case of emergency and where urgent maintenance is required. These Requirements have specifically been included in response to the International Dark Sky Reserve designation.</p>
Consideration of any noise impacts on the National Park		
4.39	<p>In relation to the operation of the Converter Station the SDNPA is in further discussions with the applicant and local authorities with Environmental Health expertise to ensure that:</p> <ul style="list-style-type: none"> i) The development will not cause harm to residents within the National Park ii) The development will not cause harm to tranquillity by reason of noise disturbance. 	<p>The operational noise assessment for the Converter Station has been undertaken in consultation with the environmental health departments at Winchester City Council and East Hampshire District Council.</p> <p>Following the inclusion of embedded mitigation measures in Chapter 24 of the ES (APP-139, paragraphs 24.6.1.11 to 24.6.1.13), and additional mitigation measures (paragraphs 24.8.1.1 to 24.8.1.4), the operational noise effects of the Converter Station are expected to be negligible (not significant) at all surrounding residential receptors.</p> <p>The control of operational noise from the Converter Station will be secured through the adoption of broadband and octave band noise criteria (see the Operational Broadband and Octave Band Noise Criteria Document (REP1-129). Broadband noise is the overall noise level and octave band noise is noise across different frequencies. These noise criteria will ensure that the operational noise levels from the Converter Station are negligible, as concluded in Chapter 24 of the ES (APP-139).</p>
Comments on the draft DCO		
4.40	<p>The SDNPA has made detailed comments, including proposed revisions, concerning the DCO requirements in its Local Impact Report and these comments stand. Further comments on the DCO requirements are also given in SDNPA's response to the Examining Authority's questions, reference ExQ1.</p>	<p>We have provided our responses to the Local Impact Report and the SDNP's Responses to the ExQ1 (REP1-179) within the Applicant's Comments Local Impact Report (document reference 7.7.13) and Applicant's Comments to Responses to ExA Questions (document reference 7.4.2).</p>

3. STATUTORY CONSULTEES

3.1. ADDLESHAW GODDARD LLP ON BEHALF OF SOUTHERN GAS NETWORKS

Table 3.1 Applicants Response to Addleshaw Goddard LLP on Behalf of Southern Gas Networks’ Written Representations

Reference	Summary of Written Representation	Applicant’s Response
1	<p>SGN does not object to the principle of the Proposed Development.</p> <p>SGN objects to compulsory acquisition powers being granted or executed, or the interference with rights of SGN over third party land and on which it relies for the purpose of carrying out its undertaking. However, SGN is willing to enter into an agreement with the Applicant to enable the Proposed Development to be carried out while safeguarding SGN's undertaking.</p> <p>SGN also objects to the seeking of powers to carry out works affecting SGN apparatus without first securing appropriate protective provisions for SGN's statutory undertaking.</p> <p>The Applicant and SGN's asset engineering team and engineers are having ongoing discussions, and SGN shall provide the ExA with further updates on the progress of those discussions during the course of the Examination.</p> <p>Whilst SGN notes that the Applicant does not intend to extinguish any of SGN's existing rights, on the basis that the acquisition of its rights in land cannot be agreed by SGN, the DCO should not be granted without the compulsory acquisition and other DCO powers being excluded in respect of SGN's property interests. Should the DCO provide the compulsory acquisition powers do not apply to SGN interests, as SGN requests, the design of the scheme and other relevant matters that have a direct impact on SGN's apparatus and its statutory gas undertaking can be dealt with by agreement between the Applicant and SGN.</p> <p>SGN is liaising closely with the Applicant and is willing to enter into a private agreement to manage the construction of the Works whilst avoiding the risk of serious detriment to SGN's statutory undertaking. Until such agreement is in place SGN is unable to withdraw its objection to the DCO.</p>	<p>The Applicant and SGN have had further positive engagement since the submission of the written representation in relation to the required form of protective provisions and the required private agreement. Whilst discussions are ongoing, it is not considered there is any impediment to a position being agreed in relation to both matters in the near future to allow SGN to remove its objection on the basis that satisfactory protections for SGN land and apparatus within the Order limits are provided for.</p>

3.2. DENTONS UK & MIDDLE EAST LLP ON BEHALF OF NETWORK RAIL INFRASTRUCTURE LTD

Table 3.2 Applicants Response to Denton UK & Middle East LLP on Behalf of Network Rail Infrastructure Ltd's Written Representation

Reference	Written Representation	Applicant's Response
1	<p>Network Rail Infrastructure Limited (Network Rail) are the freehold owner of Plot 7-11, described as "4018 square metres Railway (Hilsea and Bedhampton) and woodland (Eastern Road, Portsmouth)".</p> <p>Network Rail objects to any compulsory acquisition of rights over operational railway land or the extinguishment of the rights held by Network Rail over operational railway land. Network Rail state that the rights sought are very wide-ranging and exercisable over the entirety of Plot 7-11.. For example, they are not limited to subsoil, or the subterranean tunnel within which the cable will be located. The extent of the rights and the land over which they are sought would compromise Network Rail's ability to ensure the safe and efficient operation of its railway network</p>	<p>The Applicant confirms that it is liaising closely with Network Rail in order to enter a property agreement in relation to Plot 7-11. However, the Applicant does not intend to modify the acquisition rights sought as part of the draft Order. Matters relating to the compulsory acquisition of land in the ownership of Network Rail will be addressed in the protective provisions currently which the Applicant is also currently discussing with Network Rail.</p>
2	<p>Network Rail is concerned that Article 7(7)(e) enables the benefit of the provisions of the Order to be transferred or leased to any person without the approval of the Secretary of State where the timeframe for all compensation claims has passed and all claims have been settled. After that point the benefit of the powers could be transferred without any scrutiny of the standing of the transferee by Secretary of State. However, that overlooks that there are provisions in the DCO and Network Rail's protective provisions (including paragraph 12 (maintenance of the authorised development), 13 (illuminated signs etc) and 15 (indemnity) for which there is an on-going liability. Network Rail request that Article 7(7)(e) is deleted.</p>	<p>The Applicant notes that the protective provisions for the protection of Network Rail would remain in place where any such transfer occurs. These will be required to be complied with irrespective of what person has the benefit of the Order. In the very unlikely event where they cannot be satisfied, noting that such person would have the benefit of the Order and Proposed Development, Network Rail would be in a position to take any actions it considers to be necessary to enforce those terms and recover any liabilities which are outstanding. Accordingly, it is not considered the point made by Network Rail in any way justifies the deletion of Article 7(7)(e), which an appropriate provision in the Order allowing for the transfer of the benefit of the Order where the timeframe for compensation claims has passed.</p>
3	<p>Network Rail also objects to the seeking of powers to carry out works in the vicinity of the operational railway without first securing appropriate protections for Network Rail's statutory undertaking.</p> <p>In order to ensure that interests are protected, Network Rail requests the examining authority recommend the attached form of protective provisions is included as Part 4 of Schedule 13 to the DCO.</p> <p>In order to properly protect its undertaking Network Rail requires the form of protective provisions at Annex A to this document to be included in the final form of the Order. For reference, the amendments against the submitted draft of the Order are shown on the comparison document at Annex B.</p>	<p>The Applicant confirms that Network Rail are liaising closely in order to enter a protective provisions agreement to govern the carrying out of the proposed works. There is no intention for the Order to be made without protective provisions for the benefit of Network Rail.</p> <p>The Applicant is aware of the form of protective provisions sought, albeit notes that it is not the case that the terms of the standard form protective provisions are appropriate for all developments in the same way and terms may need to be amended to more accurately reflect the works to be carried out. In particular it is noted the works in the proximity of the railway involve a micro-tunnel for which a specialised contractor is required, being works which Network Rail are not familiar and would not be an appropriate person to undertake.</p> <p>The Applicant is continuing discussions with Network Rail in relation to protective provisions and hopes to resolve those discussions soon.</p>
4	<p>Network Rail is continuing to discuss with Aquind arrangements to ensure that the proposed development can be carried out while safeguarding Network Rail's undertaking. Any agreed arrangements are subject to the outcome of Network Rail's internal clearance process. Clearance is a two stage process by</p>	<p>The Applicant understands that following further discussions on 5 October 2020, Network Rail possess all necessary information in order to reach a decision on clearance and assess the impact on the operational railway.</p>

Reference	Written Representation	Applicant's Response
	<p>which Network Rail's technical and asset protection engineers review a proposal before clearance can be granted for a proposal to proceed. Clearance may be granted to subject to conditions and requirements.</p> <p>Network Rail is in the process of applying for clearance. Until the outcome of the clearance process is known Network Rail is unable to comment fully on the impact of the proposals on its operational railway.</p>	

3.3. NATIONAL GRID

Table 3.3 Applicants Response to National Grid's Written Representation

Reference	Summary of Written Representation	Applicant's Response
1	<p>National Grid Electricity Transmission Plc ("National Grid") objects to the approval of the draft Aquind Interconnector Development Consent Order in its current form as it fails to adequately protect that of National Grid's infrastructure and land which is within, or in close proximity to, the proposed Order limits.</p> <p>National Grid is engaged in negotiations with the Applicant in relation to the form of protective provisions, for its benefit, which it will wish to see incorporated in the draft Order. At the time of this representation those negotiations are ongoing. National Grid therefore wishes to maintain its objection unless and until satisfactory protection for its land and assets is included in the draft Order.</p> <p>All other comments provided by National Grid in their written representation relate to the need for appropriate protective provisions to be agreed.</p>	<p>The Applicant is continuing discussions with National Grid in relation to the protective provisions required to protect National Grid's infrastructure and land which is within, or in close proximity to, the proposed Order limits. It is expected appropriate protective provisions will be agreed very soon. An updated Statement of Common Ground (document reference 7.5.19 Rev002) has been submitted at Deadline 2.</p>

3.4. HISTORIC ENGLAND

Table 3.4 - Applicant's Response to Historic England Written Representations

Reference	Summary of Written Representation	Applicant's Response
Environmental Statement, Volume 1, Chapter 21 – Heritage and Archaeology – Document Reference: 6.1.21		
ii, iii, 4.2-4.3, 4.6 - 4.11	<p>In the case for designated heritage assets, we draw your attention to possible indirect effects of changes on the setting of Fort Cumberland, a scheduled monument and Grade II* listed building, as could be caused by the proposed design of the Optical Regeneration Station (ORS). We consider there to be a level of harm, although less than substantial, which is higher than suggested by the Environmental Statement, or at the very least, has yet to be adequately proven.</p>	<p>With regard to the setting of Fort Cumberland, the Applicant provided a written response to the relevant representation at Deadline 1 (REP1-160). The Applicant acknowledges that the Optical Regeneration Station (ORS) would be visible in views from the western ravelin from Fort Cumberland. Although the western ravelin may have views of the proposed ORS, the overall effect is assessed in ES Chapter 21 (Heritage and Archaeology) (APP-136) as negligible.</p>

Reference	Summary of Written Representation	Applicant's Response
	<p>Sightlines, fields of fire, and connectivity with land and sea based approaches, are integral to the significance, and relationships with other fortifications confer additional context and coherence which also contributes strongly to Fort Cumberland's significance. The setting of the Fort was altered during the mid-late 20th century, through residential development in the wider surrounding area. Despite this it is still possible to view, appreciate and understand the landward approach to the site, via Fort Cumberland Road in particular, and its relationship with the monument.</p> <p>The Environmental Statement assesses the effect to Fort Cumberland at the "negligible" level. We do not agree with how this low level of harm has been identified in consideration of the particular relationship that exists between Fort Cumberland its field of fire and, in particular, the visual association between the ravelin and the approach road from Portsmouth, in this instance, Fort Cumberland Road.</p> <p>Since the ES was produced in November 2019, we have engaged in discussions with the applicant's heritage consultant about the impact of the proposed ORS on the view from the ravelin to Fort Cumberland Road. These discussions are ongoing, but it understood that a new visualisation will be submitted which will more effectively demonstrate the potential impact (or not) of the proposed siting of the ORS within the car park on the setting of the Fort.</p>	<p>The ORS would sit within an existing car park and would be viewed as part of the surrounding urban fabric. The Applicant considers that the landward view from the Western Ravelin has been substantially altered through a 1960s housing estate (15m north of the Proposed Development) and 20th century motor shed. The surrounding housing estate, trees and parked cars have already had a significant impact on the open coastal plain in views looking out from the Western Ravelin towards the Landfall and Fort Cumberland Road, including what may have been lines of fire from the fort. Views in this direction no longer contribute to the significance of the monument in terms of its setting and how it is understood and appreciated. The overall environmental effect is therefore considered negligible.</p> <p>An additional visualisation requested by Historic England was presented at Deadline 1 (Environmental Statement Addendum – Appendix 10 - Figure 5 Historic England Visualisations (REP1-141)). The visualisation supports the conclusion of the settings assessment in ES Chapter 21 (Heritage and Archaeology) (APP-136) and the conclusion remains valid.</p> <p>This matter will be subject to further discussion between the parties following submission on the additional visualisations submitted within the ES Addendum (Chapter 14 of REP1-139) at Deadline 1.</p>
<p>iv, 4.13 – 4.15</p>	<p>The proposal also has the potential to cause harm to onshore buried archaeological remains, either as a result of direct effects or for indirect effects, such as by change within setting. The Specialist Environmental Services (Archaeology) Team at Hampshire County Council is best placed to provide advice about non-designated archaeological heritage assets.</p> <p>Our remit is strongest for any archaeological remains that may be of national importance such that they have a level of significance comparable to a scheduled monument (including any below ground remains related to the Fort); in which case they should be treated as if they have that protected status. Assessment to date has not confirmed that nationally important archaeological remains will be harmed by the proposal, although it does note the high potential of remains from all periods that could be of medium or high significance, which could be encountered and impacted (ES Appendix 21.4, Table 1).</p> <p>We acknowledge that much detailed design work will take place post determination (should consent be obtained) and so any DCO must provide the mechanisms to avoid, minimise, or mitigate harm to buried terrestrial archaeological remains once the precise effects on these can be described and considered. Delivering enhanced or new understanding is a public benefit to form part of that process.</p> <p>As the presumption should be that any nationally important archaeological remains should wherever possible be preserved <i>in-situ</i> and not excavated, the proposed project should demonstrate it has flexibility in its proposed design so as to potentially allow for this.</p>	<p>ES Chapter 21 (Heritage and Archaeology) (APP-136) provides an outline archaeological mitigation strategy. This was produced following consultation with the relevant historic environment advisors, including the Archaeology Team at Hampshire County Council. The archaeological mitigation strategy will comprise a staged approach. The first stage will be prospection to first clarify the presence, nature, date and significance of any archaeological remains that may be present in the areas of proposed impact. The results will inform a suitable mitigation strategy for the preservation by record of any significant remains identified. A Written Scheme of Investigation (WSI) outlining the scope and methodology for site-based archaeological investigations will be submitted and approved by the relevant planning authority prior to undertaking the work, in accordance with Requirement 14 Archaeology, of the draft DCO (REP1-021).</p> <p>As stated in the Onshore OCEMP (REP1-087) paragraph 5.8.1.8, in the highly unlikely event that remains are uncovered which require preservation in situ the cables would need to accommodate such preservation (i.e. through adjustment of formation levels), where warranted. The Applicant is confident in all areas where such remains could, in unlikely circumstances, be encountered, there is adequate flexibility provided by the Order limits to do so.</p>

Reference	Summary of Written Representation	Applicant's Response
1.3	<p>In our Section 56 Relevant Representation (dated 17th February 2020) we noted that the Applicant had provided an Environmental Statement (ES), however we identified that this development has the potential to impact upon the historic environment, and that this impact could be significant in relation to a number of heritage assets and in reference to Environmental Impact Assessment (EIA) policy.</p> <p>We also stated that a number of specific points were to be addressed in our Written Representation in relation to the terrestrial and marine sections of the submitted (draft) Development Consent Order (DCO). These matters include the setting of Fort Cumberland, potential harm to onshore buried archaeological remains, either as a result of direct or indirect effects and the completion of a sedimentary deposit model.</p>	<p>ES Chapter 21 (Heritage and Archaeology) (APP-136) provides a comprehensive and robust assessment of the impact on the historic environment of the terrestrial section of the Proposed Development.</p> <p>In regards the setting of Fort Cumberland, this has been assessed in ES Chapter 21 (Heritage and Archaeology) (APP-136) with further clarification provided in the form of an additional visualisation presented at Deadline 1 (REP1-141). The visualisation supports the conclusion of the settings assessment in ES Chapter 21 (Heritage and Archaeology) (APP-136) and the conclusion remains valid.</p> <p>ES Chapter 21 (Heritage and Archaeology) (APP-136) provides a comprehensive and robust assessment of the impact to onshore buried archaeological remains, including possible, previously unrecorded archaeological remains. It also sets out an appropriate mitigation strategy.</p> <p>Regarding a sedimentary deposit model, as stated in paragraphs 21.3.3.1 of Chapter 21 of the ES (APP-136) this is not considered appropriate when taking into account the nature of the proposed impact in particular the relatively shallow depth of the proposed cable route. Whilst areas of deeper disturbance are proposed (e.g. drilling pits), this impact is highly localised and at considerable distance apart and a deposit model would not be appropriate.</p>
<p>Environmental Statement: Volume 1, Chapter 14 – Marine Archaeology– Document Reference: 6.1.14 and Environmental Statement: Volume 3, Appendix 14.1 – Marine Archaeological Technical Report – Document Reference: 6.3.14.1</p>		
v	<p>In relation to offshore heritage assets we note the identification of potential impacts within the assessment criteria used in the Environmental Statement in reference to the identification of seabed anomalies of possible archaeological interest. We have also identified matters in relation to the geo-archaeological assessment in reference to assessments completed during pre-application. We therefore draw your attention to the Outline Marine Archaeological Written Scheme of Investigation for the analysis and reporting of any further survey data (including geophysical and geotechnical techniques) obtained in support of this proposed project.</p>	<p>The Applicant acknowledges the comments in regard to geoarchaeological assessment and surveys. The Applicant will continue to engage with Historic England ('HE') through the development of pre-construction survey plans and during the production and approval of the Marine Archaeology Written Scheme of Investigation ('WSI') in order to ensure that opportunities for archaeological investigation from further surveys are maximised where possible.</p>
vi	<p>We will also offer comment regarding the draft Development Consent Order and Deemed Marine Licence as could inform the preparation of any Marine Archaeological Written Scheme of Investigation, should consent be obtained.</p>	<p>The Applicant acknowledges the comments in regard to the draft Development Consent Order ('dDCO') and has proposed amendment and updates where considered appropriate to do so.</p>
<p>Anomalies of possible archaeological interest</p>		
3.4 – 3.5	<p>We acknowledge that presently within the defined Archaeological Survey Area (ASA) there are no designated heritage assets. We are also aware that four seabed anomalies are identified within the ES which are classification as "features of anthropogenic origin of archaeological interest" ("A1"); these are described as:</p>	<p>Noted. The recommendations made in paragraphs 14.5.5.2 and 14.6.3.6 are secured within the Marine Archaeology Outline WSI (APP-397).</p>

Reference	Summary of Written Representation	Applicant's Response
	<ul style="list-style-type: none"> • A large magnetic anomaly which is presently buried which could equate to a dispersed wreck site or “modern anthropogenic debris” (anomaly ref: 70018); • A dispersed wreck believed to be <i>Corbet Woodall</i>, which sank in May 1917 after detonating a mine and presently buried within the seabed (anomaly ref: 70184); • A debris field which could be of an unidentified steam ship, possibly a First World War coaster, identified as UKHO record ref: 20024 (anomaly ref: 70193); and • A debris field identified as a large magnetic anomaly, but not immediately apparent on sonar data, which could equate to buried shipwreck or “modern anthropogenic debris” (anomaly ref: 70204). <p>In consideration that two of these anomalies classified as “A1” are based on magnetometer data considered “average” (see ES Chapter 14, paragraph 14.5.2.7) it is our advice that, should consent be obtained for this project, post consent survey campaigns are configured to best resolve whether these “A1” anomalies are of any historic or archaeological interest. In particular, if their locations are incompatible with the proposed cable installation route, as recommended in paragraph 14.5.5.2. A similar approach is necessary for any presently identified “A2” anomalies (defined as “features of uncertain origin, but of possible archaeological interest”) in accordance with paragraph 14.6.3.6.</p>	
Geo-archaeological assessment		
3.8	<p>With regards to the geo-archaeological assessment undertaken, we note from paragraph 14.6.3.8 that the burial depths of the cable are anticipated to be between 1 and 3m, and that this is deemed too shallow to impact buried and submerged landscape features. However, it is relevant to consider the factors which were used to come to this position, in particular differentiation between “high priority status” and “medium priority status” vibrocores in reference to the possible identification of “channel or channel complex features” as described in MATR, paragraphs 4.2.7 and 4.2.8.</p>	<p>The Applicant acknowledges HE’s comments on the geo-archaeological assessment and mitigation.</p> <p>With regards to response reference 3.14 of the HE Written Representation that HE has not had opportunity to provide advice previously on the MATR, the MATR and this assessment was consulted upon in the section 42 consultation process in early 2019 presented in the Preliminary Environmental Information Report (‘PEIR’). The classification of the status of vibrocore material was presented in Table 5 of Appendix 14.1 of the PEIR. No comments were made during the section 42 consultation regarding the geo-archaeological assessment or during subsequent meetings or teleconferences and it was considered that the assessment, with the proposed mitigation, was adequate.</p>
3.9	<p>It is apparent from the information presented to us that geo-archaeological assessment was focused on one “high priority status” core due to the presence of peat deposits (see MATR, paragraph 4.2.30). However, we are aware from the information provided to us that fine-grained deposits recorded in other core samples, which we identified as “medium” status, were not examined (see MATR, Table 7), although such material might have been suitable for dating by Optically Stimulated Luminescence (OSL), as well as for micro-faunal assessment to determine environment of deposition. It is our advice that restricting analysis to the one vibrocore, identified as containing peat, limited the effectiveness of ground truthing the geophysical results. It appears that the cores identified as being of “medium” status were only subject to a review of the geotechnical log records, which we do not consider to be sufficiently robust to justify the assumption that impacts will be “low” and therefore not significant.</p>	<p>The Applicant does not agree with HE’s response in reference 3.9 of the Written Representation concerning the conclusion of ‘low’ magnitude of direct impact on seabed prehistory. The actual construction of the cable route will be a small area, in comparison to the size of the landscape features being examined. In addition, as a linear project, it is proportionate to collect data in a linear fashion which results in the fewer and smaller impacts whilst crossing features rather than multiple or wider</p>

Reference	Summary of Written Representation	Applicant's Response
3.10	<p>Furthermore, whilst the depths of the deposits (apart from the bedrock sediments) is not given within the MATR, the figures of the sub-bottom profiler suggest that the Quaternary deposits exist close to the surface and therefore could be impacted by the cable installation. Specifically, MATR, Appendix III shows that all of the “P1” and “P2” recorded features (as described in Table 4) have depths that coincide with the 1 to 3m impact depth of the proposed installation. Given that the cable(s) will bisect such features it is important to understand if the proposed cable burial could occur at a depth associated with sedimentary sequences of particular geo-archaeological interest.</p>	<p>impacts to one feature alone which can occur when examining a project that covers a wider non-linear area.</p> <p>The medium status cores that HE states should have been analysed, were not considered a clear priority where one could scientifically ask a robust question of them, therefore, analysing and dating those cores to examine all sedimentary units without a clear research question could not be justified at this stage of research.</p> <p>The conclusion of low magnitude does not infer ‘no change or slight change from baseline’ but does recognise that there could be a potential minor shift away from baseline conditions resulting in some physical damage which is considered to be a proportionate reflection of the findings. It is considered that the scale of the Proposed Development would not result in a ‘medium’ magnitude of impact as defined in Table 14.3 of Chapter 14.</p>
<p>Mitigation Measures</p>		
3.11	<p>Section 14.8 (proposed mitigation) identifies in Chapter 14, paragraph 14.8.1.2 the “...establishment of appropriately sized AEZs...” specifically focusing on those anomalies identified as “A1”. However, we note in Figure 14.4 that the Archaeological Exclusion Zone (AEZ) identified for anomaly reference 70204 includes “A2” anomaly reference 70205 which are located centrally in the proposed cable corridor. The measures therefore identified within the Marine Archaeological Outline Written Scheme of Investigation (WSI) (Appendix 14.3) for further examination of anomalies will require elaboration within any WSI produced post consent, should permission be obtained. Such matters are also relevant to any effective micro-siting of the cable route to avoid, where possible, other “A2” anomalies, as described by paragraph 14.8.1.4.</p>	<p>In addition, the Proposed Development has built in mitigation in the form of further investigation by means of geoarchaeological assessment. The Applicant acknowledges HE’s comments on the geo-archaeological assessment and the request for further geo-archaeological assessment to be undertaken if any further vibrocores are collected post consent. It is worth noting that further assessment in regard to palaeoarchaeological interests has already been proposed in the Outline WSI in paragraphs 9.6.3 to 9.6.5 (APP-397) and provisions will be made for archaeological advice at the planning stage of any geotechnical survey to maximise archaeological investigation. The WSI also includes provision of a method statements covering the geotechnical programme which would be produced in consultation with the Archaeological Curator (Historic England) and which would cover the approach to geo-archaeological assessment for high and medium status vibrocores. Therefore, commitments to further investigation have already been presented and the Applicant fully expects to continue discussions with Historic England on this matter whilst further developing the WSI in detail prior to the commencement of any investigation survey works being undertaken.</p>
3.12	<p>Chapter 14, Paragraph 14.8.1.7 details that impact to prehistoric features can be offset by the palaeoenvironmental assessment of deposits with high geoarchaeological potential. We therefore draw your attention to paragraph 14.9.1.3 which describes the potential for a “significant major positive effect”, which the completion of such analysis could contribute to the public knowledge base. We therefore support the recommendation within the Outline Marine Archaeological</p> <p>WSI (Section 7.5 – Palaeogeographic assessment) for further analysis to be directed at the vibrocore identified as being of “high priority status” (vibrocore ref: 735-VC-B02-046).</p>	<p>The Applicant also acknowledges the comment that further information is required within the WSI produced post consent in regard to further examination of anomalies. The Applicant will seek to discuss this further with Historic England during preparation of the WSI for submission to the MMO prior to commencement of survey works/construction</p>
3.13	<p>We noted in ES Chapter 14, paragraph 14.6.3.8 the suggestion that impacts will be “low” and not significant, because of the large size of the possible palaeo-landscape features compared with the small size of the scheme footprint. We do not concur with this statement, as we cannot assume such identifiable features survive beyond the areas identified as part of the survey. In addition, the deposits of interest might not be homogenous and could differ in terms of survival, characteristics and archaeological potential within each feature.</p>	
3.14	<p>Although we provided comment to the Applicant on the draft Marine Archaeology Outline WSI (as noted in Chapter 14, Table 14.1 – Summary of post-PEIR consultation), this appears to be our first opportunity to provide advice on the MATR including the determination reached to classify vibrocore material, as “high” or “medium” status (see</p>	

Reference	Summary of Written Representation	Applicant's Response
	<p>MATR, Table 5 – Criteria to assess the archaeological value of marine assets). It is therefore our position that if any further vibrocores are collected that reveal the presence of fine-grained or organic Quaternary sediments e.g. silt or clay (in addition to any that contain recognisable peat deposits), should be subject to geo-archaeological assessment, in accordance with any agreed WSI. Such action would support ES Chapter 14, paragraph 14.8.1.7 and the measures described to produce a sedimentary deposit model to help understanding the evolution and timing of complex environmental and landscape change, which provide important context for human activity.</p>	
<p>3.15</p>	<p>We note that Table 14.7 (Summary of Effects for Marine Archaeology), within Chapter 14 sets out that construction and decommissioning will have no significant residual effects of seabed prehistory receptors. This table and paragraph 14.9.1.3 suggests a “major positive” effect could be obtained if cores are retained and analysed by geoarchaeologists. Therefore to address the matter of the limited vibrocore analysis conducted to date for this proposed project, it is relevant that geo-archaeological matters are included within the Outline Marine Archaeological WSI (Vol. 3, ES Appendix 14.3). We therefore concur with the provisions of the draft DCO for effective preparation and delivery of any marine archaeological WSI produced post-consent, should permission be obtained.</p>	
<p>Comments on the draft Development Consent Order. Document Reference: 3.1 (Version 1, dated 14 November 2019)</p>		
<p>6.1</p>	<p>Draft DCO Schedule 2 (Requirements), Condition 14 (Archaeology) addresses matters regarding the preparation of a Written Scheme for the Investigation of areas of archaeological interest as identified in the ES. We hereby defer all further advice regarding the suitability of this condition to the Specialist Environmental Services (Archaeology) Team at Hampshire County Council.</p>	<p>Noted. Refer to the response to comment in Summary section iv and 4.13 – 4.15, above.</p>
<p>6.2</p>	<p>We note within Schedule 14 that the Outline Marine Archaeological WSI is not included in the list of certified documents, however, within Schedule 15 (deemed Marine Licence) Part 1, Condition 1 it is implied that the “outline written scheme of investigation” is a certified document. We therefore query whether the Applicant intends to add the “outline written scheme of investigation” to Schedule 14 during examination. Furthermore, for clarity, “outline written scheme of investigation” should be amended to “Marine Archaeological Outline Written Scheme of Investigation” and the definition of the “statutory historic body” is to be amended to the Historic Buildings and Monuments Commission <i>for England</i>.</p>	<p>The draft Development Consent Order (‘dDCO’) submitted at Deadline 1 has been updated to include the Outline Marine Archaeological WSI in Schedule 14 (REP1-021) as a certified document.</p>
<p>Draft Deemed Marine Licence</p>		
<p>6.3</p>	<p>Within the draft DML, Schedule 15, Part 2 (Conditions), Condition 3(1)(a)(ii), we recommend that consideration is given to expanding the survey technologies to include Side-Scan Sonar and magnetometer to assist with identifying other receptors and allow for avoidance and micro-siting in the preparation of delivery plans, should consent be secured.</p>	<p>The pre-installation surveys will be defined by the Contractor who will assess the requirement of different survey technologies. Therefore, including a list of technologies to be used during survey as a licence condition is not considered appropriate, especially when the pre-construction survey methodology (which will</p>

Reference	Summary of Written Representation	Applicant's Response
	<p>We offer this matter for your consideration in reference to the statement made in Condition 3(2) whereby the detail of proposed preconstruction surveys (e.g. methodologies) are submitted to the MMO for approval following consultation with the “relevant statutory bodies” which could include Historic England. Furthermore, we offer the observation that effective delivery of Condition 4(2) regarding a marine WSI will be best realised if this document is in place to inform any programme of pre-construction surveys.</p>	<p>include the proposed survey technologies) will be submitted to the MMO prior to the commencement of survey works who will consult ‘relevant the statutory bodies’ which would include Historic England.</p> <p>In addition, archaeological advice on the survey methods is secured via the Outline WSI (APP-397), where in paragraphs 9.5.1 to 9.5.4 provision is given for surveys to be undertaken in line with Historic England guidance and that Historic England will be contacted to discuss the scope of such survey works. As a certified document, the Contractor will be required to adhere to the provisions within the Outline WSI and the Applicant anticipates that the WSI will be prepared in parallel with pre-construction survey plans. Therefore, it is considered that the pre-construction survey specifications, including what survey technologies are to be used, are adequately secured in the dDCO and covered within the survey methodology to be submitted and approved.</p>
6.4	<p>We suggest that Part 2, Condition 3(1)(a)(ii) could be expanded to include archaeological features and/or the identification of AEZs as identified within the ES (see Mitigation Schedule – Document ref: 6.6, dated 14th November 2019).</p>	<p>The certified document Outline WSI (APP-397) already includes objectives to obtain archaeological input to pre-construction surveys to maximise opportunities for archaeological investigation of archaeological features and AEZs in Sections 3.2, 7.2, 7.3, 7.5, 9.5 and 9.6. Further, the WSI controlling document will be developed in accordance with the Outline WSI (and in consultation with Historic England) as stated in Condition 4(2). Therefore, it is considered that the certified document Outline WSI (APP-397) and provision of the WSI controlling document in Condition 4(2) are sufficient and are the appropriate mechanisms to secure adequate controls for archaeological features and/or the identification of AEZs and including this proposed text in Condition 3(1)(a)(ii) for pre-construction surveys is not required.</p>
6.5	<p>With regards to Condition 3(2), we suggest a timeframe is required for the submission of the pre-construction survey plan to the MMO and their advisors; this is to ensure adequate time for input to ensure the survey standards and objectives are agreed.</p>	<p>The WSI under Condition 4(2) and 5(1) has to be submitted at least four months prior to the commencement of works. As the WSI will be written in accordance with the Outline WSI, then method statements will be submitted to Historic England four months prior to the planned commencement of surveys/works which would include consideration and input into the pre-construction plan. Therefore, it is considered that there is sufficient commitment to timescales within the existing controlling documentation not to warrant additional inclusion within the dDCO.</p>
6.6	<p>We suggest that Part 2, Condition 4(1)(c)(viii) is expanded to include “archaeological construction exclusion zones”.</p>	<p>The Applicant can amend the licence condition to include this wording and this will be included in the next draft of the dDCO to be submitted into the Examination.</p>
6.7	<p>We recommend that Part 2, Condition 4(2)(c) is revised to expand on the delivery of mitigation to include methodologies of further site investigations, monitoring requirements and a timetable for site investigations.</p>	<p>The Outline WSI does cover these matters and Condition 4(2) requires that the WSI needs to be prepared in accordance with the Outline WSI (and in consultation with HE). As such, it is considered that the certified document Outline WSI (APP-397) and provision of the WSI controlling document in Condition 4(2) are sufficient and are the appropriate mechanisms to secure adequate controls for this.</p>

Reference	Summary of Written Representation	Applicant's Response
6.8	Part 2, Condition 6 requires checking in reference to the quoted condition (4(1)(e)(vi)) which does not appear elsewhere within the draft DML.	The draft Development Consent Order ('dDCO') submitted at Deadline 1 has been updated to correct this (REP1-021).
6.9	Condition 10(1)(b) could also reference "archaeological construction exclusion zones" as part of any post-construction monitoring programme to determine effectiveness as set out in the Marine Archaeological Outline WSI.	The certified document Outline WSI (APP-397) already includes a commitment to investigate post-construction monitoring opportunities where appropriate with the Archaeological Curator (i.e. Historic England) in Sections 3.2, 9.3 and 9.11. Further, the WSI controlling document will be developed in accordance with the Outline WSI (and in consultation with Historic England) as stated in Condition 4(2). It is considered that the certified document Outline WSI (APP-397) and provision of the WSI controlling document in Condition 4(2) are sufficient and are the appropriate mechanisms to secure adequate controls. Therefore, it is considered that including this proposed text in Condition 10(1)(b) is not required.
Comments in relation to the Marine Archaeology Outline Written Scheme of Investigation. ES Vol. 3, Appendix 14.3 (Document Ref: 6.3.14.3)		
7.1 – 7.2	<p>We concur with the structure and content of the Marine Archaeological Outline WSI, in particular the mitigation measures proposed. However, we offer the following comments regarding matters which should be addressed through any marine WSI produced in reference to the conditions of the DML (Schedule 15) as may be obtained.</p> <p>We note that paragraph 1.1.4 discussed the activities covered by the WSI, including operation, repair and maintenance. However, it would be appropriate for decommissioning to also be referenced.</p>	Noted. It is not anticipated that this WSI would cover the mitigation measures for decommissioning as a separate marine licence application will be required for decommissioning at the end of the lifespan of the Proposed Development. The marine licence for decommissioning would be expected to secure the mechanisms for archaeological mitigation measures for those activities (removal or leaving the infrastructure <i>in situ</i>) when it is awarded.
7.3	The party responsible for ensuring that all contractors have had appropriate training for the Protocol for Archaeological Discoveries (PAD) should be included within Table 1 (Roles and Responsibilities). Furthermore, we would like to stress the importance of engaging a Retained Archaeologist early in the pre-commencement process to ensure that archaeological advice is provided in a timely manner to avoid potential delays to the commencement of site investigations, pre-construction site preparation and the cable installation works.	The inclusion of the party responsible for PAD training will be included in the WSI which will be submitted under Condition 4(2). The Applicant notes the advice on engaging a Retained Archaeologist.
7.4	The inclusion within paragraph 4.2.4 of the commitment for method statements to be submitted to the archaeological curator four months prior to the planned commencement of surveys/works is important. The last sentence of paragraph 5.3.2 appears to be unfinished.	Noted. At paragraph 5.3.2, the sentence is not incomplete however, the heading 'Palaeographic Assessment' has not been formatted correctly and should be the title for the next section of paragraphs relating to palaeographic features. This will be corrected in the WSI which is to be submitted under Condition 4(2).
7.5	The inclusion of a timeframe for the submission of method statements to the MMO for consultation (provided in paragraph 8.1.4) is important for the planned commencement of works. However, any WSI produced post-consent should clarify whether this references the commencement of works for which the individual method statement is related to or project commencement more broadly.	Noted. This will be clarified in the WSI which is to be submitted under Condition 4(2).

Reference	Summary of Written Representation	Applicant's Response
7.6	A timeframe should be included within Paragraph 9.1.2 for the submission of method statements to the Archaeological Curator for review.	Noted. This will be considered for the WSI which is to be submitted under Condition 4(2).
7.7	The inclusion within paragraph 9.6.5 of the collection of cores in light-proof sleeves and for the splitting of cores in a light-safe environment is important. However, further detail regarding the purpose of these actions for OSL dating should be included.	Noted. Further discussion with Historic England on the geo-archaeological assessment is anticipated in developing the WSI prior to submission of the document to the MMO under Condition 4(2).
7.8	The need for archaeological advice in the planning of any further geotechnical work for the scheme within paragraph 9.6 is a useful inclusion. Where possible such further work should target the palaeolandscapes features identified by the geophysical survey and aim to obtain samples as a transect across a feature. Section 9.6.4 suggests MMO approval for any method statement is needed, but this should be clarified to state that method statements should be produced in consultation with Historic England prior to their submission to the MMO (as the competent authority to discharge marine licence conditions).	Paragraph 9.6.4 does state that the method statement in regard to geotechnical works would be provided to the Archaeological Curator for comment, which is Historic England.
7.9	Subsection 9.8 (Archaeological investigations using divers and/or ROVs) will require attention in any WSI produced post-consent. The title suggest that this section will set out the means to conduct an archaeological investigation using divers and/or Remotely Operated Vehicles (ROVs), the text below refers to the input into surveys planned for non-archaeological reasons and largely summarises the information provided in Subsection 9.7 (Archaeological assessment of UXO ROV survey data). There should be a clear separation within the WSI about data collected for archaeological purposes and data collected for non-archaeological purposes.	Noted. This text will be more specific to the means of conducting investigations using divers and/or ROVs and will be discussed with Historic England for input into the WSI which is to be submitted under Condition 4(2).
7.10	Further detail will be required within paragraph 9.10.5 about awareness training for relevant project staff, including how and who (will be the implementation service) will conduct the training.	Noted. Further detail will be provided in the WSI which is to be submitted under Condition 4(2).
Comments on the Marine Outline Construction Environmental Management Plan. Document Reference: 6.5		
8.1	We are encouraged to see that archaeological considerations are included within this document. We would therefore like to see the relevant DML condition (Condition 4(1)(d)) clearly state that Historic England should be consulted when the Environmental Management Plan is submitted to the relevant authority.	It is considered that the certified document Outline WSI (APP-397) and provision of the WSI controlling document in Condition 4(2) are sufficient and are the appropriate mechanisms to secure adequate controls for archaeological features and/or the identification of AEZs. Historic England have been and will continue to be consulted on this controlling documentation. The Construction Environmental Management Plan (CEMP) provides a very brief summary of aims of the WSI at present and highlights the requirement to the Contractor that the protocols and procedures of the WSI are to be followed. The CEMP will be produced post consent however it is not envisaged that it would be expanded to include further the information from the WSI as this would lead to unnecessary duplication of information. The CEMP will make the Contractor aware of the WSI and of their responsibilities in following the documentation. Therefore, it is not considered appropriate to include additional wording within Condition 4(1)(d) as suggested.

Reference	Summary of Written Representation	Applicant's Response
References		
9.1	Whitewright, J. and Tidbury, L., 2014. <i>East Winner Bank Wreck: Archaeological site visit report</i> . Southampton: Maritime Archaeological Trust. (https://www.maritimearchaeologytrust.org/uploads/publications/MAT_EastWinnerBankShipwreck_May2014.pdf)	

4. NON STATUTORY ORGANISATIONS

4.1. CPRE HAMPSHIRE

Table 4.1 - Applicant's Response to CPRE Hampshire's Written Representations

Aquind Reference	Summary of Written Representation	Applicant's Response
Landscape Character, Visual Amenity and Tranquillity of Converter Halls		
1	<p>There is concern about the size of the Converter Station and therefore its effects on the landscape and visual amenity. They highlight they key issues and generally agree with the findings of the LVIA but raise the issue of tranquillity "in its widest sense."</p> <p>It is not considered possible to mitigate many of the significant adverse effects and express scepticism, based on experience of poor landscape maintenance management, about the likely success of the mitigation planting over the long term.</p>	<p>The Applicant refers to the Applicant's Response to Relevant Representations (RR-028)(REP-160) which outlines the nature of effects on the setting of the SDNPA and on visual receptors. The Applicant's response goes on to refer to how design principles (REP1-031) have been established and seeks alongside the updated OLBS (REP1-034) to minimise the landscape and visual effects.</p> <p>As confirmed in ES Chapter 15 (APP-130) Table 15.10 and 15.11, and supporting appendices it is agreed that there would be significant adverse landscape effects on South Downs National Park (SDNP) D (D2 Hambledon and Clanfield Downland Mosaic), Winchester City Council Hambledon Downs 17 (LCTW2), and East Hampshire District Council LCT 3 Downland Mosaic (LCA 3fi). There would also be localised significant adverse visual effects on some receptors within 3 km of the Converter Station including views experienced by recreational receptors from elevated positions within the SDNP. Virtually all nationally significant energy projects will have an effect on landscape as acknowledged by NPS EN-1.</p> <p>In terms of the scepticism in relation to poor landscape maintenance, management and likely success of mitigation, please refer to the Applicant's Response to EXA Q1 LV1.9.37 (REP-091) and the updated OLBS (REP-034) which states that monitoring and management will take place throughout the operational lifetime of the Converter Station. This includes replacement planting for existing vegetation with the Order limits.</p>
2	<p>These Significant Adverse Effects on landscape character and visual amenity would inevitably have significant adverse effects on the tranquillity (in its widest sense) enjoyed by users of roads and public rights of way in the 3 kilometre study area, notably including the Monarchs Way where the loss of tranquillity would contrast strongly with that enjoyed as this long distance path passes elsewhere through the SDNP. Tranquillity in terms specifically of noise is referred to below.</p>	<p>The Applicant considered tranquillity as part of the baseline study for the assessment. Appendix 15.5 South Downs National Park (APP-403) lists the Special Qualities (SQ) applied to the "Dip Slope" (the part of the SDNP adjacent the Converter Station Area) in the SDNP Local Plan (ref) and notes that SQ2 "Tranquil and unspoilt places" is not applied to the area.</p> <p>Appendix 15.5 (at Table 1) discusses the relative tranquillity of the Converter Station Area as part of a review of its effect on the setting of the SDNPA and found it to be 'mixed' with some positive factors and some detractors.</p> <p>The Assessment (ES Chapter 15, APP-130) considered effects on tranquillity during construction and decommissioning, when there would be substantial activity on site, and found there would be significant localised effects.</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
		The Converter Station is enclosed and unmanned: there would be only very occasional visible activity during operation. The simple presence of the building would not disturb the calm and therefore could not affect tranquillity.
3	CPRE Hampshire sets out the NPS EN-1, SDNPA & WCC planning policies they consider apply and object on the basis of not meeting policy.	<p>Regarding NPS EN-1 the Applicant refers to the Applicant's Response to Relevant Representations (document 7.9.4) submitted for Deadline 1 and in particular the response to RR-028 (Table 6.4).</p> <p>The Converter Station Area lies outside the SDNP and therefore the planning policies do not apply.</p>
4	In this context, we note that in the LVA it is said that most of the Significant Adverse Effects on landscape character and visual amenity will become not significant after 20 years due to maturity of the mitigation planting. We are sceptical of this assertion, based on our experience of mitigation planting, which often does not reach the height intended, or is not properly maintained, or even cut down to make way for further development. It is not clear how the applicant would ensure long term maintenance of hedgerows and trees over which it does not have control. So, we largely discount the longer term impact of the mitigation planting and consider that the landscape and visual effects need to be judged solely on the assessment at year 0, with the outcome set out above.	<p>The Applicant refers to Applicants Response to Written Questions (ExQ1) (REP1-091) LV1.1.9.37 (which confirms monitoring and management of mitigation planting throughout the operational lifetime of the Converter Station), the updated Outline Landscape and Biodiversity Strategy (REP1-034 and 035) and the revised dDCO (REP1-021) submitted for Deadline 1.</p> <p>Requirement 8(3) of the revised dDCO states that "all landscaping provided in connection with Works No.2 and the optical regeneration stations within Works No. 5 must be retained and maintained during the operational period."</p> <p>These requirements ensure the maintenance and management of the landscape so that it meets the mitigation commitments and the dDCO (REP1-021) ensures the necessary control over the mitigating landscape features are able to be secured.</p>
Landscape impact of cable circuits		
5	Further, the installation of the cable circuits has the potential to impact on landscape as sections of hedgerow and trees are removed. It is noted that the cable corridor west of Waterlooville follows the Hambledon Road before turning north off the eastern side of Denmead. This area of open countryside is valued as an open gap between the existing settlements. There is the potential for the loss of trees and hedgerows to install the cables in the road and to enable the establishment of the vehicle access point and for the two cable circuits. Sections of hedgerow are also under threat on Anmore Road. If, contrary to the above, a Development Consent Order is approved then details of precisely what vegetation will be impacted should be submitted before any work is undertaken. Loss of hedgerow and trees should be kept to the absolute minimum and any gaps replanted as soon as practical.	<p>The Applicant refers to the Position Statement in relation to the refinement of the Order Limits WQCA13.6 (REP1-133), the Updated Outline Landscape and Biodiversity Strategy (REP1-034) and First Written Question Responses - Appendix 10 Tree Survey Schedule and Constraints Plans (REP1-101) which shows trees and hedges remaining at risk following revisions to the Order Limits (submitted for Deadline 1).</p> <p>The Applicant will seek to avoid all impacts on trees and hedgerows where possible as identified within paragraph 6.3.2.1 of the updated Onshore Outline CEMP (REP1-087).</p> <p>Requirement 7 of the updated dDCO (REP1-021) calls for a detailed landscaping scheme and includes specific reference to the location, species, size, planting protection measures and planting density of any proposed planting which needs to be approved by the relevant discharging authority.</p>
Noise and Vibration Assessment		
6	Noise is an element of tranquillity which is an important public health issue. It is recognised in paragraph 5.11.1 of NPS EN-1 that excessive noise can have wide-ranging impacts on the quality of human life, health (for example owing to annoyance or sleep disturbance) and on the use and enjoyment of areas of value such as quiet	The health effects of noise have been assessed within ES Chapter 26 Human Health (APP-141) for both the construction and operation phases. For the Converter Station Area during construction a temporary minor adverse (not significant) health effect is

Aquind Reference	Summary of Written Representation	Applicant's Response
	places and areas with high landscape quality, and that similar considerations apply to vibration. This reflects WHO Environmental Noise Guidelines 2018. Tranquillity and its positive benefits to human and environmental welfare are given due prominence in the SDNP and Winchester District Local Plans.	<p>expected (para 26.6.2.8), and once operational the health effect is expected to be negligible to minor adverse (not significant) (para 26.6.2.28).</p> <p>For the Onshore Cable Corridor, during construction temporary short-term moderate adverse (significant) health effects have been identified (para 26.6.3.16).</p> <p>Once operational, negligible effects on human health are anticipated for the Onshore Cable Corridor (para 26.6.3.66).</p>
7	CPRE refers several times to information in section 5.11 (noise and vibration) of the Overarching National Policy Statement for Energy (EN-1).	The noise and vibration assessment follows relevant legislation, policy and guidance, including the Overarching National Policy Statement for Energy (EN-1), which is summarised in section 24.2 of the ES (APP-139) and explained further in Appendix 24.4 [APP-463]. British Standard (BS) 4142:2014+A1:2019 <i>Methods for rating and assessing industrial and commercial sound</i> is the appropriate guidance document for the assessment of operational noise from the Converter Station.
8	CPRE states that 'Paragraph 5.11.6 of EN-1 directs to the "Association of Noise Consultants Good Practice Working Group – March 2020"'.	<p>This is not correct. Paragraph 5.11.6 of EN-1 states that 'Operational noise, with respect to human receptors, should be assessed using the principles of the relevant British Standards and other guidance' and footnote 137 directly references BS 4142. This adds further to the point that BS 4142 is the appropriate standard to use for this assessment.</p> <p>It is assumed that CPRE's reference to the 'Association of Noise Consultants Good Practice Working Group – March 2020' is a reference to the technical note on BS 4142:2014+A1:2019 prepared by members of the Association of Noise Consultants Good Practice Working Group (WG) and published in March 2020. The introductory section of this technical note states that 'this guide is not intended to be definitive or prescriptive but is offered as a resource from which the reader may access the views of the members of the WG, which complement BS 4142 itself.' The note also clearly states that 'this Technical Note does not constitute official government advice and neither replaces nor provides an authoritative interpretation of the law or government policy'. Therefore, it is not correct to state that it should be used as replacement for planning policy or BS 4142 itself.</p>
9	<p>CPRE raises concerns about the use of British Standard (BS) 4142:2014+A1:2019 to inform the methodology used for the operational noise and vibration assessment. Specific concerns include the following:</p> <ol style="list-style-type: none"> 1. Direct determination of noise amounting to a nuisance is specifically outside the scope of BS 4142. 2. The need to determine the existing background sound levels as part of the assessment. 	<p>The operational noise assessment, and methodology for determining the broadband noise criteria have followed the principles of BS 4142:2014+A1:2019. The broadband noise assessment has been supplemented by an octave band assessment to look at noise effects across different frequencies. In response to the specific points:</p> <ol style="list-style-type: none"> 1. CPRE is correct in stating that the 'determination of noise amounting to a nuisance is specifically outside the scope of BS4142'. However, the determination of nuisance (e.g. Statutory Nuisance as defined in Section 79 of the Environmental Protection Act 1990) is not relevant in the context of this noise and vibration assessment, the purpose of which is to determine significance of effect by undertaking an Environmental Impact Assessment.

Aquind Reference	Summary of Written Representation	Applicant's Response
		<p>2. The broadband and octave band noise criteria used to determine the predicted impacts of the operational Converter Station are underpinned by the baseline noise survey, the methodology of which is contained in section 24.4.4.1 and the results in section 24.5 of the ES (APP-139), as amended by section 17.2 of the ES Addendum (REP1-139). The baseline survey methodology was agreed by the environmental health departments at Winchester City Council and East Hampshire District Council, and as stated in Paragraph 24.4.1.1 of the ES (APP-139), the data obtained during these measurements are considered representative of the current noise climate, and therefore suitable for use in the noise assessment.</p>
<p>10</p>	<p>CPRE raise concerns that the project has not accounted for uncertainty when measuring background noise and vibration in terms of:</p> <ol style="list-style-type: none"> 1. Seasonal variations, the general effects of wind and rain on sound levels, and non-typical conditions during background measurements. 2. The variation in operational noise levels from changes in demand, including changes between day and night. 	<ol style="list-style-type: none"> 1. BS 4142 states that the objective of obtaining the background sound level is 'not simply to ascertain a lowest measured background sound level, but rather to quantify what is typical during particular time periods'. The background sound levels obtained during the baseline noise survey, which have informed the operational noise criteria are reliable and representative of the typical background noise climate for the respective assessment period (i.e. daytime or night-time). Based on our professional judgement and experience, background sound levels in this environment would not be 10dBA lower than those presented, as suggested in CPRE's written representation. As recommended by BS 4142, the meteorological conditions during the noise survey, as presented in Appendix 12 of the ES Addendum (REP1-143), were analysed to determine that the conditions during the survey were suitable for environmental noise measurement (i.e. dry with winds speeds lower than 5m/s), and where necessary, data from any periods potentially considered unsuitable, were excluded from the assessment (see section 17.2 of the ES Addendum (REP1-139)) as a precautionary approach. This ensures that the operational noise criteria for the Converter Station are robust. The effects of wind direction have also been robustly accounted for in the operational 3D noise modelling of the Converter Station. The ISO 9613 prediction methodology is based on downwind propagation conditions (i.e. sensitive receptors downwind of noise sources) with a wind speed of 1-5 m/s. This represents reasonable worst-case conditions and therefore this noise modelling methodology is considered robust. It is not considered appropriate to assess operational noise from the Converter Station under more adverse meteorological conditions because these conditions would not be considered reasonable worst case. 2. As stated in Paragraph 24.4.5.3 of the ES (APP-139), it has been assumed that all plant will be operating continuously (24 hours per day, 365 days per year). In practice there are likely to be variations in the operation of equipment in response to factors including demand profile changes and climatic conditions which may result in lower noise levels. However, as continuous operation of the Converter Station at 100% utilisation has been assumed for both the day and night-time assessment, the assessment is considered to be a reasonable worst case and therefore robust.

Aquind Reference	Summary of Written Representation	Applicant's Response
11	<p>CPRE raised further concerns on the following topics:</p> <ol style="list-style-type: none"> 1. Ground-borne vibration effect from operation of the Converter Station; 2. The frequency range used for the operational noise assessment, specifically, in relation to low frequency noise; and 3. CPRE state that 'the operational noise associated with the Converter Station is not expected to be significant and has therefore been scoped out.' 4. The absence of a cumulative assessment of operational noise from the Converter Station equipment and operational road traffic. 	<ol style="list-style-type: none"> 1. Given the absence of ground borne vibration sources and the substantial distance (over 200m) between the nearest sensitive receptors and the proposed Converter Station location, an assessment of operational vibration from the Converter Station was not required. Whilst operational vibration from the Converter Station was not formally scoped out of the assessment, it was not included in the proposed scope of the assessment in the scoping report (section 26.4 of APP-365), which was agreed by the Planning Inspectorate in their scoping opinion (section 4.21 of APP-366), as it is not necessary to assess this given there is no potential for likely significant effects on this regard in connection with the Proposed Development. 2. The operational octave band assessment was undertaken in addition to the broadband noise assessment to provide an assessment of the predicted impacts across the frequency spectrum. As stated in Paragraph 24.4.8.6 of the ES (APP-139), the plant data used in this assessment are based on the most robust and referenceable information available at this stage of the project, which in the case of equipment source level data, is in the octave band centre frequency ranges of 31.5Hz to 8KHz. Once a contractor is appointed and the specific equipment to be installed on-site is confirmed, the operational noise assessment will be revisited to ensure that the noise criteria across the frequency spectrum are achieved, as required by requirement 20 of the draft DCO (REP1-021). This will also include an assessment of acoustic features (e.g. tonality) and the application of character corrections, if appropriate, in line with BS 4142. The operational octave band assessment adequately and robustly considers low frequency noise. Noise levels at a frequency of 10Hz would not be audible or robustly measurable. Furthermore, it would not be possible to complete an accurate prediction of noise levels at 10Hz given the absence of available source data at this frequency. The control of operational noise from the Converter Station will be secured through the adoption of the broadband and octave band noise criteria (see the Operational Broadband and Octave Band Noise Criteria Document (REP1-129)). These noise criteria will ensure that the operational noise levels from the Converter Station are negligible, as concluded in Chapter 24 of the ES (APP-139), and updated in section 17.2 of the ES Addendum (REP1-139). 3. It is the case the operational Converter Station noise is predicted to be not significant; however it has not been scoped out of the assessment. 4. With respect to operational road traffic at the Converter Station, this was scoped out of the noise and vibration assessment given the very limited volume of traffic expected to be created from the proposed development (Schedule 1 of the Draft DCO (REP1-021) states that there will be 'permanent car parking for up to 10 vehicles'). Therefore, there are considered to be no cumulative effects from operational noise from Converter Station equipment and traffic travelling to/from the Converter Station.
<p>Consideration of alternative sites</p>		

Aquind Reference	Summary of Written Representation	Applicant's Response
12	<p>CPRE Hampshire has concerns over the way in which the choice of site appears to have been made. They question the objectivity of the site selection process t question where Aquind had in fact signed a potential Electrical Connection agreement with the National Grid several years ago featuring Lovedean as the site of the Converter Station. So, it would appear that Aquind have spent several years working towards Lovedean as being their preferred site for the Converter Station. Alternative sites are highlighted comprising Fawley and the disused Portsdown Hill chalk quarries potentially linked to Cosham substation.</p>	<p>The Applicant has submitted an Environmental Statement Addendum including a Supplementary Alternatives Chapter (Appendix 3, (REP1-152)) which has been produced to provide further clarity in respect of the description of the reasonable alternatives and then main reasons for the option chosen. Section 5 of the Supplementary Alternatives Chapter provides further information on the grid connect point and assessment of shortlisted options. Paragraphs 5.1.1.5 and 5.1.1.6 specifically address Fawley.</p> <p>A connection at 400kV is required in order to accommodate the power requirement of AQUIND interconnector on the national transmission network. The Cosham substation is part of the local distribution network operated by Scottish & Southern Energy Networks (SSEN) and would not be capable of evacuating the power of the interconnector. It was therefore not put forward by National Grid as part of its long-list of potential connection options, and so was not considered during the optioneering process. Chapter 2 of the Environmental Statement (APP-117) sets out the considerations and requirements taken into account with respect to siting of the Converter Station – see Section 2.4.5 for further information.</p>
Conclusion		
13	<p>Overall, it is the view of CPRE Hampshire that the Converter Station ought to be located in a more industrial location away from the SDNP. We do not have the resources to examine alternative sites and we appreciate that, following ENI, there is no requirement for the Examining Authority to consider alternatives to the Lovedean site or to establish whether the proposed project represent the best option. However, the fact that there appear to be alternative sites available in more industrial locations is, we consider, pertinent to the planning balance as between the benefit of siting the Converter Halls at Lovedean and the consequent Significant Adverse Effects, especially on the nationally designated landscape which is the South Downs National Park.</p>	<p>The Applicant refers to the Applicant's Response to Relevant Representations (REP1-160) submitted for Deadline 1, and in particular RR-028 in Table 6.4.</p> <p>In addition, the Supplementary Alternatives Chapter provides further clarity with regard to the considerations that the Applicant has taken into account, in respect of the South Downs National Park, in relation to reasonable alternatives studied by them for the substation siting and in the context of the cable route (see sections 5.3, 5.4, 7.3 and 7.4 of (Appendix 3, (REP1-152)). It is not considered that there are more appropriate alternative sites in industrial locations that could have accommodated the Converter Station and moreover provided a suitable connection point to the National Grid to support the required 400Kv connection.</p>

4.2. UNIVERSITY OF PORTSMOUTH

Table 4.2 - Applicant's Response to University of Portsmouth Written Representations

Reference	Summary of Written Representation	Applicant's Response
Summary		

Reference	Summary of Written Representation	Applicant's Response
6, 8-22	<p>The basis of UoP's objection is as follows:</p> <ul style="list-style-type: none"> (i) Operational: disruption to the provision of sports facilities to its students and the local community together with impact on the University's business. (ii) Future Development: the main Campus site offers excellent potential for future residential development to meet the City's housing needs and supply. The proposed route will impact on the site's capacity and potential. <p>The response from University of Portsmouth is related to a number of areas of their land:</p> <ul style="list-style-type: none"> (i) Langstone Sports Centre which comprises land to the west of Furze Lane (including a new Sports Building offsite on the City Centre campus). (ii) The Campus Site (iii) The Proposed Development and Site which comprises: <ul style="list-style-type: none"> a) Furze Lane b) Land to the east of Furze Lane <p>There are a number of points raised relating to the need for two north-south connection points on both Furze Lane and the sports pitches to the east of Furze Lane.</p>	<p>The Proposed Development does not affect: (i) Langstone Sports Centre; (ii) The Campus Site and (iii) Furze Lane, following revision of the Order limits.</p> <p>The Order limits have now been updated to remove Furze Lane and bus link, meaning that the Onshore Cable Route will use the sports pitches on the Eastern side of the University Campus and there is only one connection point. As a result, access to the Langstone Sports Centre via Furze Lane will not be impacted by construction of the Onshore Cable Route. This update is reflected in the Framework Traffic Management Strategy (REP1-068 and 069).</p> <p>This remainder of this response therefore focuses on (iii) b) Land to the east of Furze Lane.</p>
26	<p>Operational points:</p> <p>The points raised by UoP in relation to disruption of use relating to the eastern pitches comprise:</p> <ul style="list-style-type: none"> i) The programme of works and the approximate timing in the calendar and academic year. ii) The use of the pitches by students, community groups and summer schools. iii) What is the extent of works required on the playing fields and how does this relate to the extent of the Rights Land identified? iv) Can the restoration activity to the playing fields be completed within the 8 week period? v) What allowance within the programme has been made for damage that may occur to the pitches? vi) Once allowance is made for planting season constraints this is very likely to take this programme beyond 8 weeks whilst the earth is remodelled and grass re-laid? vii) What maintenance and management arrangements are proposed for the new landscaping areas? viii) What future maintenance works will be needed on the Rights land and what specific areas will require permanent access? 	<p>The Applicant has prepared a Framework Management Plan (FMP) for Recreational Impacts (Appendix 13 of the ES Addendum (REP1-144)), which reviews the phasing of works and usage requirements of each recreational space, to demonstrate how a Contractor can minimise effects on open space described at 5.13.4.2 of the Onshore Outline Construction Environmental Management Plan (CEMP) (REP1-087 and 088). The UoP Playing Fields is covered in Section 4.2.3 of the Framework Management Plan. Responses to points raised are set out below:</p> <ul style="list-style-type: none"> i) It is assumed that installation is programmed to start in April for a period of eight weeks, with a further eight weeks of reinstatement, in order to reduce impact on term time and the football and rugby seasons (Appendix B of the FMP). However, it is acknowledged that there will be some impact at end of term (April – June). The programme is also aligned to avoid the over-wintering period for Brent Geese and ensure that habitats are reinstated for the over-wintering period (October to March inclusive). ii) It has been assumed that the pitches are used during the term time by students and over the summer by summer schools. The Applicant would welcome information on how community groups use these pitches (as opposed to the pitches at Langstone Sports Centre). iii) The Onshore Cable Route is assumed to be routed along the eastern edge of the Order limits, minimising impact on pitches by routing. However, it should be noted that the full Order limits are needed to maintain flexibility, for example for access, any temporary works, or to accommodate any unforeseen contamination.

Reference	Summary of Written Representation	Applicant's Response
		<p>iv) The ES assumes a 12 week construction period without reinstatement. The FMP considers options available for reinstatement of public open space and uses eight weeks for re-turfing of sports pitches, this would be additional to an installation period of eight weeks.</p> <p>v) Section 4.1.2 of the FMP recommends that reinstatement will be carried out in accordance with the Sport England Design Guidance Note 'Natural Turf for Sport (Updated guidance for 2011)', with reinstatement work on pitches undertaken by a specialist agronomist or sports turf contractor (to be appointed by the Contractor during the construction phase). Allowance has therefore not been made for damage to pitches during the programme.</p> <p>vi) Appendix B shows the proposed programme which includes the University of Portsmouth Playing Fields. Works are scheduled to take place in April and May and reinstatement in June and July, the pitches would be ready to be used in September.</p> <p>vii) The Onshore Outline CEMP (REP1-087 and 088) sets out requirement for reinstatement of soils and land at 6.2.4.1. Once reinstatement is complete, the Applicant will hand the land back to the landowner for use and therefore there is no provision for ongoing maintenance of open space as it is not required.</p> <p>viii) Appendix 3.5 of the ES [APP-359] covers maintenance requirements. Cable systems are reliable and do not tend to require intrusive maintenance and this includes at the University of Portsmouth playing fields.</p>
36-44	<p>Future Development of the Site</p> <p>This will also severely affect the redevelopment potential of the Site. It is anticipated that the Langstone Campus will be allocated for residential development as part of the Local Plan Review. The proposed cable routing options will have a significant impact on the ability to deliver a viable and credible scheme on this part of the Site.</p>	<p>Points 37-43 of the UoP response appear to relate to the Langstone Campus 'previously developed' area of the land east of Furze Lane and it's potential for use for future residential development. The buildings at the Langstone Campus are not affected by the Proposed Development, and following revision to Order limits to remove Furze Lane, access to this area is also not affected. The Local Plan Review does not allocate the sports pitches to the east of the Campus required by the Proposed Development.</p> <p>The University's anticipation for the allocation of land at The Langstone Campus for residential development based on an identified level of housing need is noted. However, in terms of the progress towards formal allocation of any land at Langstone Campus for redevelopment, we note the following:</p> <ul style="list-style-type: none"> • The former 'Site Allocations – First Consultation Draft' (March 2013), which is no longer being progressed, identifies at paragraph 4.79 that "...the University Langstone Campus may also become available for development in the longer term, although the associated open spaces will be protected.". In addition, the accompanying plan for the area identifies that the previously developed parts of the Langstone Campus are the areas to be consulted on as part of the Site Allocations document for future allocation, and that the remaining areas of green space are to be retained as open space and excluded from the proposed allocation. This is shown in the plan of the Milton area on page 79 of the document. • The Housing and Economic Land Availability Assessment (Feb 2019) considered the wider Langstone Campus site including the adjoining open space and the St

Reference	Summary of Written Representation	Applicant's Response
		<p>James' Hospital site as a broad location with potential for development. This document clearly also states that <i>"Any proposals will need to account for the presence of Brent Geese and protected playing pitches on part of the site and consider traffic and air quality impacts."</i></p> <p>As such, the Applicant considers that the playing fields to the east of the previously developed area of Langstone Campus, and east of Furze Lane, form an area of green space associated with the wider site, due to the strong planning policy protection afforded to the retention of sports pitches and the need to protect habitats for overwintering birds. There is therefore an indication that whilst the previously developed parts of the Langstone Campus site may provide an opportunity to accommodate development, the existing green space at the site is most likely to be protected from built development.</p>
<p>20, 26</p>	<p>On the Site, there is also an essential radio link to UoP's Home Office Licenced research facility on the Institute of Marine Sciences campus at Eastney. Due to the cost of re-provision, the link would remain and have to be incorporated in some form as part of any redevelopment.</p> <p>What impact would the high voltage cable environment have on the essential radio link to the Home Office Licenced research facility at IMS Eastney.</p>	<p>The underground HVDC cables are screened, so there is no emission of an electromagnetic field beyond the power cables. There will be no interference with radio signals.</p>
<p>7, 46</p>	<p>Alternative Option</p> <p>There is an alternative option available to the Applicant to avoid these impacts which has not been explored or considered in their Options analysis. We recommend this alternative option is considered further by the Applicant and Authority, subject to the Applicant providing further clarification on the specific impacts and characteristics of the Proposed Development. The background to this recommendation and UoP's position is explained further overleaf.</p> <p>UoP recommends that consideration is given to removing the Furze Lane route entirely. The land required to the east of the Campus should be moved further east to along the boundary of UoP's ownership. This would remove the significant playing pitch revenue and operational conflicts on the Sports Centre and the potential impact on the future development potential of the Campus site.</p>	<p>The Applicant has discussed the option to route the cables through the playing fields east of the University with the University's Head of Estates at meetings in Portsmouth on 30 July 2018 and 29 August 2019 and this option was clearly set out in the Applicant's application as well as the material used for the public consultation in early 2019. As such the Applicant is surprised that the University is now proposing this as an 'alternative option' when it has been discussed between the parties on a number of occasions.</p> <p>The Order limits have been revised so that these comprise the eastern option, avoiding Furze Lane and the sports pitches at Langstone Sports Centre to the west. The Framework Management Plan for Recreational Impacts (REP1-144) also provides the option routing the cable along the eastern edge of Order limits to reduce impacts to sports pitches. However, it should be noted that the full Order limits are needed to maintain flexibility, for example for access, any temporary works, or to accommodate any unforeseen contamination.</p>

4.3. APLEAL COMMUNITY ACTION GROUP

Table 4.3 - Applicant's Response to APLEAL Community Action Group Written Representations

Reference	Summary of Written Representation	Applicant's Response
Landscaping & Maturity of Planting		
1.1	<p>The landscaping in general that is proposed to attempt to hide the Interconnector Station in Lovedean and mitigate the disastrous effects that such a large development will have on the surrounding countryside is woefully inadequate. The trees that are suggested for planting, even after 20 years, will not be tall enough to stop the station being in view for any nearby residents or members of the community enjoying the wide, open views that are so integral to the local landscape. There is also inadequate proposed planting of hedgerows, particularly alongside Broadway Lane and Old Mill Lane, that will be needed to avoid loss of amenity for anyone walking, riding or cycling in these quiet lanes. Should the project be approved and go ahead despite the many objections being raised, we would like to insist that even before construction begins, many more mature trees and hedgerows are planted to help shield the view of the Interconnector Station. This would help increase local biodiversity.</p> <p><i>Reference:</i> Environmental Statement – Volume 1 – Chapter 15 Landscape and Visual Amenity</p> <p>Document Reference 6.1.15</p> <p>Section 15.8.4.14</p> <p>The above reference includes the statement:</p> <p>“Infrastructure: By year 10 the surface and planting would have softened the Access Road both west and east of Broadway Lane.”</p> <p>This is the only indication in the documents related to landscaping that a specific time period to achieve what it terms ‘softened’ is given. The concern raised here is that without a specified period as measured from a particular milestone there is no way to state what will be achieved by when. It is not unreasonable to require that trees and shrubs should be subject to a maturity date of 5 years from the start of construction, the exception being the 25 metre high specimens trees to be planted adjacent to the Converter Hall.</p>	<p>Maturity of Planting:</p> <p>The Applicant refers to ES Appendix 15.7 Landscape Schedules, Planting Heights and Image Boards Table 13 (APP-405) which outlines predicted heights based on ground condition surveys. The updated OLBS (REP1-034 and 035) at paragraph 1.6.7.1 recognises the need for a mix of plant stock (of local provenance where practicable) including larger trees in specific locations and native ‘pioneer’ species to create variations in the woodland structure and mix. This will provide the ‘instant screening and structure’ referred to and introduce more mature trees to help shield the view.</p> <p>Requirement 7 of the dDCO (REP1-021) which calls for a detailed landscaping scheme includes specific reference to the location, species, size, planting protection measures and planting density of any proposed planting. The discharging authority is required to consult with SDNPA as part of the approval process.</p> <p>Inadequate Proposed Planting:</p> <p>It is acknowledged that even after 20 years, there will still be views of the Converter Station building for some local residents and from some places where people enjoy the surrounding countryside. However, from most places where there would be significant visual effects immediately on completion, the mitigation planting reduces these to non-significant over this timescale.</p> <p>The extent of planting was constrained by health and safety guidelines associated with the Converter Station and existing utilities (Updated Outline Landscape and Biodiversity Strategy, paragraphs 1.6.4.1 to 1.6.4.3 (REP1-034 and 035)). Revisions to the indicative landscape mitigation plans Figure 15.48 and 15.49 ((REP1-036 and 037 respectively) and landscape mitigation plans for Option B(ii) (REP1-137) submitted for Deadline 1 seek to increase the extend of planting where appropriate.</p>
Landscape Upkeep		
1.2	<p><i>Reference:</i> Outline Landscape and Biodiversity Strategy</p> <p>Document Reference 1.10</p> <p>i) Section 1.7.2 Management Responsibilities</p> <p>ii) Appendix 1 Outline Landscape Specification Years 0 – 5</p> <p>The landscape upkeep implies that upkeep will be limited to 5 years, see 1.1.1.1 which states: ‘This timescale is based on a standard defects liability period.’ This refers to the</p>	<p>Limited Upkeep:</p> <p>The Applicant refers to Applicants Response to Written Questions (ExQ1) (REP1-091) WQ LV1.1.9.37, the updated Outline Landscape and Biodiversity Strategy (REP1-034 and 035) and the revised dDCO (REP1-021) which confirm the monitoring and management of mitigation planting throughout the operational lifetime of the Converter Station submitted for Deadline 1.</p> <p>Performance Specification / Management Responsibilities:</p>

Reference	Summary of Written Representation	Applicant's Response
	<p>Upkeep Plan being limited to years 0 – 5. However, the Converter Station and its associated plant is a wholly owned private enterprise. Hence it would be unreasonable to limit the landscaping effectiveness to 5 years.</p> <p>Furthermore, there is no performance specification, which could be used to assess the quality of the landscaping. Nor is there any scope for interested bodies and individuals to engage with the landscaping management.</p>	<p>The Applicant refers to the Applicant's Response to Relevant Representations (REP1-160) of East Hampshire District Council (RR-162), Winchester City Council (RR-198) and Natural England (RR-181), the revised dDCO (REP1-021) and the updated Outline Landscape and Biodiversity Strategy (REP1-034 and 035) submitted for Deadline 1 which confirms that post consent a detailed landscaping scheme will be submitted for approval to the relevant discharging authority in consultation with the South Downs National Park for the Converter Station Area and this will include monitoring plans and management responsibilities.</p>
<p>Traffic and Transport</p>		
<p>2</p>	<p>The proposed plan for access to the site at the top of Day Lane is extremely dangerous. This is the primary route for construction traffic to enter the site and Day Lane will become even more hazardous for pedestrians, cyclists, horse riders and even motorists than it already is. Currently there is no footpath here and the road is not wide enough to safely accommodate lorries and other users. At the very least, the proposed plans should include provision for a footpath or pavement all the way along Day Lane to allow local residents, walkers and riders, to continue to use this road.</p> <p><i>Reference:</i> Environment Statement – Volume 1 – Chapter 22 – Traffic and Transport Section 22.4.5.19 Part of 'Cyclist and Pedestrian Amenity'</p> <p>Section 22.6.5 Section 1 – Lovedean (Converter Station Area)</p> <p>Based upon an estimate that the increased traffic flow will be less than 20% during the construction phase and the use of the GEART guidelines, it is concluded that cyclists and pedestrians will suffer no loss of amenity. However, this does not address the specific issues associated with Day Lane and the junction with Broadway Lane.</p> <p>Day Lane is a country lane with no white line and no accommodation for pedestrians, cyclists or even horse riders. All these are users of Day Lane. The lane has room for only two vehicles to pass. The lane has a number bends, which are a particular danger to pedestrians as there is no refuge off the road. These specific features do not it appears to have been considered in analysis. As a result, no action is proposed to protect this group of users.</p> <p>To resolve this conflict and potential danger, it is strongly recommended that an alternative route is provided for these sensitive users (pedestrians, cyclists and horse riders). This will run from the Broadway Lane junction down to Lovedean Lane and alongside Day Lane.</p> <p>Furthermore, an alternative route for sensitive users should be provided in the vicinity of the junction of Broadway Lane and Day Lane. This to ensure those users are kept apart from construction traffic.</p>	<p>The Applicant does not consider the mitigations suggested to be required when taking account of existing usage of Day Lane, historical accident data and proposals to manage HGV traffic flows during the construction period.</p> <p>Traffic flow information collected on Day Lane in June 2018 shows that an average of 14 HGVs use Day Lane per hour between 07:00 and 19:00 Monday to Friday while the accident analysis contained within Section 4 of the Supplementary Transport Assessment (REP1-142) details that there have been no recorded accidents on Day Lane involving pedestrians, cyclists or horse-riders between 1 October 2014 and 30 September 2019.</p> <p>The proposed strategy to control construction HGV traffic on Day Lane via banksman and provision of a road safety liaison officer will also mitigate the road safety impacts of additional HGVs using this route during the construction period. Details of the strategy for controlling HGV traffic is provided within Section 6.2 of the Framework Construction Traffic Management Plan (REP1-070) while details of the road safety liaison officer are included in Section 7 of the same document.</p>

Reference	Summary of Written Representation	Applicant's Response
	This is a Health and Safety issue and must be redressed urgently as it will have repercussions of the DCO Limits	
Noise & Vibration from Interconnector Station		
3	The cumulative effect on the health and wellbeing of all those who will be adversely affected by any level of noise pollution and vibration nuisance, however big or small, as a result of both the construction and the operation of the Interconnector Station, should not be underestimated. We understand that the written representation from the Campaign for the Protection of Rural England covers this in much greater detail, and as local residents who will all be affected to various degrees, we would like to add our concerns to theirs on this crucial issue.	<p>The health effects of noise for the Converter Station Area have been assessed within the ES Chapter 26 Human Health (APP-141) for both the construction and operation phases. During construction it was concluded that there will be a temporary minor adverse (not significant) health effect (para 26.6.2.8), and during operation a negligible to minor adverse (not significant) effect on human health is anticipated (para 26.6.2.28).</p> <p>Please refer to the Applicant's response to the CPRE's written representation for responses to the points raised.</p>

5. MEMBERS OF THE PUBLIC AND LOCAL BUSINESSES

5.1. INTRODUCTION

- 5.1.1.1. The following tables set out the Applicant's responses to members of the public and local businesses submissions to the Examining Authority (ExA) made at Deadline 1.
- 5.1.1.2. A response has not been provided for each individual submission or topic raised. The responses have focused on issues thought to be of most assistance to the ExA and the responded. Where points have been raised by various parties, the Applicant has responded once, but the responses are applicable to all parties who have made the same point.
- 5.1.1.3. The Applicant also does not seek to respond to all the points made where the Applicant's response is already contained within other submissions made since the Application was accepted, including:
- The Applicant's Response to Relevant Representations (REP1-160) submitted at Deadline 1; or
 - The Applicant's Responses to the ExA's first written questions (REP1-091) submitted at Deadline 1;
- 5.1.1.4. save where it is thought helpful to repeat or cross refer to the information contained in the above documentation.

5.2. SAINSBURY'S

Table 5.1 - Applicant's Response to Sainsbury's Written Representations

Reference	Summary of Written Representation	Applicant's Response
Consideration of Alternatives		
1	The proposed path of the cabling route across the western boundary of Sainsbury's Farlington car park is shown in detail on Sheet 7 of the Land Plans. It is intended for the cabling route to deviate from the highway and instead run parallel to the A2030 Eastern Road through the full length of the Sainsbury's Farlington car park before exiting at the southern boundary with the West Coastway Railway Line. As such, this section of the cabling route requires the largest acquisition of rights over private land within the DCO and we consider the exploration of alternatives to avoid disruption a necessary requirement.	<p>The reasonable alternatives considered for the Onshore Cable Route are set out in ES Chapter 2 (Consideration of Alternatives) (APP-117) and the Supplementary Alternatives Chapter (REP1-152) issued at Deadline 1.</p> <p>The Onshore Cable Route will be approximately 20km in length with the cables being buried underground, primarily within existing highways or road verges, though in some instances in other land which is not highway or road verge. The Applicant has undertaken extensive studies and assessments in order to obtain as much certainty as possible about the most appropriate Onshore Cable Route, taking into account known constraints and the balancing of impacts when considering the reasonable alternatives relevant to the Proposed Development and in respect of the acquisition of land.</p> <p>The A2030 Eastern Road adjacent to Sainsbury's car park was removed from the Order Limits prior to submission of the DCO application as a result of feedback received during non-statutory consultation (January 2018) and in order to mitigate the traffic impacts associated with construction of the Onshore Cable Route. This is discussed within Section 2.5 of the Chapter 2 of the ES (Consideration of Alternatives) (APP-117). A further section of the Eastern Road, from the junction of Fitzherbert Road to the northern end of Zetland Field has been removed from the Order Limits at Deadline 1.</p> <p>From the junction of Eastern Road and Havant Road (approximately 600m north of Sainsburys), the Onshore Cable Route will be installed initially in Eastern Road (where no alternatives are available) and then through Zetland Field before crossing Fitzherbert Road to Sainsbury's car park.</p> <p>South of the land owned by Sainsburys the Onshore Cable Route will enter the Farlington playing fields using a HDD from the yard by Kendall's Wharf before entering Sainsbury's car park via a trenchless crossing under the railway line at the northern end of the playing fields. The alternative route via Eastern Road would have</p>

Reference	Summary of Written Representation	Applicant's Response
		<p>resulted in approximately 850m of additional installation in the highway (from the area where the Onshore Cable Route will enter Zetland Field to the entrance to Farlington Playing Fields from Eastern Road by the Shell filling station). This would have also resulted in installation of the Onshore Cable Route across the bridge over the railway which the Applicant sought to avoid. As such the Applicant has already considered the alternatives in this area and has chosen the least impactful route.</p>
2	<p>The clear and obvious alternative to the current proposal is for the entirety of the cabling route in this location to fall within the A2030 Eastern Road. If this is not possible, then the route should pass through as little of SSL's land as possible. Crucially, this should avoid the access road to the store at Fitzherbert Road and mitigate to a greater extent the disruption caused to the operation of the store. The proposed cabling route will severely limit the traffic flow into and out of the store car park, will prevent access to the petrol filling station and car wash. The loss of the car parking spaces as a result of the works would negatively impact on trading performance resulting in significant losses.</p>	<p>The Applicant is in discussions with Sainsbury's agent to agree an approach which would result in the Onshore Cable Route passing through as little of Sainsbury's land as possible, noting constraints. It will however be necessary to install the Onshore Cable Route via the access road to the store at Fitzherbert Road. Construction of the Onshore Cable Route will be facilitated through single lane closure to ensure that access to the store, petrol filling station and car wash is maintained and all times (as per ongoing discussions). There will also be an option for construction work to take place overnight to mitigate the impact on the operation of the store (see the FTMS (REP1-068 and 069)). The Applicant continues to engage with Sainsbury's agent in relation to these measures and welcomes further discussions on the construction methodology for the entrance and car park.</p>
3	<p>SSL do not find it acceptable that the Eastern Road is preferred for the majority of the cabling route with the exception of the highway near to SSL's Farlington store. The majority of other public utilities run underneath the highway at this section of the Eastern Road and traffic management is less of an issue as the dual carriageway prevents a full closure of through traffic. The avoidance of the highway at this section of the cabling route is against the adopted principles of the scheme and we consider there to be insufficient justification for its disregard.</p>	<p>The Applicant has sought to remove the need to install the onshore cables along Eastern Road where possible, reflecting feedback received from statutory consultees and members of the public during the consultation events. The A2030 Eastern Road adjacent to Sainsbury's car park was removed from the Order Limits prior to submission of the DCO application as a result of feedback received during non-statutory consultation (January 2018) and in order to mitigate the traffic impacts associated with construction of the Onshore Cable Route. This is discussed within Section 2.5 of Chapter 2 of the ES (Consideration of Alternatives) (APP-117).</p> <p>where possible. A further section of the Eastern Road, from the junction of Fitzherbert Road to the northern end of Zetland Field has been removed from the Order Limits at Deadline 1, further emphasising the Applicant's preference to mitigate the traffic impacts associated with construction of the Onshore Cable Route.</p> <p>Whilst the Applicant has sought to avoid the use of private land to avoid the impacts associated with doing so and to use the highway to install the onshore cables, noting they are akin to other utility infrastructure in the highway, the approach taken by the Applicant has been to recognise the impacts of the construction of the Proposed Development and to balance these so as to determine the most appropriate route for the onshore cables from the Landfall to the Converter Station Area.</p>
<p>Reduction of the Order Limit</p>		
4	<p>The Order Limit allows for the acquisition of rights over land on a significant part of the car park and circulation routes relating to the Sainsbury's Farlington store. In total, 12,279 sq. m. of land is subject to new rights being acquired which is illustrated in an extract from the Land Plans below:</p>	<p>The Applicant is in discussions with Sainsbury's agent to agree an approach which would result in the Onshore Cable Route passing through as little of Sainsbury's land as possible, noting constraints.</p>
5	<p>Our client holds the view that the current Order Limit is not acceptable due to the extent of land over which new rights are to</p>	<p>The Applicant is in discussions with Sainsbury's agent to agree an approach which would result in the Onshore Cable Route passing through as little of Sainsbury's land as possible, noting constraints. The Applicant will</p>

Reference	Summary of Written Representation	Applicant's Response
	<p>be acquired, the majority of which is not necessary for the delivery of the scheme and has the potential to increase disruption to business, whilst also depreciating the future value of a considerable portion of the property. Specifically, running the cable route across the entrance of the store presents a major limiting factor to redevelopment and future uses of the store which we believe has not been considered in the proposals. An assessment of the land required for the cabling route is imperative, with the Order Limit 's reduced and the cabling route placed in the highway.</p>	<p>continue to engage with Sainsbury's agent in relation to these matters and welcomes further discussions on the construction methodology for the entrance and car park.</p>
<p>6</p>	<p>Additionally, the Order Limit has been set without reasonable consultation with SSL as to the traffic management and mitigation strategy during the works. The Framework Traffic Management Strategy ('FTMS') specifies that there will be single lane closures at the junction with Fitzherbert Road with an estimated construction time of 8-10 days. However, no information on the duration of the works over the car park or at the HDD compound have been provided. We have raised this concern with Aquind since our formal introduction in May2020 but very little progress or assurances have been made.</p>	<p>The Framework Traffic Management Strategy (REP1-069 and 070) has been updated to reflect alterations to the Order Limit and revised assumptions on the installation rate of the Onshore Cable Route. Section 8 of the FTMS shows that single lane closures would be required for up to one week per circuit to facilitate construction of the Onshore Cable Route.</p> <p>The Applicant is in discussions with Sainsbury's agent to agree an approach which would result in the Onshore Cable Route passing through as little of Sainsbury's land as possible, noting constraints. The Applicant will continue to engage with Sainsbury's agent in relation to these matters and welcomes further discussions on the construction methodology for the entrance and car park and in relation to the HDD compound.</p> <p>The Applicant also notes that whilst May 2020 was the formal introduction, the Applicant had been trying for some time before this, including before the submission of the Application, to engage with Sainsburys to discuss these matters, but this was unfortunately to no avail.</p>
<p>7</p>	<p>Even if based on the current proposed route, there is no justification for the extensive new rights proposed over the Sainsbury's land. A cogent justification is necessary for such an encroachment onto private land, together with an acceptable mitigation strategy and careful consideration of the alternative route along Eastern Road.</p> <p>Based on the present proposals, SSL will suffer significant losses. Our case is that alternative options exist and should be utilised.</p>	<p>Please refer to the response above which sets out the justification for routing the Onshore Cable Route outside of the highway and through the Sainsbury's car park to minimise the impacts of the Proposed Development. The Applicant is in discussions with Sainsbury's agent to agree an approach which would result in the Onshore Cable Route passing through as little of Sainsbury's land as possible, noting constraints. The Applicant will continue to engage with Sainsbury's agent in relation to these measures and welcomes further discussions in relation to minimising the impacts of the Proposed Development on the landholder.</p>

5.3. MEMBERS OF THE PUBLIC AND LOCAL BUSINESSES

Table 5.2 - Applicant's Response to Members of the Public and Local Businesses Written Representations

Aquind Reference	Summary of Written Representation	Applicant's Response
Air Quality		
AQ1	A comment identified a potential conflict between the dust risk levels stated in the OOCEMP and in Chapter 23 of the Environmental Statement.	<p>This error identified by the respondent was also previously noted by the Applicant and has been corrected in the latest Onshore Outline Construction Environmental Management Plan (REP1-087) submitted at Deadline 1.</p> <p>The Summary Table of Dust Risk Results Per Onshore Cable Corridor Section on page 5-56 of the updated Onshore Outline Construction Environmental Management Plan now correctly identifies that the Converter Station Area is at a high risk of dust impacts.</p>
AQ2	Concerns that air quality mitigation is not sufficient and that there is no strict obligation to monitor air pollution, only a statement that the Promoter may carry out monitoring.	<p>The mitigation measures set out in the Onshore Outline Construction Environmental Management Plan (REP1-087) are considered to be sufficient. The general air quality and dust mitigation measures set out in Section 5.11 are to be implemented in line with best practice IAQM guidelines and the air quality monitoring is to take place in accordance with the framework set out in Section 7.</p> <p>In accordance with Requirement 15 of the dDCO (REP1-021), no phase of the onshore development may commence until a Construction Environmental Management Plan (include a Dust Management Plan) relating to that phase has been submitted to and approved by the relevant planning authority. The final scope and extent of monitoring and reporting procedures will be approved at that stage and in accordance with Sections 5.11 and 7 of the Onshore Outline Construction Environmental Management Plan.</p>
AQ3	Comments raising concerns regarding the potential air quality impacts related to increased traffic and idling.	<p>A revised Chapter 23 (Air Quality) of the ES (REP1-033) has been submitted at Deadline 1 and assesses the potential impacts arising from the Proposed Development on air quality, including air quality impacts resulting from construction traffic emissions and non-construction related traffic emissions due to the use of alternative routes.</p> <p>The proposed air quality and dust mitigation measures set out in Section 5.11 of the Onshore Outline Construction Environmental Management Plan (REP1-087) and are to be implemented in line with best practice IAQM guidelines, Air quality monitoring is to take place in accordance with the framework set out in Section 7 of the Onshore Outline Construction Environmental Management Plan.</p> <p>The revised Chapter 23 (Air Quality) does not identify any significant effects related to air quality as a result of the construction traffic emissions and non-construction related traffic emissions due to the use of alternative routes.</p>
AQ4	Comments raising concerns about the effects of air pollution on Stoneacre Copse and the duration of the impacts.	<p>Since submission, the assessment provided by Chapter 23 (Air Quality) has been revised and expanded, providing newly available detail on air quality changes associated with back-up diesel generators proposed to be located at the Converter Station.</p> <p>Additional modelling at the ancient woodland sites adjacent to the Order Limits at the Converter Station, including Stoneacre Copse, was undertaken for NOX concentrations, nutrient N deposition and N acid deposition.</p> <p>With the new detail available in the updated ES Chapter 23 (REP1-033) to include operational air quality changes as a result of the back-up generators, reconsideration of Operational Stage impacts on ecological features, including Stoneacre Copse, have been undertaken.</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
		This is reflected in Table 23.116 of the updated ES Chapter 23 (REP1-033) and Appendix 23.7 (Air Quality Ecological Impacts) (REP1-077).
Ecology		
Ec1	General comments raising concerns regarding potential impacts to local wildlife, fauna and flora as a result of the Proposed Development.	<p>Extensive consideration of the effects on wildlife receptors including habitats, flora, fauna, protected species and designated sites for nature conservation is included in the Chapter 16 (Onshore Ecology) of the ES (APP-131) including an account of comprehensive habitat and species surveys.</p> <p>Chapter 16 (Onshore Ecology) concludes that following implementation of mitigation there are no likely significant effects on biodiversity. Furthermore, the HRA (APP-491) assesses impacts on European designated sites including Special Protection Areas (SPAs) and Special Areas for Conservation (SACs). The HRA concludes that there are no adverse effects on site integrity from the Proposed Development.</p> <p>Updates to Chapter 16 (Onshore Ecology) are provided in the ES Addendum (submitted at Deadline 1) (REP1-139) including in relation to impacts on Chichester and Langstone Harbours SPA. The HRA has also been subject to an update (REP1-081) including the assessment of Ramsar sites and additional information in the assessment of Chichester and Langstone Harbours SPA and Portsmouth Harbour SPA which again concludes that there would be no adverse effects on site integrity as a result of the Proposed Development.</p>
Ec2	Comments raising concerns regarding the potential impacts on marine wildlife.	Potential impacts on marine ecology and the marine environment as a result of the Proposed Development have been fully assessed in Chapters 6 – 14 of the ES submitted with the Application (APP-121-129). In addition, impacts on marine protected areas have been assessed in the Habitats Regulations Assessment Report (HRA) (APP-491) and Appendix 8.5 (Marine Conservation Zone Assessment) of the ES (APP-381) also submitted as part of the Application. The ES assessments undertaken have concluded that no significant effects on marine ecology or the marine environment are likely to occur as a result of the Proposed Development alone or in combination with other relevant projects or plans. Similarly, the HRA concludes that there will be no adverse effect to any of the marine protected sites assessed.
Ec3	Comments raising concerns regarding potential impact on newts and other local wildlife at the Eastney Lake and Milton Piece Allotments.	<p>The Applicant's position is clear that the individual allotment plots will not be affected by the construction or operation of the Proposed Development.</p> <p>The Applicant's proposal has always been to install cables under the allotments and Milton Locks Nature Reserve via a process known as horizontal directional drilling (HDD), which will take place between the car park located west of the Thatched House Pub and the grassed area east of Kingsley Road. The HDD approach allows cables to be installed deep underground with no impact at surface level, including to the local wildlife ecology. For more details regarding the HDD process and locations, please refer to the HDD Position Statement Note (REP1-132) submitted at Deadline 1.</p> <p>Specific information about Great Crested Newt can be found in the Great Crested Newt Survey Report at Appendix 16.9 of the 2019 ES (APP-417). The Survey did not identify great crested newts in any of the waterbodies surveyed and this species is thus considered absent from the Study Area and was scoped out of the ES assessment, as set out at Table 16.1 of Chapter 16 (Onshore Ecology) of the ES (APP-131).</p>
Ec4	Request for information on impact to Langstone Harbour SSSI.	Chapter 16 (Onshore Ecology) of the ES (APP-131) assesses impacts on onshore biodiversity features including statutory and non-statutory designated sites.

Aquind Reference	Summary of Written Representation	Applicant's Response
		<p>At Table 16.1 of Chapter 16, it's explained that Langstone Harbour SSSI shares the same boundaries as Chichester and Langstone Harbour Special Protection Area (SPA)/Ramsar and part of Solent Maritime Special Areas of Conservation (SAC).</p> <p>The Langstone Harbour SSSI is designated for the combination of intertidal habitats it supports and its importance to wintering waterbirds. However, the Langstone Harbour SSSI was scoped out of the assessment as scheme design elements predicted with certainty that the Proposed Development will have no effect on the SSSI or its qualifying features during any of the stages of development.</p> <p>Direct impacts on Langstone Harbour SSSI have been avoided by the use of HDD, taking the cable from Farlington playing fields (located at Farlington, north of A27) to Kendall's Wharf. Indirect impacts would not lead to effects perceptible above the background effects associated with the current use of Langstone Harbour. This includes boat traffic, as well as impacts from roads, industrial/commercial sites, residential areas and use of the area for leisure (walking, running, dog walking, etc.) that are a permanent feature of the area surrounding the SSSI. In addition, noise from the Proposed Development's HDD would not elevate above that of ambient noise levels.</p>
Ec5	Comments raising concerns regarding potential impacts on Brent Geese, including the potential cumulative impacts resulting from additional developments.	<p>The potential effects of the Construction Stage on Chichester and Langstone Harbour SPA and the wintering intertidal bird community has been examined carefully and mitigation measures have been identified throughout the 2019 ES and ES Addendum to address this issue.</p> <p>Effects of the construction stage on Chichester and Langstone Harbour SPA and its wintering intertidal bird community are proposed to be avoided through the implementation of a series of working principles, including restricting works within the winter season, defined as October to March (the period when SPA birds such as dark-bellied brent goose arrive from their breeding grounds). Details of the working principles and restriction are provided in the latest version of the Winter Working Restriction for Features of Chichester & Langstone Harbours SPA (APP-422) and within the updated Outline Landscape and Biodiversity Strategy (REP1-034) (also submitted at Deadline 1), which is to be secured by Requirement 9 of the dDCO (REP1-021).</p> <p>The impact assessment in Chapter 16 (Onshore Ecology) of the 2019 ES was also subsequently revised and expanded upon by the details set out in Sections 10.2.4.4 to 10.2.4.13 of the ES Addendum (submitted at Deadline 1) (REP1-139). A Construction Noise Impacts on SWBGS Sites note was also provided at Deadline 1 (REP1-149) which supports the latest mitigation measures.</p> <p>The Habitats Regulations Assessment Report has also been subject to an update at Deadline 1 (REP1-081) including the assessment of Ramsar sites and additional information in the assessment of Chichester and Langstone Harbours SPA and Portsmouth Harbour SPA</p> <p>The 2019 ES and the ES Addendum conclude that following implementation of mitigation there will be no significant effects on Brent Geese. The updated HRA also concludes that there would be no adverse effects on integrity of the Ramsar sites as a result of the Proposed Development.</p> <p>With regards to the potential combination of effects on Brent Geese as a result of the Proposed Development and other developments and activities, Section 16.7. of ES Chapter 16 (Onshore Ecology) (APP-131) which considers cumulative effects did not identify and cumulative effects, including intra-project effects, of the construction or operation on Brent Geese. The revised impact assessment in the ES Addendum did not lead to changes in the result of the assessment of cumulative effects as detailed in the 2019 ES.</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
Ec6	Comments raise concerns that no assessment has been made of how long the ecological mitigation will take.	Requirement 22 of the dDCO (REP1-021) ensures that the undertaker must confirm to the planning authorities the date of the completion of the construction and any land within the Order limits which is used temporarily for construction of the authorised development must be reinstated to its former condition, or such condition as the relevant local planning authority may approve, within not more than twelve months of the date of the completion of the construction works.
Ec7	Comments raising concerns regarding the loss of the trees, hedgerows and open space which are important habitat for local wildlife.	<p>Impacts on biodiversity features from the Proposed Development are presented in Chapter 16 (Onshore Ecology) of the 2019 ES (APP-131). Where potential effects on biodiversity features have been identified, avoidance and mitigation measures have been proposed to address them.</p> <p>The Applicant has carried out a review of trees to identify those which may be affected and confirmation of those which are not. This review has extended to any trees within designated conservation areas and a suitable plan and schedule of trees provided and the results are presented in the updated Tree Constraints Plans (REP1-010) and Tree Survey Schedule REP1-101 submitted at Deadline 1. The Applicant has committed to habitat creation through the updated Outline Landscape and Biodiversity Strategy (REP1-034) (submitted at Deadline 1) which will be implemented as part of construction of the Proposed Development. The Outline Landscape and Biodiversity Strategy sets out the measures that will mitigate the effects and enhance the value of landscape and biodiversity features, and is to be secured by Requirement 9 of the dDCO (REP1-021). The proposed mitigation measures include requiring prompt reinstatement of temporary construction areas (including trenches, laydown and construction (including haul road) corridor) on completion of the cable route installation as soon as practicable after sections of work are complete. Reinstatement would involve the careful handling of soils and a return to the existing habitat type. Mitigation planting will take place to replace hedgerows and trees lost following completion of the construction works (see the General Landscape & Visual Mitigation measures set out at paragraph 1.5.1.4 of the updated OLBS).</p> <p>The Applicant's position with regard to the proposed biodiversity enhancements is also explained in detail in the Biodiversity Position Paper (REP1-138) which was submitted at Deadline 1. The Position Paper shows how the Proposed Development has taken opportunities to conserve and enhance biodiversity in line with National Planning Policy.</p> <p>Finally, as set out above, habitats lost during the construction stage would be reinstated within 12 months following completion of the works, as secured by Requirement 22 of the dDCO (REP1-021).</p>
Ec8	Comments raising concerns regarding the potential impact of increased traffic and pollution on local wildlife.	<p>Chapter 23 (Air Quality) (APP-138) and Chapter 16 (Onshore Ecology) (APP-131) of the 2019 ES assess the potential impacts arising from the Proposed Development upon air quality and the potential impacts from changes in air quality on onshore ecological features.</p> <p>Chapter 23 was subsequently revised and expanded, providing newly available detail on air quality changes associated with back-up diesel generators proposed to be located at the Lovedean Converter Station. The revised Chapter 23 was submitted at Deadline 1 (REP1-033). Further details of the assessment of potential effects on ecological features of such air quality changes are also set out within the Air Quality Ecological Impacts, submitted at Deadline 1 (REP1-077).</p> <p>Measures to mitigate the potential impacts on ecology are found within the Onshore Outline Construction Environmental Management Plan (REP1-087), including measures to prevent waterborne pollution and emission of dust, restriction of night-time working to avoid disturbance to bats and appointment of an Environmental Clerk</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
		<p>of Works to oversee the implementation of these measures and with the power to stop work and change site practices as required.</p> <p>As a result of securing the proposed mitigation measures (via Requirement 15 of the dDCO (REP1-021)) the air quality assessment process concluded that there would be no significant environmental effects on ecological features related to air quality as a result of the Proposed Development.</p>
Socio-Economics and Recreation		
SE1	<p>Comments raising concerns regarding potential impact to the Eastney Lake and Milton Piece Allotments, disturbance to access to allotments and damage to existing allotment structures.</p>	<p>The Applicant's has not identified any allotment plots that will be affected by the construction or operation of the Proposed Development</p> <p>The Applicant's proposal has always been to install cables under the allotments and Milton Locks Nature Reserve via horizontal directional drilling (HDD), which will take place between the car park located west of the Thatched House Pub and the grassed area east of Kingsley Road. The HDD approach allows cables to be installed deep underground with no impact at surface level. For more details regarding the HDD process and locations, please refer to the HDD Position Statement Note (REP1-132) submitted at Deadline 1.</p> <p>Whilst the Applicant is seeking access rights only over some existing paths and internal roads of the allotments site, these rights are only to allow for limited inspections during construction and operation of the Proposed Development. The access rights would not result in the loss of access for the users of the Allotments or result in the removal or destruction of any existing plots or structures. This has been clarified in the latest Land Plans (as shown on Land Plans Sheet 10 of 10 (REP1-011) submitted at Deadline 1).</p>
SE2	<p>Comments raising concerns regarding potential impact on Milton Common, Milton Locks, University playing fields, Farlington Marshes, Bransbury Park and a walking route referred to as "the Three Lakes". Comments also raising concerns regarding the loss of access to these green spaces for leisure, recreation and exercise.</p>	<p>Chapter 25 (Socio-economics) of the 2019 ES (APP-140) assesses the impacts of the Proposed Development upon recreational spaces. In addition, Chapter 26 (Human Health) of the 2019 ES (APP-141) covers the importance of greenspace to health and wellbeing (Section 26.5.3) and paragraphs 26.6.3.32 – 26.6.3.52 cover these effects arising from loss of greenspace.</p> <p>A Framework Management Plan for Recreational Impacts (submitted at Deadline 1(REP1-144)) also provides further information on predicted effects arising from the construction of the Proposed Development on key recreational assets. Specific mitigation (for example relocation of pitches) has been explored within the Plan, which is referenced at paragraph 6.2.9.9 of the Onshore Outline CEMP and would be adopted where necessary and practicable.</p> <p>It is set out within these documents that the Proposed Development and method of construction has been designed to avoid greenspaces and recreational facilities wherever possible. Paragraph 25.7.2.1 of Chapter 25 sets out mitigation embedded in the design of the Proposed Development which includes use of HDD to avoid Milton Locks Nature Reserve, Milton Allotments, Eastney Beach; in addition to routing the cable to avoid two of the cricket squares in Farlington Fields, Baffins Milton Rovers' main football pitch and Bransbury Park football pitch and skate park.</p> <p>Additional mitigation measures to reduce recreational impacts are set out in Section 5.13.4. of the Onshore Outline Construction Environmental Management Plan (REP1-087) and include providing information for users, signing alternative spaces, review of events programme and maintaining pitches as far as possible within the Order Limits. These mitigation measures will ensure that the appointed contractor installs the cable route in a manner that mitigates disruption to the use of recreational facilities within the Order Limits. The Onshore Outline</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
		<p>Construction Environmental Management Plan is secured by Requirement 15 of the dDCO (REP1-021), and ensures that areas of open space will be restored, as far as practicable, to the same condition as they were in prior to construction.</p>
Consultation		
Co1	<p>Comments objected to what was considered to be insufficient consultation and overly complicated details.</p>	<p>The Consultation Report (APP-025) provides the details of the pre-application consultation carried out by the Applicant in compliance with the requirements of the Planning Act 2008.</p> <p>The Applicant carried out two rounds of consultation before submission of the DCO application, including:</p> <ul style="list-style-type: none"> • one stage of non-statutory consultation carried out between January – February 2018; and • one stage of statutory consultation carried out between February – April 2019. <p>The Applicant disagrees strongly with the concerns raised by the landowners in relation to limited consultation and engagement. Indeed, the Applicant would contend that the opposite is the case as the Applicant's agent has provided regular and detailed updated updates to the landowners.</p> <p>The Applicant undertook close consultation with key stakeholders throughout the process, including on a one to one basis with the owners and occupiers of properties closest to the Proposed Development.</p> <p>The Applicant recognises that developments of this scale may have significant implications for local people, particularly those living close to the Order Limits. The Applicant has considered and reflected on all responses received from consultees, taking all individual views expressed about the Proposed Development carefully into account and has, where possible, adjusted plans to reflect their local knowledge of the area with consultation helping to shape and improve the proposals.</p> <p>The Applicant has endeavoured to present the project details as clearly and non-technically as possible, whilst ensuring compliance with the statutory requirements of the DCO process.</p>
Co2	<p>Comments raising concerns regarding the changes to the proposals and details, particularly with regards to the perceived inclusion of the Eastney Lake and Milton Piece Allotments at a later stage.</p>	<p>No changes to the Proposed Development have been made that result in any new location being introduced or installation methodology being used that would be different from those proposed during the consultation in 2019 or submitted in the DCO application. In fact, during the pause in the progression of the Examination of the DCO application as a result of the COVID-19 pandemic, the Applicant has continued in its efforts to engage with stakeholders and to take into account new information where available. In doing so, a focus has been on considering the options to reduce the cable corridor following the receipt of further feedback following the submission of the DCO application to ensure that the potential temporary impacts associated with the installation of the underground cables are minimised.</p> <p>As set out in Applicant's Covering Letter to the Deadline 1 submission (REP1-003), following submission of the Application in November 2019, the project team have been continuing engagement with stakeholders, considering and responding to the relevant representations submitted by interested parties and the written questions issued by the ExA. As a result of this exercise and the ongoing engagement, the project team have reviewed the Application and proposed changes to the Proposed Development.</p> <p>The changes have included submission of an Addendum to the Environmental Statement (ES) (REP1-139), which has been produced in response to the relevant representations received, updates where further information or data has been made available since submission of the Application, and in light of further assessment and</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
		<p>engagement carried out. Updates to the proposed mitigation and to the documents which secure the mitigations identified in the ES (including the Addendum to the ES) have also been submitted at Deadline 1.</p> <p>The Applicant has also made minor amendments to the proposed Order Limits. In particular, land has been removed, some rights sought over specific parcels of land have been amended and a small additional area of land is proposed to be added to the Order limits.</p> <p>With specific regards to the allotment sites, whilst the Applicant is seeking access rights over some existing paths and internal roads of the Eastney Lake and Milton Piece Allotments, these rights are only to allow for limited inspections during construction and operation of the Proposed Development. It is not intended that the access rights would result in the loss of access for the current users of the Allotments or result in the removal or destruction of any existing plots or structures. The Applicant refers to the amended Land Plans (in particular Sheet 10 of 10 (REP1-011) submitted at Deadline 1).</p> <p>As set out above, the Applicant's position regard the Eastney Lake and Milton Piece Allotments has not changed and no individual allotment plots will be affected by the construction or operation of the Proposed Development.</p>
Co3	<p>Comments raising concerns that public meetings cannot be held under current social-distancing restrictions and suggestion that decision should be detailed until restrictions are lifted.</p>	<p>As set out in the ExA's second Rule 6 Letter (PD-010) issued on 3 July 2020, the ExA is conscious of the continued threat of COVID-19 and the latest Government guidance and restrictions. Equally, the Government has made it clear that the consenting processes for national infrastructure projects, such as the Proposed Development, should progress. Taking these factors into account, the ExA made the procedural decision that all meetings and hearings can take place virtually, and procedures have been implemented to ensure that the Examination process can proceed safely.</p> <p>In the absence of any certainty around progress with the lifting of Government restrictions on public meetings relating to the COVID-19 pandemic, the ExA has decided, as a starting point, to assume that all meetings and hearings for the Examination will also need to be held virtually, and the Examination Timetable has been drafted on this basis. Should restrictions be relaxed sufficiently to hold future events in either a face-to-face or hybrid format, the ExA will publish further decisions on this, noting that the timetable is sufficiently flexible to accommodate a range of possible event formats.</p> <p>The Planning Inspectorate has also recently published Advice Note 8.6: Virtual Examination Events which helps to explain the process further.</p>
Landscape		
La1	<p>General comments raising concerns regarding the potential impact on local landscape and PRow.</p>	<p>A full assessment of the landscape and visual impacts of the Proposed Development is provided in Chapter 15 (Landscape and Visual) of the 2019 ES (APP-130) and a summary of the impacts as they relate to the Landscape and Visual Generic Impact as set out in National policy is provided in section 5.3.10 of the Planning Statement (APP-108).</p> <p>Overall, while it is acknowledged that the Proposed Development would result in adverse landscape / townscape and visual amenity effects during the Construction Stage, these have been mitigated as far as practicable, through measures embedded into the design of the Proposed Development, including the Landscape Design Principles set out at Section 6.2.3. of the Design and Access Statement (REP1-031), and through implementation of the Outline Landscape and Biodiversity Strategy (REP1-034) and Onshore Outline Construction Environmental</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
		<p>Management Plan (REP1-087) (both updated and submitted at Deadline 1 and secured by dDCO Requirements 7 and 15 respectively).</p> <p>During the operational stage, adverse effects related to the Converter Station Area and Landfall will occur in the short to medium term, but these will be reduced to non-significant once landscape mitigation in the form of planting matures. Specifically impacts on the National Plan resulting from the development of the Converter Station have been carefully considered, with the design and proposed landscape planting mitigating as far as reasonably practicable the landscape and visual amenity impacts.</p> <p>With specific regard to impacts on Public Rights of Way ('PRoW'), Chapter 25 (Socio-economics) of the ES (APP-140) reports the outcome of the assessment of effects arising from the Proposed Development upon socio-economic considerations, including disruption and changes in access and amenity value for users of recreational and open space, PRoW and cycle routes during operation.</p> <p>Chapter 25 states that, where intersected, PRoW and Long Distance Walking Routes in Portsmouth would be diverted (within the Order Limits) for up to four weeks, in a worst case scenario. The effect is therefore temporary and not assessed as significant. A Note on PRoW, Long Distance Walking Paths and Cycle Route Diversions has been appended to the ES Addendum (REP1-145) shows indicative diversion routes for affected PRoW in order to demonstrate minor extent of these diversions.</p>
La2	<p>Specific comments raising concerns the proposed landscaping mitigation at the Converter Station is inadequate and the Proposed Development would cause harm to the setting of the National Park and neighbouring properties.</p>	<p>The siting, design and mitigation of the Converter Station has been carefully considered to respond to the extensive engagement undertaken with the public, SDNPA and the relevant host local authorities. A series of the Landscape Design Principles which have been developed to mitigate the landscape and visual impacts of the Converter Station Area are set out at Section 6.2.3. of the Design and Access Statement (REP1-031) and secured by Requirement 6 of the dDCO (REP1-021). Embedded mitigation measures have been incorporated in the form of landscape planting throughout the proposed Converter Station Area. The mitigation design includes native mixed woodland, scrub, hedgerows and grassland plus the retention and management of existing hedgerows within the Order Limits. The siting of the proposed Converter Station which will be cut into a natural slope will reduce potential views taken from the surrounding area. The updated Outline Landscape and Biodiversity Strategy (REP1-034) (submitted at Deadline 1 and secured by Requirement 7 of the dDCO (REP1-021)) also specifies the landscape measures that would mitigate the effects and enhance the value of landscape and biodiversity features with management prescription with reference to monitoring, management responsibilities and review requirements.</p> <p>The residual impacts of the Converter Station on the National Park and local properties are not considered to be sufficient to justify withholding development consent, taking into account the need for the Proposed Development and the Proposed Development's compliance with National Policy for energy infrastructure. In relation to national policy and with particular regard to landscape impacts, whilst is acknowledged that that the Proposed Development will lead to impacts on the surrounding landscape, it is also acknowledged in the relevant national policy that virtually all nationally significant energy infrastructure projects will have effects on the landscape, by virtue of their size as a requirement of their function.</p>
Transport		
Ta1	<p>General comments raising concerns regarding the potential impact on traffic disruptions and</p>	<p>The Transport Assessment (Appendix 22.1 of the ES) (APP-448) assessed the impacts of the Proposed Development on the transport network. The effects of the Onshore Cable Corridor temporary works have been</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
	delays in Portsmouth and disruption to routes in Milton and routes to Lovedean.	<p>carefully considered and the changes to the operation of the highway network (both positive and negative) are temporary with the highway network returning to normal levels of operation following the completion of the works.</p> <p>A Supplementary Transport Assessment has been completed (and submitted at Deadline 1 as Appendix 11 to the ES Addendum (REP1-142)) in response to Relevant Representations and further discussions with PCC and HCC following the submission of the Application in November 2019. The assessments completed within the Supplementary Transport Assessment do not alter the findings of the original Transport Assessment.</p> <p>It is concluded in both Assessments that there will be localised areas on the highway network that experience an increase in traffic levels and associated congestion as a result of the construction of the Proposed Development, however, any impacts are temporary in nature and will be mitigated through measures set out within the Framework Traffic Management Strategy (REP1-068) and Framework Construction Traffic Management Plan (REP1-070) (which were both updated and submitted at Deadline 1 and are secured by dDCO Requirements 19 and 17 respectively).</p>
Ta2	Comments raising concerns regarding the potential impact on bus routes in Portsmouth and the potential impact this will have on traffic. Specific comments also raising concerns regarding the temporary closure of the Furze Lane bus link.	<p>Section 1.13 of the Transport Assessment (Appendix 22.1 of the ES) (APP-448) addresses the impacts on sustainable transport networks and Section 6 of the Supplementary Transport Assessment (submitted at Deadline 1 at Appendix 11 to the ES Addendum (REP1-142)) analyses bus journey times for a number of bus routes that may be affected by the construction of the Onshore Cable Route, following changes the Order Limits.</p> <p>It should be noted that the Order limits were updated at Deadline 1 as a result of further work carried out by the project team and, in the main, comprise the removal of options and land from the Order limits where it has been concluded it is no longer required for the construction or operation of the Proposed Development.</p> <p>As part of the updates to the Order limits, Furze Lane and the Furze Lane to Moorings Way bus link have been removed and it is proposed that the Onshore Cable Route will use the sports pitches on the Eastern side of the University Campus. As a result, there is no longer a requirement to temporarily close the Furze Lane bus link nor implement traffic management on the remainder of Furze Lane. This update is reflected in the updated Framework Traffic Management Strategy submitted at Deadline 1 (REP1-068).</p> <p>It should also be noted that the Applicant is continuing engagement with First Group and Stagecoach bus companies regarding the potential impacts to local bus services during construction of the Onshore Cable Route and the mitigation provided by the Framework Traffic Management Strategy. Overall the Applicant notes that all impacts on local bus services will be temporary.</p>
Ta3	Specific comments raising concerns regarding the potential traffic impact on Eastern Road.	<p>Part of the A2030 Eastern Road is within the Order Limits. The Applicant anticipates that the proposed works will cause some level of disruption and the impacts of construction along the Eastern Road have been fully assessed within Appendix 22.1 (Transport Assessment) of the ES (APP-448) and Supplementary Transport Assessment (submitted at Deadline 1 at Appendix 11 to the ES Addendum (REP1-142)). These documents provide results of junction capacity assessments along the cable route itself together with locations impacted by traffic redistribution on the wider network. This shows that whilst there will be an impact at some junctions, this will not be severe and will only be temporary in nature. The updated Framework Traffic Management Strategy (REP1-068) sets out an indicative programme to mitigate the impacts of these works where practicable. Both the indicative construction programme and Onshore Cable Corridor have been developed in consultation with Portsmouth City Council to take account of environmental constraints, public events, school terms and public holidays.</p>

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Ta4	Comments raising concerns regarding the loss of the car park at Fort Cumberland.	<p>The Fort Cumberland Road car park is currently utilised by users of the adjacent open space and can also be used to access Eastney Beach.</p> <p>During the construction stage of the Proposed Development, works at Fort Cumberland Road Car Park are anticipated to last up to 66 week. In addition, during the operational stage, up to two Optical Regeneration Station(s) ('ORS') would permanently occupy a small area within the Fort Cumberland Road Car Park but access to the majority of the car park would resume.</p> <p>An illustrative phasing plan of works at Fort Cumberland Car Park is provided at Appendix B of the Framework Management Plan for Recreational Impacts submitted at Deadline 1 (REP1-144). The illustrative phasing plan shows how some car parking provision may be retained throughout the construction of the Proposed Development. The Framework Management Plan for Recreational Impacts also provides information on predicted effects arising from the construction of the Proposed Development on key recreational assets, including the Fort Cumberland Road Car Park at Section 4.2.8, and outlines the mitigation measures proposed to address those effects.</p> <p>As set out in the Framework Management Plan for Recreational Impacts, an occupancy survey undertaken on August bank holiday 2020 showed a maximum occupancy of 44% capacity on the Saturday, 90% on the Sunday, and 69% on the bank holiday Monday. Whilst the current presence of COVID-19 may not be reflective of 'normal' conditions, a previous occupancy survey undertaken on a non-bank holiday Friday in August 2019 showed a maximum occupancy of 25%. During construction, alternative parking would be available on surrounding residential streets, including Ferry Road, Fort Cumberland Road, Gibraltar Road, Lumsden Road and Finch Road, all within 300 m of the car park.</p> <p>With regards to proposed mitigation, it is considered that post-construction resurfacing of the car park will provide a better surface for users, and white lining of spaces will encourage better use of space and overall capacity. The Applicant would either undertake this work or propose that PCC undertakes this work on the Applicant's behalf, with the Applicant covering the costs of works.</p> <p>Based on the above, the impacts during construction and operation on Fort Cumberland Road Car Park are assessed in Chapter 25 (Socio-economics) of the ES (APP-140) as not being significant.</p>
Ta5	A specific concern was raised regarding the potential impact on Yeo Court and access to houses on Godiva Lawn including waste collection services, deliveries and emergency vehicles.	<p>Part of the Yeo Court is within the Order Limits and where the Onshore Cable Route uses Yeo Court, a full road closure will be required for approximately one week per circuit (two weeks in total) to facilitate construction works as defined in Section 11.9 of the updated Framework Traffic Management Strategy (REP1-068). However, during this period, pedestrian and emergency access will be retained at all times to the rear of the Godiva Lawn even numbered properties, these being on the north western side of this route. This retained pedestrian access will also allow refuse collectors to collect wheelie bins by hand from Godiva Lawn and Yeo Court when required with the refuse vehicle waiting on Kingsley Road. The strategy for maintaining access to properties during the construction period is provided within Section 4 of the Onshore Cable Route Construction Impacts on Access to Properties and Car Parking and Communication Strategy included at Appendix 1 of the updated Framework Traffic Management Strategy.</p>
Ta6	Specific comments raising concerns regarding the potential traffic impact on Mary Rose Special Academy, Milton Park Primary School, Moorings	<p>A key aspect of the updated Framework Traffic Management Strategy (REP1-068) is the proposed programme for the construction of the Onshore Cable, which aims to mitigate the impacts of the works by taking account of key constraints and sensitive locations along the route. In relation to this, the Framework Traffic Management Strategy</p>

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	Way Infant School and Solent Infant and Junior schools.	<p>provides an indicative programme for construction that considers environmental constraints, major events likely to be planned during the Construction Stage, school term times and the interaction between adjacent or nearby locations to minimise the impact of the construction of the Onshore Cable Route in the highway.</p> <p>As set out at Section 2.11 of the updated Framework Traffic Management Strategy, construction of the Onshore Cable Route will take place during school holidays on links that contain schools or where they are located directly adjacent to the Onshore Cable Corridor. This includes the following links and schools:</p> <ul style="list-style-type: none"> • Solent Junior School on Solent Road and Solent Infant School on Eveleigh Road, adjacent to Farlington Avenue; and • Mooring Way Infant School, Moorings Way. <p>Consideration has also be given to schools located close to the Onshore Cable Corridor, given the potential wider re-distribution impact of the construction works.</p>
Ta7	Comments raising concerns regarding the cumulative impact of the Proposed Development and other construction works will have on local traffic.	<p>A full assessment of the traffic and transport impacts of the Proposed Development is provided in Chapter 22 (Traffic and Transport) of the 2019 ES (APP-137) and an assessment of the cumulative transport impacts of other identified developments in combination with the Proposed Development is provided in Section 22.7.</p> <p>Since the submission of the Application in November 2019, applications for a number of developments have been submitted which are relevant and require consideration within the cumulative effects assessment. An addendum has therefore been produced to capture and assess schemes submitted between submission of the Application and the end of May 2020. The updated cumulative effects assessment is provided in Chapter 20 of the ES Addendum (submitted at Deadline 1) (REP1-139).</p> <p>As set out in Chapter 22 and subsequently reconfirmed in the ES Addendum no significant cumulative traffic and transport effects have been identified.</p>
Ta8	Comments raising concerns regarding the impact of the proposed "clean air zone" and the loss of access to the M275 as an alternative route.	<p>Please refer to the Applicant's response to Written Question ExQ1 AQ1.2.4 submitted at Deadline 1 (REP1-091), which is considered to demonstrate that the Proposed Development has no material impact in terms of potential delay to compliance with the Ministerial Direction for a Class B Clean Air Zone to be operational from November 2021. A more detailed description of these aspects is included in the revised Chapter 23 (Air Quality) of the ES (REP1-033) which has been submitted at Deadline 1.</p>
Noise and Vibration		
NV1	General comments raising concerns regarding the potential noise impact of the construction and operation of the Proposed Development.	<p>An assessment of potential noise and vibration impacts has been undertaken by the Applicant and set out in Chapter 24 (Noise and Vibration) of the 2019 ES (APP-139).</p> <p>The ES Addendum submitted at Deadline 1 (REP1-139) also contains updated and supplementary information in relation to the noise and vibration assessment, which is required following consultation with the Local Planning Authorities and updated assumptions for the Onshore Cable Route construction installation rates.</p> <p>A range of embedded mitigation including best practice measures and those specific to individual construction activities have been included in the Proposed Development. For example, 2 m high site hoarding on the perimeter of some construction compounds to assist in minimising noise levels. Additional construction stage mitigation, such as consideration of programme changes to reduce residents' noise exposure, is also specified for some</p>

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		<p>areas of construction where work is being undertaken during sensitive periods and/or very close to sensitive receptors.</p> <p>Mitigation measures are also embedded into the design of the Converter Station to reduce noise levels during its operation.</p> <p>It is acknowledged that significant adverse effects are anticipated in some areas where weekend daytime and limited weekend night-time activities will be necessary during construction of the Proposed Development. However, the out-of-hours working is necessary to minimise traffic impacts resulting from road closures which are required to complete the works. It is not possible for the road closures to be implemented during the day due to predicted significant traffic impacts on the surrounding road network. In addition, the significant adverse effects would only take place during the construction stage and would short-term and temporary in nature.</p> <p>No other significant effects are anticipated relating to noise and vibration of the Proposed Development.</p>
NV2	General comments raising concerns regarding the potential impact of increased traffic noise.	<p>Noise effects on receptors in proximity to the surrounding road network resulting from construction vehicles and redistribution of traffic from road/lane closures during construction has been fully assessed in Chapter 24 (Noise and Vibration) of the 2019 ES (APP-139).</p> <p>The predicted impacts for the construction stage road traffic noise assessment are summarised in Section 24.6.13 of Chapter 24 and the ES concludes that the construction traffic noise effects will not be significant.</p>
NV3	Comments raising concerns regarding the potential impact of construction works on foundations and structure of residential dwellings.	<p>The predicted noise and vibration impacts during the construction stage of the Proposed Development are identified in Section 24.6 to 24.9 of Chapter 24 (Noise and Vibration) of the ES (APP-139). With respect to the impact of vibration from construction works on buildings, the levels of vibration predicted as part of the noise and vibration assessment are not of sufficient magnitude to cause building damage.</p>
NV4	Comments raising concerns that two mobile homes situated within 300 metres to the west of the proposed Converter Station were not identified as a key environmental receptors.	<p>As part of the land referencing process for the Proposed Development, the Applicant sent the landowner a Land Interest Questionnaire (LIQ) requesting details about their property, including any third-party interests, on 06 November 2018. No response was received from the Landowner.</p> <p>A Confirmation Schedule to confirm the information the Applicant held in relation to the landowner's property is correct and to identify any other people who may have interests in the land so that the Applicant may contact them regarding the proposals, was subsequently sent to the Landowner on 02 October 2019. No response was received from the Landowner.</p> <p>The Applicant notes that the relevant representation made by Blake Morgan LLP on behalf of Mr. Jefferies (RR-067) received by PINS on 17 February 2020 identified part of the property is let to a tenant who runs a horse livery business. The Applicant requested details of the tenancy from the Landowner's agent on 10 March 2020 to enable it to be assessed (i.e. type of tenancy, the parties, rent passing, term etc.) and, if necessary, reflected in the Book of Reference but a response was not forthcoming. The relevant representation made no mention of the two mobile homes in question.</p> <p>It should also be noted that in most cases when landowners do not return LIQs or Confirmation Schedules it is possible to use aerial photography to make an informed judgement of caravans or mobile homes or similar that may be present on land. Unfortunately the landowner's property contains a significant number of cars and larger vehicles in various states of repair which makes such an assessment difficult. Furthermore it is well screened from</p>

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		the public highway by existing hedgerows and gates which doesn't afford the ability to undertake a visual inspection.
Alternatives		
AI1	Objections raised regarding the assessment of alternative routes for the Onshore Cable Corridor and general comments that less harmful alternative routes are considered to exist.	<p>Chapter 3 (Description of the Proposed Development) of the 2019 ES (APP-118) provides a detailed description of the Onshore Cable Corridor and the proposed changes to the Order limits made at Deadline 1, including the removal of the Furze Lane and the Furze Lane to Moorings Way bus link, are described in the Position Statement in relation to the refinement of the Order Limits submitted at Deadline 1(REP1-133)</p> <p>Chapter 2 (Consideration of Alternatives) of the 2019 ES (APP-117) and the Supplementary Alternatives Chapter submitted at Deadline 1 as Appendix 3 of the ES Addendum (REP1-152) explains the reasonable alternatives considered for the Onshore Cable Corridor and the reasons for the selection of the preferred option.</p> <p>Following an extensive review of the available options for the Proposed Development, Consideration of Alternatives Chapter and the Supplementary Alternatives Chapter concludes that the Applicant has thoroughly considered and balanced the relevant considerations in relation to the alternatives studied, guided by the relevant policy requirements provided for by National policy and guidance in relation to the compulsory acquisition of land, and has reached reasonable and logical conclusions. Whilst there is no requirement for an applicant to demonstrate that a proposed project represents the best option from the alternatives which were studied, it is the view of the Applicant that when balancing all relevant considerations in relation to the reasonable alternatives, it has selected an optimal final option for the Proposed Development.</p>
AI2	<p>Written Representations suggested the following specific alternative options and routes:</p> <ul style="list-style-type: none"> • Utilising Langstone Harbour to route the submarine cables onto the mainland; • Making landfall at Hayling and connection to the Hayling Billy Line; • Making landfall further north at Porchester or Farlington. • Laying the cable in the rural land to the east of Portsmouth. 	<p>Chapter 2 (Consideration of Alternatives) of the 2019 ES (APP-117) and the Supplementary Alternatives Chapter submitted at Deadline 1 at Appendix 3 of the Environmental Statement Addendum (REP1-152) explains the alternatives considered for the Onshore Cable Corridor and the reasons for the selection of the preferred option.</p> <p>The Applicant's assessment of the suggested alternatives are set out in the following locations within the Application:</p> <ul style="list-style-type: none"> • Utilising Langstone Harbour / Hayling Island – Section 6 of the Supplementary Alternatives Chapter (REP1-152); • Fixing the cables to the former Hayling Billy Line – Section 6.3.3. of the Supplementary Alternatives Chapter (REP1-152); • Alternative landfalls (including Porchester or Farlington) - Section 6 of the Supplementary Alternatives Chapter (REP1-152); Paragraphs 2.4.3, 2.4.7, 2.4.9, and 2.4.14 of Chapter 2 of the 2019 ES (APP-117); and Appendix 2.2 (APP-351) and Appendix 2.3 (APP-352) to the 2019 ES. • Rural land to the east of Portsmouth - Section 7 of the Supplementary Alternatives Chapter (REP1-152). <p>With regards to the suggested alternative which would require utilising Langstone Harbour and Hayling Island, as set out at paragraph 6.4.1.1 of the Supplementary Alternatives Chapter, multiple alternative options were considered by the Applicant to utilise Langstone Harbour and Hayling Island to route the submarine cables onto the mainland. However for the reasons set out in Section 6 of the Supplementary Alternatives Chapter those options were not feasible from an engineering perspective and would have prevented the development from coming forward, carried too high a level of risk in various respects, and/or were considered likely to result in</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
		<p>adverse impacts to the surrounding sensitive and heavily designated environment. For those reasons the option of routing the cables via those options were discounted by the Applicant.</p> <p>The rural land to the east of Portsmouth was previously investigated as a potential location for the landfall and onshore cable corridor. The potential alternative route in this area is referred to as 'Route 1D' in the Supplementary Alternatives Chapter (REP1-152) and Section 7 summarises the assessment of the route and the reasons why it was discounted.</p>
AI3	Objection to the route disrupting the Eastney Lake and Milton Piece Allotments.	As set out above, the Applicant's proposal has always been to install cables under the allotments and Milton Locks Nature Reserve via horizontal directional drilling (HDD), which will take place between the car park located west of the Thatched House Pub and the grassed area east of Kingsley Road. The HDD approach allows cables to be installed deep underground with no impact at surface level. For more details regarding the HDD process and locations, please refer to the HDD Position Statement Note (REP1-132) submitted at Deadline 1.
AI4	Suggestion to use overhead rather than underground cables.	As identified in section 2.4.1 of Chapter 2 (Consideration of Alternatives) of the 2019 ES (APP-117), the Applicant made an early strategic decision to underground the cables to avoid the permanent significant adverse landscape and visual impacts associated with overhead lines.
Ground Conditions		
GC1	Comments raising concerns regarding the potential impact on ground conditions and contamination at Milton Common.	<p>Chapter 18 (Ground Conditions) of the ES (APP-133) reports the outcome of the environmental assessment of likely effects arising from the Proposed Development upon ground conditions, including the potential for disturbance of existing contaminated land associated with the construction, operational and decommissioning stages of the Proposed Development.</p> <p>A detailed summary of the baseline ground conditions and sensitivity at Milton Common is set out at paragraphs 18.5.4.90. - 18.5.4.105 of ES Chapter 18 (APP-133).</p> <p>The mitigation measures specifically required for works through Milton Common are outlined in Section 6.10.2. and measures for the management of waste are outlined in Section 5.14 of the updated Onshore Outline Construction Environmental Management Plan (REP1-087), compliance with which is secured by Requirement 15 of the dDCO (REP1-021). Excavation of the made ground, ground gas and contamination during construction would be managed to standard brownfield construction working procedures and exporting and disposal of contaminated material would be conducted to industry standard procedures. Approved methods will be adhered to during construction to mitigate and manage the creation of potential contamination pathways.</p> <p>The ground investigations findings, coupled with the assessments of EIA specialists, support the feasibility of the project for successful construction, operation and decommissioning at Milton Common with no significant adverse effects on human health, the water environment or biodiversity.</p>
GC2	Comments raising concerns the Environmental Statement identifies that in relation to Stoneacre Copse, increases in pollutants such as dust and chemicals in waterborne run-off, could lead to effects during construction. However, these effects are not described.	<p>Following submission of the Application, the assessment provided by Chapter 23 (Air Quality) has been revised and expanded, providing newly available detail on air quality changes associated with back-up diesel generators proposed to be located at the Converter Station.</p> <p>Additional modelling at the ancient woodland sites adjacent to the Order Limits at the Converter Station, including Stoneacre Copse, was also undertaken for NOX concentrations, nutrient N deposition and N acid deposition.</p>

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		<p>With the new detail available in the updated ES Chapter 23 (REP1-033) to include operational air quality changes as a result of the back-up generators, reconsideration of Operational Stage impacts on ecological features, including Stoneacre Copse, has been undertaken.</p> <p>This is reflected in Table 23.116 of the updated ES Chapter 23 (REP1-033) and Appendix 23.7 (Air Quality Ecological Impacts) (REP1-077).</p>
GC3	<p>Comments raising concerns that there is no obligation for the Promoter to remediate contamination caused by the works to land outside the Order Limits.</p>	<p>Where contamination is identified within the Order Limits this will be remediated under Requirement 13 of the DCO (REP1-021)</p> <p>Mitigation measures will be in place to prevent the mobilisation of contamination during the construction phase within the order limits and therefore contamination spreading to areas outside of the Order Limits is highly unlikely. Mitigation measures are contained in Section 5.5 and Section 6.9.2 of the updated Onshore Outline CEMP (REP1-087 and 088).</p>
Lighting		
Li1	<p>Comments raising concerns that Requirement 23 of the draft DCO allows external lighting during exceptional circumstances, but there is no definition of exceptional circumstances.</p>	<p>As set out within Requirement 23 of the dDCO (REP1-021), "exceptional circumstances" included cases of emergency and where urgent maintenance is required.</p>
Li2	<p>There is a request for a Requirement securing the submission of an external lighting strategy for operational purposes to the relevant local planning authority.</p>	<p>The Applicant has provided further information on lighting as part of Deadline 1. Details are provided at Section 5.2.2. of the updated Onshore Outline Construction Environmental Management Plan (REP1-087) and paragraph 5.2.2.1 requires that the appointed contractor will develop a Lighting Scheme for the Construction and Operational Stages of the Converter Station Area. The submission and approval of a Lighting Scheme, as part of the Construction Environmental Management Plan of the Converter Station Area, is therefore secured by Requirement 15 of the dDCO (REP1-021).</p>
Project Financing / Viability		
PF1	<p>Comments raising concerns regarding a perceived lack of indemnity and financial information about the project funding.</p>	<p>The Funding Statement (APP-023) explains how the Proposed Development would be funded, including the funding of any land to be purchased through compulsory acquisition. The Funding Statement explains that whilst the Project does not have the benefit of full funding at this stage, this is not unusual for a project where the securing of funding is dependent on the securing of a development consent order. It is not anticipated that there will be any funding shortfalls for the Project in terms its principal project cost financing or land acquisition at the time of when such finance is required.</p> <p>In addition, please refer to the Applicant's response to Written Question ExQ1 (REP1-091) CA1.3.1, to which it is considered the Applicant has demonstrated that funding for the Project is likely to be available to enable the compulsory acquisition within the 7-year period provided for in the dDCO (REP1-021) for the exercise of such powers following the Order being made.</p>
Human Health		

Aquind Reference	Summary of Written Representation	Applicant's Response
HH2	Comments raising concerns regarding the potential electromagnetic field (EMF) impact of the Proposed Development on medical equipment and risk of cancer.	<p>Appendix 3.7 (Onshore Electric and Magnetic Field Report) of the ES (APP-361) provides an assessment of the electromagnetic field (EMF) due to the Proposed Development. This report concluded that:</p> <ul style="list-style-type: none"> • Due to the earthed shielding of the HVAC Cables and HVDC Cables there will be no electric field present along the Onshore Cable Route; • The HVAC and HVDC Onshore Cables are laid in agricultural land and along public highways, and the magnetic field strength is well below the guidelines and reduces rapidly with distance from the Onshore Cables; and • There will be no AC electric field outside of the Converter Station due to the earthed perimeter fence. <p>Public Health England (PHE) have responded to the Application through a Relevant Representation confirming that they are satisfied with the methodology used to undertake the environmental assessment. PHE agreed that the potential impacts of the static and alternating electric and magnetic fields associated with the onshore electricity infrastructure have been considered and satisfactorily addressed; and that they are satisfied that, based on the submitted documentation and suggested control/mitigation measures, the development is unlikely to present a significant risk to public health (see Section 4.17 Public Health England (RR-065)).</p> <p>Health evidence on EMF used in the Human Health assessment (including consideration of health evidence on EMF and children) is summarised within Chapter 26 (Human Health) of the ES (APP-141), Section 25.5.8.</p>
Heritage and Archaeology		
HA1	Specific comments raising concerns that the buried remains of the Portsmouth to Arundel Canal (at lot 10-14 of the Land Plans Sheet 10) was overlooked and not included in the Heritage and Archaeology assessment. Concerns are raised that the proposed HHD near this location may destroy the remains of the historic feature.	<p>The route of the former early 19th century Portsmouth to Arundel Canal lies within Section 9 of the Order Limits, outside of Plot 10-14 of the Land Plans Sheet 10. The canal is identified as a potential undesignated heritage asset in paragraph 21.5.10.4 Chapter 21 of the ES (APP-136).</p> <p>Potential construction stage effects on possible archaeological remains have been identified and reported in Chapter 21 (Heritage and Archaeology) of the ES (APP-136). A strategy has been agreed with the Hampshire County Council Archaeological Advisor (as advisor to PCC), that evaluation within brownfield areas will be carried out, where appropriate, to clarify the presence, nature, date and significance of any archaeological remains that may be present. This will inform a suitable mitigation strategy, which would be outlined in a Written Scheme of Investigation in accordance with Requirement 14 Archaeology, of the draft DCO which requires details to be submitted and approved by the relevant planning authority.</p> <p>Although it is currently uncertain whether any below ground archaeological remains relating to the canal survive within the Order limits, based on the localised and likely shallow disturbance in this area which will comprise cable trench installation, a programme of archaeological mitigation in the form of a watching brief during construction is considered appropriate to mitigate any impact to potential archaeological remains. Although associated remains relating to the canal may survive in the surrounding area, proposed Horizontal Directional Drilling (HDD) is proposed to at a depth between 7.0–10.0mbgl, highly likely to be of a sufficient depth below any potential below ground archaeological remains.</p>
Needs and Benefits		
NB1	Comments raising general questions regarding the need for the Proposed Development and	The Needs and Benefits Report (APP-115) sets out the established need for greater interconnection (Section 2.2) and the specific role of the Proposed Development in resolving the “energy trilemma” of affordability, security and

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	whether alternative energy sources should be given priority, such as wind and solar energy.	<p>decarbonisation of energy supply (Section 2.3). This is set within the context of UK Government Policy for Nationally Significant Infrastructure Projects, the support for more electricity interconnector projects in other Government statements, the prevailing climate change targets, the European policy context and the potential Brexit implications. The Needs and Benefits Report also identified the wider benefits of AQUIND Interconnector in relation to ancillary services, tax revenue, new employment opportunities and wider economic activity (Section 2.4).</p> <p>An Addendum to the Needs and Benefits Report was also submitted at Deadline 1 (REP1-136). It serves to provide an update on available data, analysis and publications since the original report was prepared and to summarise the compelling case in the national interest for the Proposed Development.</p> <p>The Needs and Benefits Report (and Addendum) conclude that the Proposed Devotement would deliver substantial socio-economic and environmental benefits on a national scale by delivering energy security, integrating of renewable energy sources, providing consumer benefits and contributing to major investment into UK infrastructure. The project will also deliver local and regional benefits through employment generation, spending and business rate generation.</p>
NB2	Comments questioned if British dependence on importing energy from Europe could impede progress towards targets for provision of renewable and sustainable energy.	<p>As set out within the Needs and Benefits Report (APP-115), the merits of additional interconnection between Great Britain and France have been recognised in independent analysis published by National Grid and Office of Gas and Electricity Markets.</p> <p>The Proposed Development would facilitate both the import and export of energy between France and Great Britain depending on supply and demand in the two countries. Great Britain is currently a net importer from France given the higher wholesale prices in the UK, and it is expected to continue being a net importer in the future. However, at times of very high renewable energy generation in Great Britain, UK can export the excess renewables generation to France.</p> <p>In this way interconnectors help to support integration of renewables and contributing to CO2 reductions. Renewable energy generation sources including wind and solar are intermittent in nature. Where conditions are good in one place, they may be poor in another. Interconnectors enable electricity to be moved efficiently from where it is abundant to where additional supplies are needed. It helps avoid instances of curtailment of renewable generation in the region with surplus generation and reduces reliance on fossil fuel flexibility power plants in the regions with insufficient supply. The contribution that the Proposed Development can make in facilitating a transition to more renewable energy is specifically recognised in the Relevant Representation response from Havant Friends of the Earth [RR057]. By facilitating better integration of renewable sources, the Proposed Development will also help to achieve national decarbonisation targets in both countries by contributing to CO2 emissions reductions. It is also expected that the interconnectors will play a major role in achieving the Net Zero 2050 targets as the Government formulates strategies of achieving those targets. The Proposed Development is estimated to lead to a net reduction in emissions of approximately 1.53m tCO2e over its operational lifespan.</p>
Cumulative Impacts		
CI1	Comments raising concerns regarding the cumulative impact of the Proposed Development and other proposals, including at the former St James Hospital, Locksway Road, Southsea.	Each of the individual ES chapters presents a cumulative effects assessment relevant to each topic and Chapter 29 (Cumulative Effects) of the 2019 ES (APP-144) present a more complete overview of the likely significant cumulative effects that may arise from the construction, operation and decommissioning of the Proposed Development.

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		<p>Since the submission of the Application in November 2019, applications for a number of developments have been submitted which are relevant and require consideration within the cumulative effects assessment. An addendum has therefore been produced to capture and assess schemes submitted between submission of the Application and the end of May 2020. The updated cumulative effects assessment is provided in Chapter 20 of the ES Addendum (submitted at Deadline 1) (REP1-139).</p> <p>The conclusions of the cumulative effects assessment are set out at Section 29.10 of ES Chapter 29 (APP-144) and Section 20.2.6 of the ES Addendum.</p> <p>For the Marine Components of the Proposed Development (ES Chapters 6 – 14), no significant residual cumulative effects were predicted to result from the cumulative contribution of impacts from the Proposed Development with other projects.</p> <p>For the onshore components of the Proposed Development (Chapters 15 – 26) and those Chapters which consider both onshore and marine (Chapters 27 and 28), some significant residual cumulative effects were predicted to result from the cumulative contribution of impacts from the Proposed Development with other projects for onshore ecology, landscape and visual amenity and waste and material resources.</p> <p>The application to redevelopment the former St James' Hospital has been identified by the Applicant (as ID 78) and assessed as part of the updated cumulative effects assessment in the ES Addendum. Further details are also provided in the Cumulative Effects Assessment Matrices found at Appendix 15 and 16 ES Addendum (REP1-146 & REP1-147).</p>
Flood Risk		
FR1	Comments raising concerns regarding impact on coastal defences at Milton Common and Eastney beach.	<p>As set out at paragraph 20.7.5.6. of Chapter 20 (Surface Water Resources and Flood Risk) of the 2019 ES (APP-135), works within the Onshore Cable Corridor adjacent to the coastal flood defences have been developed alongside consultation with East Solent Coastal Partnership where it has been agreed in principle that the design of the Proposed Development will avoid works to existing or proposed coastal flood defence alignments. Furthermore, the proposed HDD under Broom Channel (Langstone Harbour HDD-3) is proposed to pass below or avoid any sheet piling associated to the coastal flood defence.</p>
Marine		
Ma1	A comment raised concerns that the Proposed Development would inconvenience shipping and disturb the Solent Marine Conservation Zone which is designated to preserve rare and threatened habitats and marine species.	<p>The potential impacts on shipping and navigation as a result of the Proposed Development have been assessed in Chapter 13 (Shipping, Navigation and Other Marine Users) of the ES (APP-128) and Appendix 13.1 (Navigation Risk Assessment) of the ES (APP-393). Supplementary information is also presented within Section 8 of the ES Addendum (REP1-139). The assessment concludes that effects resulting from the Proposed Development will not be significant and with mitigation measures in place, the risk to shipping and navigation will be as low as reasonably practicable.</p> <p>The assessments and their conclusions have been consulted on with the Maritime and Coastguard Agency, Trinity House, Dover Straits TSS User Group, NAB VTS User Group, QHM Portsmouth, Langstone Harbour and ABP Southampton. In addition, consultation has also been undertaken with the Royal Yachting Association, the Cruising Association as well as many other harbours, sailing clubs, angling groups and commercial fishermen</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
		<p>within the area. An agreed Statement of Common Ground between the Applicant and the Maritime and Coastguard Agency has also been submitted to the Planning Inspectorate (REP1-111).</p> <p>Potential impacts on marine ecology and the marine environment as a result of the Proposed Development have been fully assessed in Chapters 6 – 14 of the ES submitted with the Application (APP-121 - APP-129). Supplementary information has been presented in the ES Addendum (REP1-139) in regard to benthic ecology and fish and shellfish. In addition, impacts on marine protected areas have been assessed in the Habitats Regulations Assessment Report (HRA) (REP1-081)) and Appendix 8.5 (Marine Conservation Zone Assessment) of the ES (APP-381) also submitted as part of the Application. The ES assessments undertaken have concluded that no significant effects on marine ecology or the marine environment are likely to occur as a result of the Proposed Development alone or with other relevant projects or plans. Similarly, the HRA concludes that there will be no adverse effect to any of the marine protected sites assessed (which includes amongst others, the Solent Maritime Special Conservation Area). The Statement of Common Ground between the Applicant, Natural England and Joint Nature Conservation Committee (REP1-106) submitted to the Planning Inspectorate supports these findings as both Natural England and Joint Nature Conservation Committee are in agreement with the conclusions.</p>
<p>Compulsory Acquisition</p> <p>Detailed comments have been raised in relation to the compulsory acquisition powers sought by the Applicant. Given the detailed nature of the comments, the Applicant has not sought to summarised or group these comments. The relevant quote from the Deadline 1 submission documents and Examination Library reference numbers are provided in this section for the aid of the ExA and respondents' review.</p>		
<p>CA1</p>	<p>(REP1-233) - "It is not necessary for the Promoter to seek compulsory acquisition powers to acquire our Clients' freehold interest over the entirety of Plot number 1-32. The majority of Plot 1-32 is to be landscaped and used as an access road. Compulsory acquisition powers to create new landscaping rights and new access rights would be more appropriate. We request that the power to compulsorily acquire the freehold interest in Plot 1-32 be reduced so that it only covers the footprint of the proposed Converter Station. We also request that the remainder of Plot 1-32 that is to be landscaped be made subject to new permanent landscaping rights. The part of Plot 1-32 where the new access road is proposed should instead be subject to new access rights. We also request any related amendments be made to the Book of Reference and the Land Plans." (para 2.1)</p>	<p>The Applicant's Proposed Development has been deemed to be Nationally Significant Infrastructure and will be capable of meeting GB energy objectives along with numerous other benefits as set out in the Needs and Benefits Report (APP-115) and the Needs and Benefits Addendum - Rev 001 (REP1-135).</p> <p>Plot 1-32, together with Plots 1-20, 1-23 and 1-29 will accommodate the Converter Station, the Telecommunications Buildings, two attenuation ponds, the Access Road and significant areas of landscaping. These are shown on the Indicative Landscape Mitigation Plans for Option B(i) (APP-281) and B(ii) (REP1-137).</p> <p>Notwithstanding that any third party rights over these areas would be significantly constrained by the presence of operational assets and landscaping, the Applicant considers it is necessary to acquire the freehold of the entirety of these areas to prevent third party access for safety and security related reasons during the construction and operation of the Proposed Development.</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
<p>CA2</p>	<p>(REP1-235) – “Most of Plot 1-23 is occupied by part of a moto-cross circuit which is let. Should the freehold interest in Plot 1-23 be compulsorily acquired this could lead to the loss of the circuit and loss of rental income.</p> <p>There is no need for the Promoter to compulsorily acquire the freehold interest over the entirety of Plot 1-23:</p> <ul style="list-style-type: none"> Under Option B(i) for the Converter Station, only part of the Station's footprint and embankment works is located on Plot 1-23. Under option B(ii), none of the Station's footprint, nor embankment works will be located on Plot 1-23. The Promoter however intends to permanently acquire the same area irrespective of which option is chosen; Under Option B(i) some of the land will remain as "existing recreation area" and some is proposed as scrub. No reason is given as to why this needs to be permanently compulsorily acquired; and Most of Plot 1-23 is only to be landscaped. Landscaping rights would be more appropriate, as they would be supplemented by Articles 23, 30 and 32 of the draft DCO, the fact that landscaping management activities need only be carried out once or twice a year, and because the Outline Landscape and Biodiversity Strategy provides that local farmers would be responsible for implementing parts of the detailed landscaping strategy. <p>It is requested that the compulsory acquisition power relating to Plot 1-23 is subject to alternative options depending on whether Option B(i) or Option B(ii) is chosen, the Plot is reduced so that it only covers the footprint of the Converter Station falling within Plot 1-23 and that the Book of Reference and Land Plans be amended so that none of our Clients' freehold interest is subject to powers of permanent compulsory acquisition should Option B(ii) be selected.” (paras 2.1 – 2.3)</p>	<p>As part of the land referencing process for the Proposed Development, the Applicant sent the landowner a Land Interest Questionnaire (LIQ) requesting details about their property, including any third-party interests, on 06 November 2018. No response was received from the Landowner.</p> <p>A Confirmation Schedule to confirm the information the Applicant held in relation to the landowner's property is correct and to identify any other people who may have interests in the land so that the Applicant may contact them regarding the proposals, was subsequently sent to the Landowner on 02 October 2019. The Confirmation Schedule set out that the Applicant did not have any knowledge of third-party interests. The Landowner responded with a signed and dated (08 October 2019) confirmation that 'the interests set out in the schedule(s) and attached plan(s), as amended if necessary, are complete and accurate to the best of my knowledge'. As such the Applicant is surprised that the Landowner is now raising the issues of a third-party interest in their land.</p> <p>The Applicant also notes that the relevant representation made by Blake Morgan LLP on behalf of The Owners of Hillcrest (RR-070) received by PINS on 17 February 2020 did not raise any details of a third-party interest in relation to the moto-cross circuit.</p> <p>The Applicant has not been able to find any information in relation to planning permission for the moto-cross track prior to or subsequent to its significant extension in recent years and will liaise with the Landowner's representatives to seek such information, along with details about the tenancy to enable it to be assessed (i.e. type of tenancy, the parties, rent passing, term etc.) and, if necessary, reflected in the Book of Reference.</p> <p>In relation the point raised with regards to the Landowner's proposed acquisition of the freehold interest over the entirety of Plot 1-23, the Applicant's Proposed Development has been deemed to be Nationally Significant Infrastructure and will be capable of delivering 5% of the UK's electricity requirements along with numerous other benefits as set out in the Needs and Benefits Report (APP-115) and the Needs and Benefits Addendum (REP1-135).</p> <p>Plot 1-23, together with Plots 1-20, 1-29 and 1-32 will accommodate the Converter Station, the Telecommunications Buildings, two attenuation ponds, the Access Road and significant areas of landscaping. These are shown on the Indicative Landscape Mitigation Plans for Option B(i) (APP-281) and B(ii) (REP1-137). The landscaping measures proposed in these areas reflect extensive engagement with and feedback received from Statutory Consultees such as Winchester City Council and South Downs National Park Authority regarding concerns over loss of vegetation in this area and the Applicant's proposals will significantly strengthen the landscape features in this area, providing an important visual screening function, as well as provide biodiversity enhancements, to address the feedback received.</p> <p>Any third party rights over these areas would be significantly constrained by the potential presence of the Converter Station Site (for Option B(i)) and the landscaping which is to be located on this land in the event of either option, meaning access and enjoyment of the land will not be possible (for both options) once the landscaping to be provided in connection with the proposals is in situ. It is therefore not considered that the acquisition of landscaping rights only over these areas (noting that landscaping rights are proposed over existing landscaping rather than landscaping which is to be provided in connection with the Proposed Development) would be appropriate, as the land in its current form would no longer be of practical use save for serving its landscaping function in connection with the Proposed Development. Furthermore, it is necessary to acquire the freehold of the entirety of these areas in much closer proximity to the Converter Station to prevent third party access for safety and security related reasons during the construction and operation of the Proposed Development.</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
		<p>With regards to the comments that 'landscaping management activities need only be carried out once or twice a year' and 'the Outline Landscape and Biodiversity Strategy provides that local farmers would be responsible for implementing parts of the detailed landscaping strategy', the Applicant will undertake landscaping management activities on an as and when required basis and Section 1.8.3.2 of the updated Outline Landscape and Biodiversity Strategy (REP1-034) sets out that the Applicant has had discussions with a local farmer who operates an agricultural contracting business and has shown an interest in working with the Applicant as the scheme develops, but not that it will necessarily be the case this person does manage the landscaping. The Applicant will deliver its management and maintenance requirements with suitably qualified and experienced contractors and consultants. The Applicant does not consider this point relevant to the preceding points about compulsory acquisition.</p>
<p>CA3</p>	<p>(REP1-240) – “Most of Plot 1-29 is let to [REDACTED], on which she operates a horse livery business. Her business also uses the paddocks and riding arena, and the field for grazing. The compulsory acquisition of Plot 1-29 would reduce the viability of [REDACTED] business and in turn our Client's.</p> <p>There is no need to compulsorily acquire the freehold interest over the entirety of Plot 1-29:</p> <ul style="list-style-type: none"> • Under Option B(i) for the Converter Station, only part of the Converter Station footprint is located on Plot 1-29. Under option B(ii), none of the footprint will be located on Plot 1-29. The Promoter however intends to permanently acquire the same sized area irrespective of which option is chosen; • Within Option B(i), some of the land will remain as "existing pasture". No reason is given as to why this needs to be permanently compulsorily acquired; and • Most of Plot 1-29 is only to be landscaped. Landscaping rights would be more appropriate, as they would be supplemented by Articles 23, 30 and 32 of the draft DCO, the fact that landscaping management activities need only be carried out once or twice a year, and because the Outline Landscape and Biodiversity Strategy provides that local farmers would be responsible for implementing parts of the detailed landscaping strategy. 	<p>As part of the land referencing process for the Proposed Development, the Applicant sent the landowner a Land Interest Questionnaire (LIQ) requesting details about their property, including any third-party interests, on 06 November 2018. No response was received from the Landowner.</p> <p>A Confirmation Schedule to confirm the information the Applicant held in relation to the landowner's property is correct and to identify any other people who may have interests in the land so that the Applicant may contact them regarding the proposals, was subsequently sent to the Landowner on 02 October 2019. No response was received from the Landowner.</p> <p>The Applicant notes that the relevant representation made by Blake Morgan LLP on behalf of Mr. Jefferies (RR-067) received by PINS on 17 February 2020 identified part of the property is let to a tenant who runs a horse livery business. The Applicant requested details of the tenancy from the Landowner's agent on 10 March 2020 to enable it to be assessed (i.e. type of tenancy, the parties, rent passing, term etc.) and, if necessary, reflected in the Book of Reference, but a response was not forthcoming. The landowner will continue to request these details from the Landowner's representatives.</p> <p>In relation the point raised with regards to the Landowner's proposed acquisition of the freehold interest over the entirety of Plot 1-29, the Applicant's Proposed Development has been deemed to be Nationally Significant Infrastructure and will be capable of meeting GB energy objectives along with numerous other benefits as set out in the Needs and Benefits Report (APP-115) and the Needs and Benefits Addendum (REP1-135).</p> <p>Plot 1-29, together with Plots 1-20, 1-23 and 1-32 will accommodate the Converter Station, the Telecommunications Buildings, two attenuation ponds, the Access Road and significant areas of landscaping. These are shown on the Indicative Landscape Mitigation Plans for Option B(i) (APP-281) and B(ii) (REP1-137). The landscaping measures proposed in these areas reflect extensive engagement with and feedback received from Statutory Consultees such as Winchester City Council and South Downs National Park Authority regarding concerns over loss of vegetation in this area and the Applicant's proposals will significantly strengthen the landscape features in this area, providing an important visual screening function, as well as biodiversity enhancements, to address the feedback received.</p> <p>Any third party rights over these areas would be significantly constrained by the potential presence of the Converter Station Site (for Option B(i)) and the landscaping which is to be located on this land in the event of either option, meaning access and enjoyment of the land will not be possible (for both options) once the landscaping to be provided in connection with the proposals is in situ. It is therefore not considered that the acquisition of landscaping rights only over these areas (noting that landscaping rights are proposed over existing landscaping rather than landscaping which is to be provided in connection with the Proposed Development) would</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
	<p>It is requested that the compulsorily acquisition power relating to Plot 1-29 is:</p> <ul style="list-style-type: none"> • Subject to alternative options depending on whether Option B(i) or Option B(ii) is chosen; and • Reduced so that it only covers the footprint of the Converter Station. <p>It is also requested that the Book of Reference be amended accordingly so that Ms. Windybanks is added as an affected interest, and that none of our Client's freehold interest is subject to powers of permanent compulsory acquisition should Option B(ii) be selected." (Paras 2.1 – 2.4)</p>	<p>be appropriate, as the land in its current form would no longer be of practical use save for serving its landscaping function in connection with the Proposed Development. Furthermore, it is necessary to acquire the freehold of the entirety of these areas in much closer proximity to the Converter Station to prevent third party access for safety and security related reasons during the construction and operation of the Proposed Development.</p> <p>With regards to the comments that 'landscaping management activities need only be carried out once or twice a year' and 'the Outline Landscape and Biodiversity Strategy provides that local farmers would be responsible for implementing parts of the detailed landscaping strategy', the Applicant will undertake landscaping management activities on an as and when required basis and Section 1.8.3.2 of the updated Outline Landscape and Biodiversity Strategy (REP1-034) sets out that the Applicant has had discussions with a local farmer who operates an agricultural contracting business and has shown an interest in working with the Applicant as the scheme develops. The Applicant will deliver its management and maintenance requirements with suitably qualified and experienced contractors and consultants. The Applicant does not consider this point relevant to the preceding points about compulsory acquisition.</p>
CA4	<p>(REP1-240) – “The Promoter has failed to provide any justification for the need for permanent landscaping rights over the full lengths of hedgerows, HR06 and HR09. The extent of those rights relating to these hedgerows is also questioned.</p> <p>The Promoter has failed to demonstrate that all of the land in Plots 1-26 and 1-30 is required for landscaping.” (paras 3.1 – 3.2)</p>	<p>Plots 1-26 & 1-30 are shown on the Land Plans (APP-008) which correspond to the areas identified for landscaping in the Indicative Landscape Mitigation Plans for Option B(i) (APP-281) and B(ii) (REP1-137) and hedgerows HR05 and HR06 as shown on Figure 16.4, Hedgerows, of the ES (APP-293). The site-specific landscape management prescriptions for the Converter Station Area, are set out in section 1.7 of the Outline Landscape and Biodiversity Strategy (OLBS) (REP1-034 and 035) and include native hedgerows and native hedgerows with trees. Section 1.6.5.2 of the same document sets out the opportunities to maximise biodiversity including the management and retention of existing hedgerows and hedgerow trees.</p> <p>The landscaping measures proposed in these areas are for the protection and enhancement of existing features from both a landscape and visual perspective as well as for improving biodiversity and reflect extensive engagement with and feedback received from Statutory Consultees such as Winchester City Council and South Downs National Park Authority regarding concerns over potential loss of vegetation in this area and the Applicant's proposals will significantly strengthen the landscape features in this area, providing an important screening function, to address the feedback received. As such, the acquisition of the rights and restrictions in question is necessary. The Applicant will continue to engage with the Landowner to secure a voluntary agreement.</p>
<p>Temporary Use of Land</p>		
Te1	<p>(REP1-233) - “Our Clients own the freehold interest to Plots 1-57 and 1-71, which are subject to powers of temporary use. Plot 1-71 forms part of a track (also known as Footpath 16). The only way large and heavy agricultural vehicles and our Clients' horses can access our Client's land is via this section of the track. The construction and commissioning works relating to the Converter Station Area is estimated to take place between 2021 and 2024. This, coupled with the effect of</p>	<p>The Applicant will accommodate access for the movement of the landowner's agricultural vehicles and horses over Plot 1-71 during construction and will discuss this further with the landowner's representatives to attempt to agree a suitable framework within which safe access can be provided.</p> <p>The primary source of access to the landowner's homes is taken from the existing entrance from the public highway located south-west of Little Denmead Farm. As such, the Applicant does not agree the Proposed Development will impact access to their homes.</p> <p>The Applicant will engage with the landowner to agree suitable measures to address access over Plot 1-71 going forward.</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
	<p>Article 30(3)(a), means that Plot 1-71 (and the track) could be possessed and used by the Promoter for approximately 4 years. This means (together with the proposed stopping up of Plot 1-71 – see below) our Clients' access to their homes and remainder of their freehold interest would be severely restricted and their business would suffer. The draft DCO does not appear to allow access to be granted to large vehicles or animals along the track within Plot 1-71 during that time. We request amendments be made to allow for heavy vehicles and animals to continue to use this track in our Clients' case, and for practical arrangements to be left to be agreed between the Promoter and our Clients. We also request that Requirement 22 be amended to oblige the Promoter to obtain an independent assessment to establish the baseline condition of the relevant land before temporary use commences." (Para 3.1)</p>	<p>With regards to the request to amend Requirement 22, the updated Onshore Outline Construction Environmental Management Plan Revision 002 (REP1-087) provides detail of the approach to the assessment to establish the baseline condition of the relevant land before temporary use commences so as to inform the level of restoration required and, as such, it is not necessary to require the Applicant to obtain an independent assessment .</p>
<p>Te2</p>	<p>(REP1-233) - "Footpath 16 (public right of way) is located on our client's land within Plot 1-71. Footpath 4 is located Plot 1-60, adjacent to Plot 1-71. Our Clients have a private right of way over Footpath 4. Footpaths 16 and 4 form one continuous track that is used by our Clients, farm animals and large vehicles. The only way large vehicles and our Clients' horses can access our Client's land is via this track. Footpaths 16 and 4 will be temporarily stopped up for the duration of the construction and commissioning works relating to the Converter Station Area. This will remove access by large vehicles and animals to our Clients' land and remaining business for a number of years. The protections in the draft DCO are not adequate in this regard." (Para 4.1)</p>	<p>The Applicant will accommodate access for the movement of the landowner's agricultural vehicles and horses over Plot 1-71 during construction and will discuss this further with the landowner's representatives to attempt to agree a suitable framework within which safe access can be provided.</p>
<p>Other Issues and Topics</p>		
<p>O11</p>	<p>There is a request for the Promoter to submit a decommissioning strategy, impact assessment,</p>	<p>As set out at paragraph 3.6.5.16. of Chapter 3 (Description of the Proposed Development) of the 2019 ES (APP-118), the Applicant is seeking consent for installation of the Proposed Development for an indefinite period. The Converter Station will be designed, manufactured and installed for a minimum service life of 40 years. Major items of equipment (e.g. transformers, circuit breakers, reactors) are designed to meet the lifetime of the Proposed</p>

Aquind Reference	Summary of Written Representation	Applicant's Response
	and programme to the relevant local authority before any decommissioning takes place.	<p>Development and should remain operational for their design life subject to regular maintenance, inspection and availability of spare parts. If the Proposed Development and associated equipment is deemed to have reached the end of its design life, then the equipment may be decommissioned in an appropriate manner, and all materials reused and recycled where possible.</p> <p>Decommissioning activities for the marine elements of the Proposed Development would be determined by the relevant legislation and guidance available at the time of decommissioning in line with the options and principles included in Appendix 3.4 (Additional Supporting Information for Marine Works (APP-358)). In addition, a decommissioning plan will be developed and agreed with The Crown Estate.</p> <p>Therefore, development consent for decommissioning is not sought as part of the application and the Applicant does not consider that a Requirement securing a decommissioning strategy is necessary.</p>
O12	Comments querying how the Applicant has factored in a well, water pipe and electricity cable located on the Land into its assessments and confirm whether these are privately owned assets, or owned by statutory undertakers.	Noting that the Landowner has not been able to identify the presence or location of the well and water pipe on their land as referred to in their Written Representation, the Applicant will engage with the Landowner to see if any further details can be obtained. The Applicant will also undertake further assessments as to whether the electricity cable referred to as falling within Plots 1-15 and 1-17 is owned private or owned by a Statutory Undertaker

Appendix 1 – Presentation to Members of the Allotment Holders Association

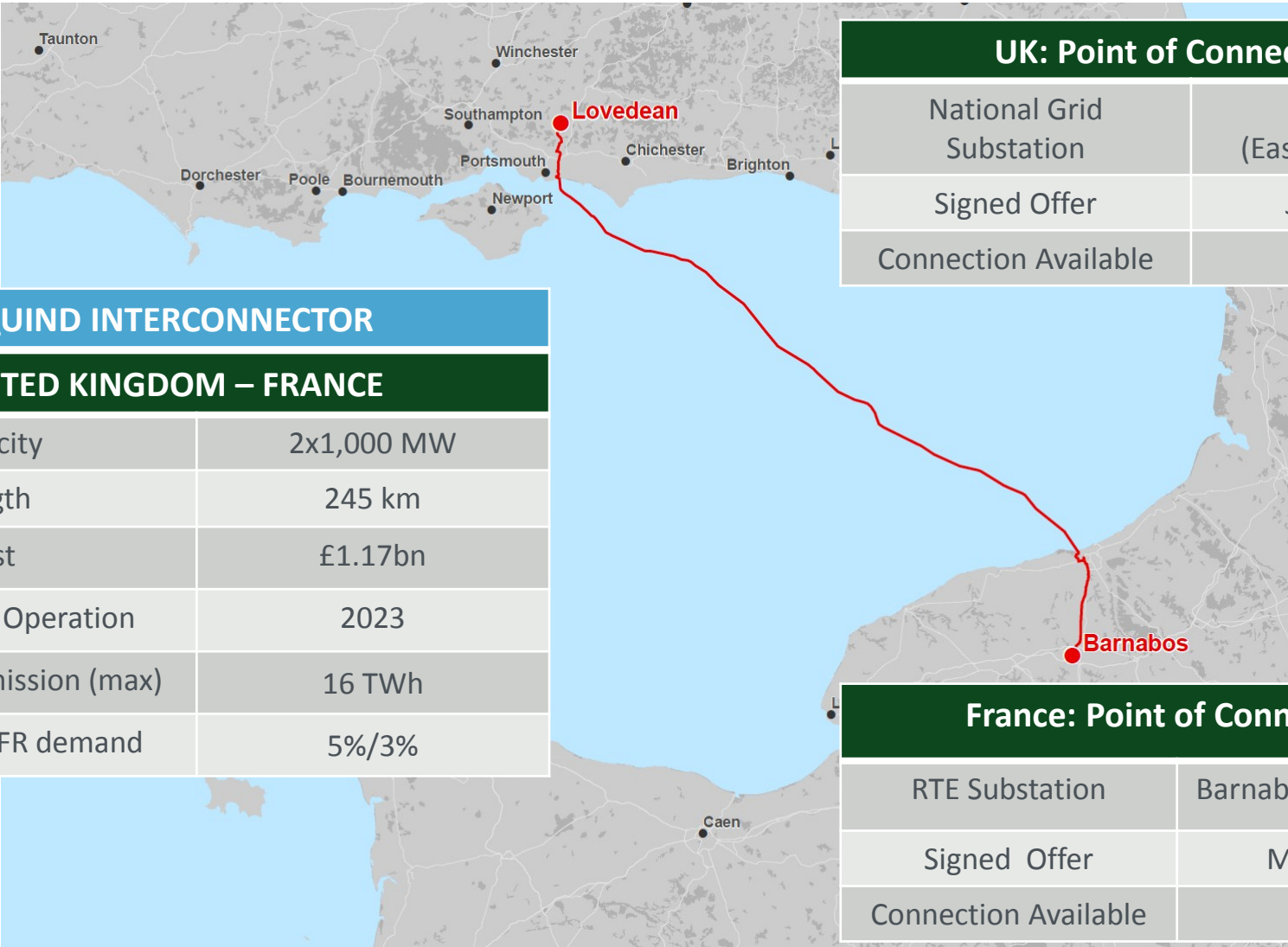


PROPOSALS FOR AQUIND INTERCONNECTOR

EASTNEY & MILTON ALLOTMENT HOLDERS ASSOCIATION
22 NOVEMBER 2019



OVERVIEW OF AQUIND INTERCONNECTOR



UK: Point of Connection

National Grid Substation	Lovedean (East Hampshire)
Signed Offer	June 2016
Connection Available	2022

AQUIND INTERCONNECTOR

UNITED KINGDOM – FRANCE

Capacity	2x1,000 MW
Length	245 km
Cost	£1.17bn
Commercial Operation	2023
Annual Transmission (max)	16 TWh
Share of UK/FR demand	5%/3%

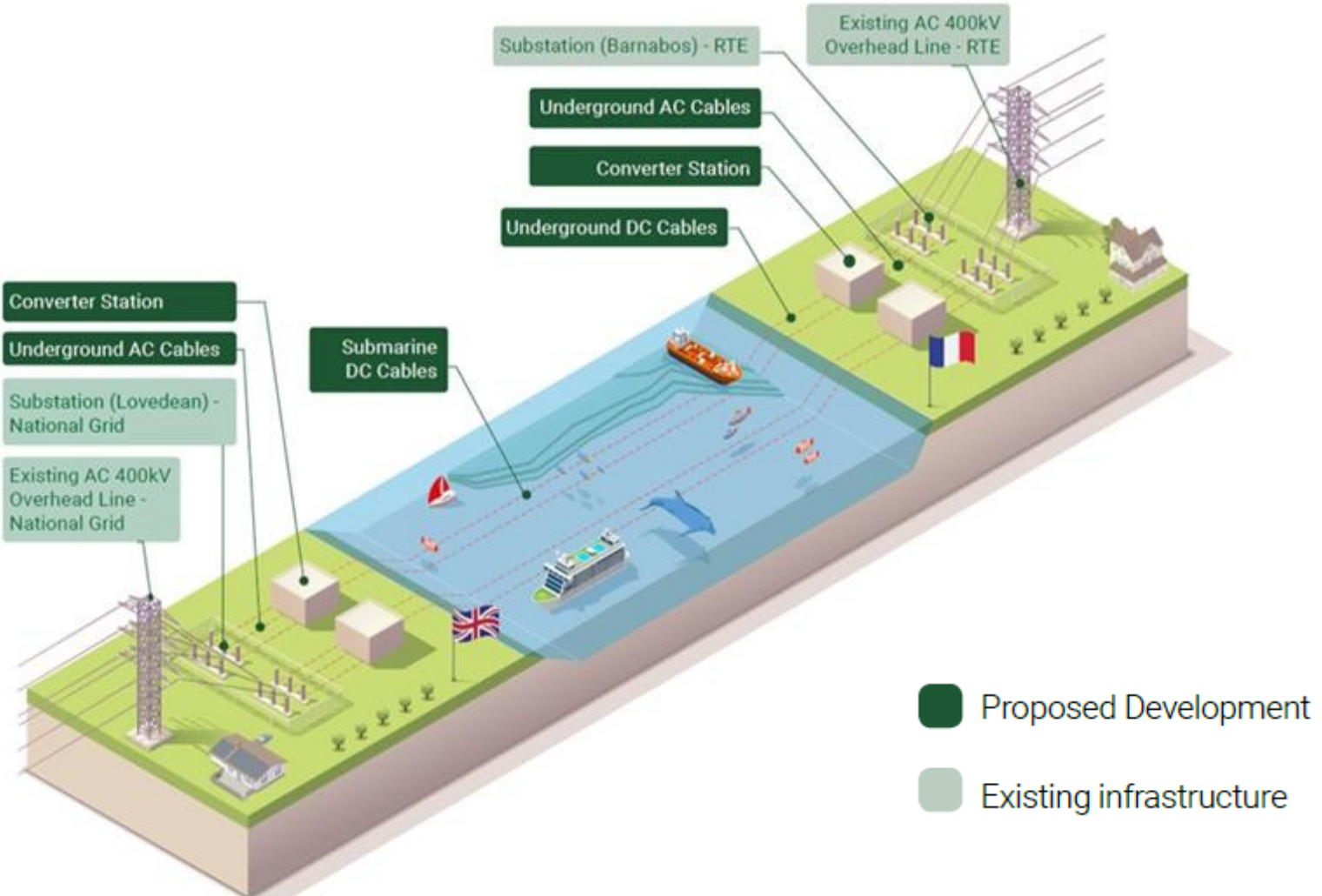
France: Point of Connection

RTE Substation	Barnabos (Normandie)
Signed Offer	March 2017
Connection Available	2022

BENEFITS OF AQUIND INTERCONNECTOR (GB)

AQUIND benefits	GB	Comments
Security of supply	✓	Benefits apply to GB and France as the interconnector is bi-directional and can respond to system needs (i.e. price spikes) in both countries
Competition	✓	AQUIND will provide market participants in GB and France access to each market, and to other connected European markets providing the opportunity to trade across Europe
Benefits to consumers	✓	Consumers in GB will typically benefit from cheaper imports from France via AQUIND, as power flows from the cheaper French market to the more expensive GB market
Sustainability/renewable deployment	✓	Renewable dispatch across Europe is facilitated by AQUIND as market access is increased with greater cross-border capacity, unlocking renewables and decreasing carbon emissions
Ancillary services	✓	AQUIND will offer system services to the TSOs (National Grid in GB and RTE in France) to help manage system needs (such as short-term frequency fluctuations)

KEY ELEMENTS OF AQUIND INTERCONNECTOR



UK ONSHORE ELEMENTS

- ❖ Works at the existing National Grid Lovedean substation in Hampshire where AQUIND Interconnector will connect to the existing GB grid;
- ❖ Underground alternating current ('AC') cables, connecting Lovedean substation to the proposed nearby converter station;
- ❖ Construction of a Converter Station comprising a mix of buildings and outdoor electrical equipment;
- ❖ Two pairs of direct current ('DC') cables with one fibre optic cable of smaller diameter per pair of cables for data transmission from the proposed landfall site in Eastney to the converter station at Lovedean. The cables will be approximately 20 km in length and the intention is to locate the cables within existing highway or road verges where practicable.



AQUIND

THE STORY SO FAR



- ❖ **2014:** Work on AQUIND Interconnector begins by identifying that an interconnector between the UK and France would be the most efficient and beneficial.
- ❖ **2015:** National Grid confirms the existing Lovedean substation as the preferred connection point to the GB electricity network for AQUIND Interconnector.
- ❖ **2016:** AQUIND signs connection agreement with National Grid to connect into the GB electricity network at the existing Lovedean substation and Ofgem grants an interconnector licence.
- ❖ **January 2018:** Public consultation on the emerging proposals for AQUIND Interconnector
- ❖ **April 2018:** AQUIND is awarded Project of Common Interest (PCI) status by the European Commission

- ❖ **July 2018:** The Secretary of State directs that AQUIND Interconnector should be treated as a Nationally Significant Infrastructure Project (NSIP).
- ❖ **February – April 2019:** AQUIND undertakes statutory consultation on its proposals in preparation for the submission of a Development Consent Order (DCO) application
- ❖ **April – November:** AQUIND reviews consultation responses and conducts further investigative work prior to finalise the proposals before submitting a DCO application
- ❖ **14 November 2019:** AQUIND submit DCO application to the Planning Inspectorate who will consider it and make a recommendation to the Secretary of State.



THE ONSHORE CABLE ROUTE

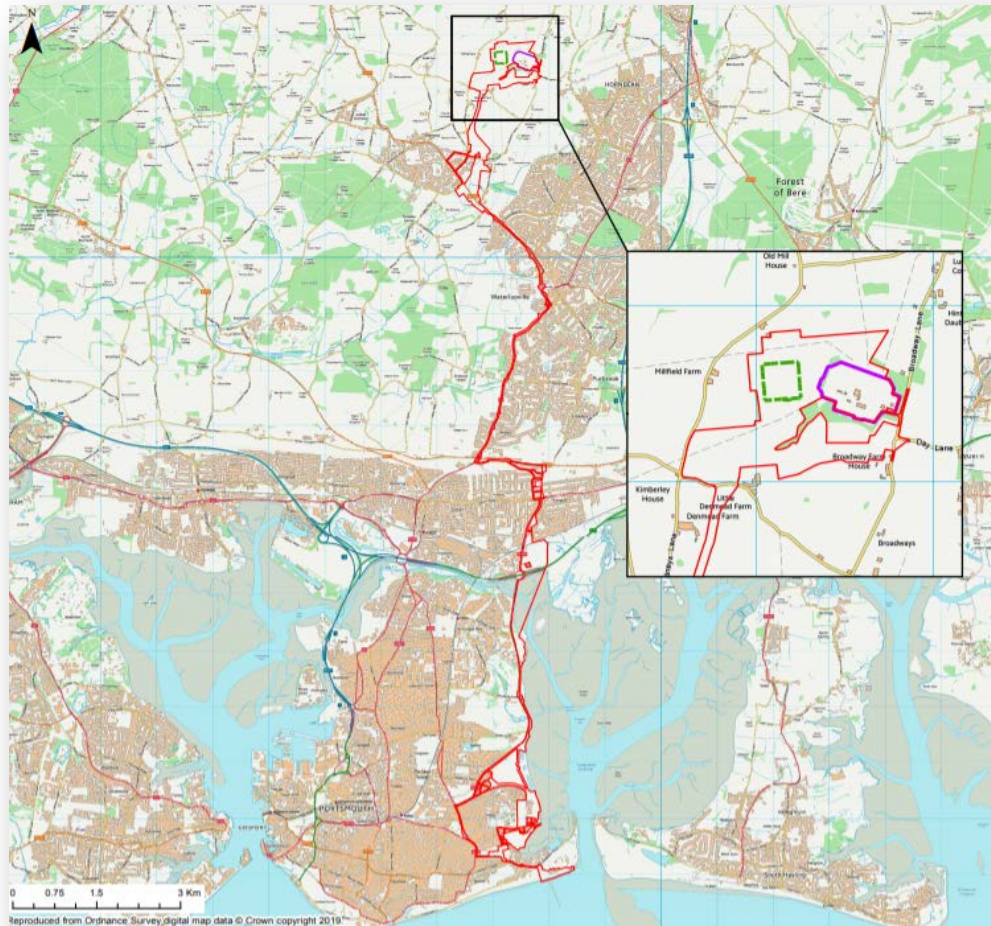


OVERVIEW OF THE ONSHORE CABLE ROUTE

- ❖ The following slides illustrate the Red-Line Boundary (RLB) that was presented during the February – April 2019 consultation.
- ❖ We will now discuss and verbally note an alterations to the RLB since the close of the consultation.

OVERVIEW OF THE ONSHORE CABLE ROUTE (FEB-APR 2019 CONSULTATION)

- ❖ The proposed corridor in which the onshore cable will be located runs from the proposed Converter Station at Lovedean to the landfall at Eastney – a route of approximately 20km.



Key

- Site Boundary
- Indicative Converter Station Location
- Existing Substation Boundary



FEBRUARY – APRIL 2019 CONSULTATION



STATUTORY CONSULTATION (FEBRUARY – APRIL 2019)

- ❖ **LPA's consulted** on Statement of Community Consultation (SoCC) before consultation began;
- ❖ Consultation ran from **27 February to 29 April 2019**;
- ❖ **9 public exhibition events**, including four in Portsmouth;
- ❖ **10 deposit locations**, including four in Portsmouth;
- ❖ **16,951 direct invitations issued** to those within the vicinity of the proposals;
- ❖ Facebook adverts **viewed by over 115,000 people**;
- ❖ **4,467** website users;
- ❖ **Circa 200,000** combined circulation of newspaper notices.

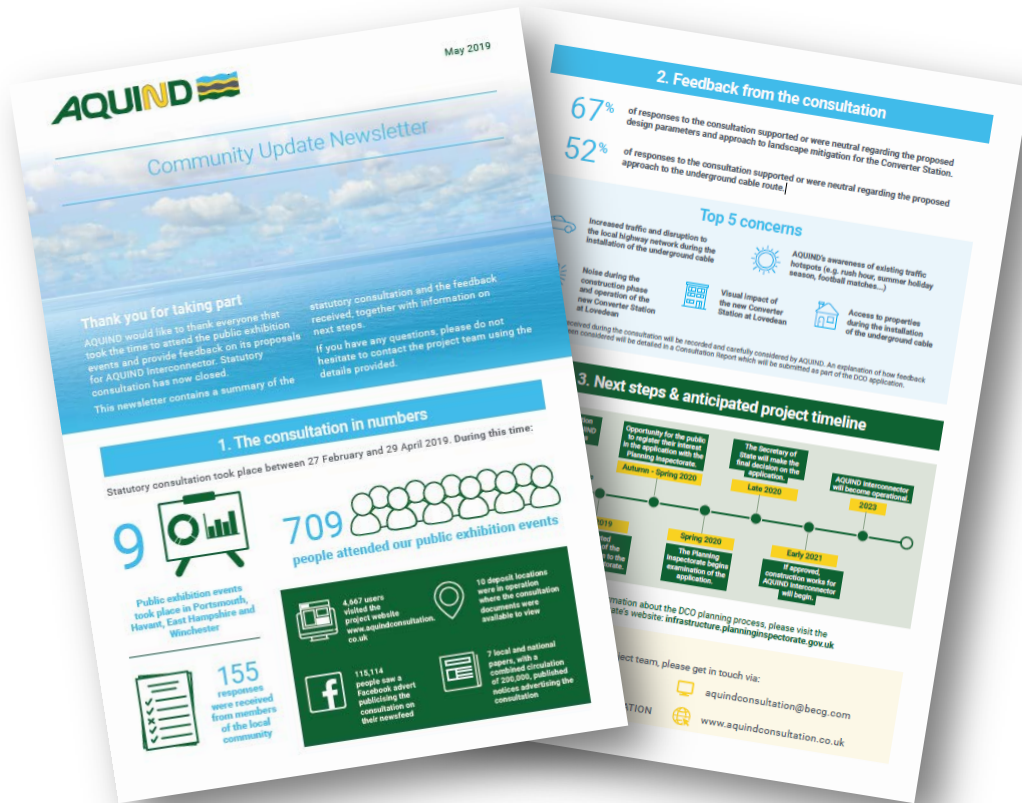




WORK UNDERTAKEN SINCE APRIL 2019







UPDATING THE COMMUNITY



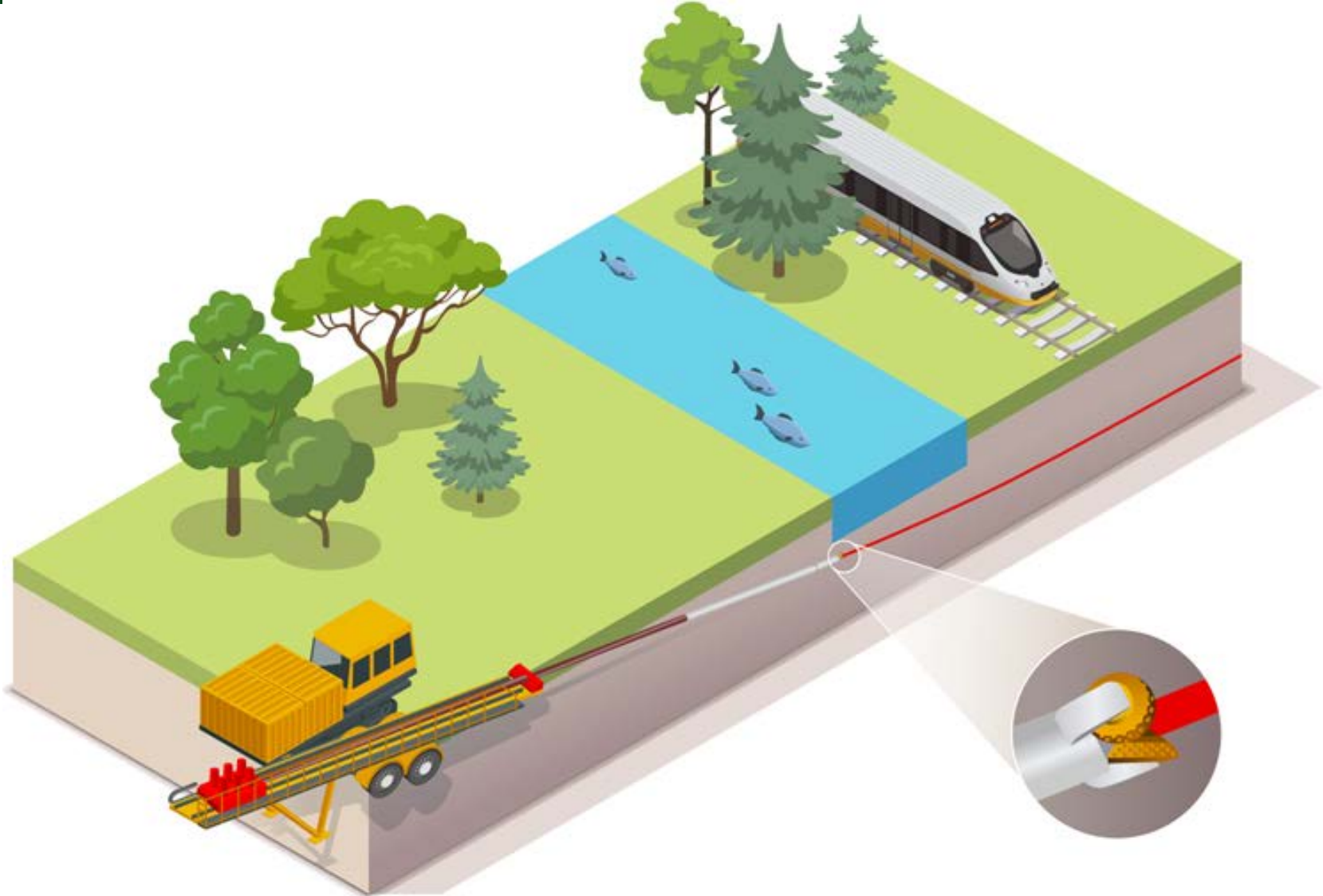
The community update newsletter (May 19)

- ❖ Community update newsletter issued to interested residents/parties and stakeholders in May 2019;
- ❖ The communications channels (e.g. website, freephone, email and freepost) will continue to remain active.

Website aquindconsultation.co.uk	Freephone 01962 893 869	Email aquindconsultation@becg.com	Freepost AQUIND CONSULTATION
			

- ❖ **Regular meetings held with officers and councillors** at Portsmouth City Council, East Hampshire District Council, Havant Borough Council, Winchester City Council and Hampshire County Council;
- ❖ **Environmental and technical surveys** undertaken to inform the final DCO application;
- ❖ **Refinement of the Order Limits**, eliminating some of the options presented during the February – April 2019 consultation;
- ❖ **Environmental Impact Assessment (EIA) being undertaken** to inform potential impacts and appropriate mitigation measures.

HORIZONTAL DIRECTIONAL DRILLING (HDD) ILLUSTRATION





DCO PROCESS & NEXT STEPS



Submission

- To the Planning Inspectorate (PINS) on behalf of Secretary of State (BEIS);
- This will include a draft of the proposed DCO and a Consultation Report summarising how the applicant has had regard to consultation responses.

Acceptance

- 28-day period for PINS to decide whether application meets requirements to be accepted for examination.

Pre-examination

- Applicant publishes notice that the application has been submitted and accepted by PINS;
- **REGISTRATION PERIOD:** 30-day period for the public and statutory consultees to become an Interested Party and make a Relevant Representation on the application in writing;
- PINS appoint Examining Authority.

Examination

- 6 month examination;
- Interested Parties are invited to provide more details on their views in writing;
- Questions from Examining Authority to all parties, open floor hearings and issue specific hearings;
- Intense period – mostly done in writing. Tight deadlines for responses, sometimes overnight – schemes of delegation;

Recommendation and Decision

- Examining Authority has 3 months to make a recommendation to Secretary of State;
- Secretary of State has a further 3 months to make a decision, taking into account the local impacts.

ANTICIPATED PROJECT TIMELINE

- ❖ **14 November 2019:** AQUIND submit an application for a Development Consent Order (DCO) to the Planning Inspectorate (PINS);
- ❖ **Mid-December 2019:** PINS to make a decision on whether to accept the application for Examination;
- ❖ **Late 2019 to Early 2020:** Opportunity for the public to register their interest in the application with PINS;
- ❖ **Spring 2020 to Autumn 2020:** Examination of the DCO application;
- ❖ **Early 2021:** Secretary of State (BEIS) to make the final decision on the DCO application;
- ❖ **2021:** If approved, construction works for AQUIND Interconnector to begin.

- ❖ **Information Line**

01962 893869 (Mon to Fri, 09:00-17:30)

- ❖ **Email**

Aquindconsultation@becg.com

- ❖ **Register for Updates**

Please see the News and Events section of the Aquind Consultation Website



**THANK YOU.
ANY QUESTIONS?**



Appendix 2 – DCO Process Briefing Note



AQUIND INTERCONNECTOR

BRIEFING NOTE: The Development Consent Order Process

INTRODUCTION

AQUIND Limited is developing proposals to build and operate AQUIND Interconnector – a new marine and underground electricity transmission link between the south coast of England and Normandy in France.

In July 2018, the Secretary of State for Business, Energy & Industrial Strategy directed that AQUIND Interconnector should be treated as a Nationally Significant Infrastructure Project (NSIP).

To grant the rights required to build and operate AQUIND Interconnector in the UK, AQUIND is therefore required to submit an application for a Development Consent Order (DCO) to the Planning Inspectorate (PINS).

PINS will examine the application in public before making a recommendation to the Secretary of State for Business, Energy & Industrial Strategy who will make the final decision, taking into account the local impacts of the proposal.

We have prepared this briefing note to explain the next steps in the DCO process, which we hope you will find useful.

If you have any questions, please do not hesitate to contact the project team using the details provided.

THE DEVELOPMENT CONSENT ORDER PROCESS

The following table provides a summary of the next steps in the DCO process. Additional information, including further reading, is provided at the end of this briefing note.

Acceptance	<p>Following the submission of the application, PINS will make a decision on whether the application meets the standard required to be examined.</p> <p>During this stage, PINS will check the application documents and plans to make sure all the required information is included.</p> <p>PINS will also ask the relevant local authorities to provide a representation regarding the adequacy of the Applicant's pre-application consultation.</p> <p>The acceptance stage takes up to 28 days.</p> <p>The Applicant is required to publicise the acceptance of the application locally, making clear where the application documents can be viewed and how local residents and stakeholders can register their interest in the application with PINS.</p>
Pre-Examination	<p>If the application is accepted by PINS, an Examining Authority will be appointed. The Examining Authority may comprise a single Examining Inspector or a panel of up to five Examining Inspectors.</p> <p>At this stage, the public will be able to register with PINS and provide a summary of their views of the application in writing by submitting a 'Relevant Representation' in order to become an Interested Party.</p> <p>At the Pre-Examination stage interested parties will be invited to attend a Preliminary Meeting. This Meeting is run and chaired by the Examining Authority and its purpose is to discuss how the application will be examined.</p> <p>The Pre-Examination stage takes approximately 3 months from the point that the Applicant publicises the acceptance of its application locally.</p>
Examination	<p>The Examining Authority has a maximum of 6 months to carry out the Examination.</p> <p>The Examination is primarily a written process and during this stage, Interested Parties are invited to provide more details of their views in writing. The Examining Authority will also ask written questions.</p> <p>Public hearings may be held, including open floor, issue specific, and compulsory acquisition hearings.</p>
Decision	<p>The Examining Authority must prepare a report on the Examination of the application to the relevant Secretary of State, including a recommendation about whether to grant or refuse development consent.</p> <p>The Examining Authority must make the recommendation to the Secretary of State within 3 months of the close of the examination.</p> <p>Following receipt of the Examining Authority's Recommendation Report, the Secretary of State has 3 months to make the decision to grant or refuse development consent.</p>
Post-Decision	<p>Once a Decision has been issued by the Secretary of State, there is a 6 week period in which the Decision may be challenged.</p> <p>If a decision is made to grant development consent, local authorities play an important role in the discharge Requirements (i.e. planning conditions) and also to enforce the terms of a DCO.</p>

TIMELINE

- Late 2019:** AQUIND to submit its DCO application to PINS.
- Late 2019:** PINS to make a decision on whether to accept the application for Examination.
- Late 2019 to Early 2020:** Opportunity for the public to register their interest in the application with PINS.
- Spring 2020 to Autumn 2020:** Examination of the DCO application.
- Early 2021:** Secretary of State to make the final decision on the DCO application.
- 2021:** If approved, construction works for AQUIND Interconnector to begin.
- 2023:** AQUIND Interconnector to become operational.

USEFUL SOURCES

Further information regarding the DCO process is available at: <https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2013/04/Advice-note-8.0.pdf>

Further information regarding the role of local authorities in the DCO process is available at: https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2015/03/Advice_note_2.pdf

CONTACT US

We hope you found this briefing note useful. If you have any questions, please do not hesitate to contact the project team via:

Website: www.aquindconsultation.co.uk

Email: aquindconsultation@becg.com

Freephone: **01962 893 869**

Freepost: **AQUIND CONSULTATION**

Appendix 3 – Highway Correspondence with PCC

[REDACTED]

From: Jarvis, Martyn
Sent: 19 March 2020 12:20
To: Gill, Juliet; Hardwick, Alan; Aquind; May, Paddy; Nash, Kelly; Temerko, Vladimir; Haddrell, Kath; Cowan, Alan; Gander, Stacey; O'Sullivan, Alan (Avison Young - UK); Banting, Alan; [REDACTED]@colas.co.uk; Todd, Lee; [REDACTED]@portsmouthcc.gov.uk; Nash, Vernon; Flynn, Steven; Darlow, Paul
Cc: Williams, Chris; UK - Project - Aquind DCO
Subject: RE: Aquind and PCC (Transport and SoCG)
Attachments: London_Borough_of_Southwark_and_another_v_Tr.PDF

Good morning Juliet,

Thank you for confirming the Council's current arrangements in the circumstances.

I promised to provide a copy of the recent case law judgement which confirmed the statutory position regarding the extent of land which forms the highway and vests in the local highway authority, in response to comments that an easement over land beneath the highway is not necessary in connection with the proposals to install apparatus within it.

Please see attached the relevant Supreme Court judgement in the case of London Borough of Southwark and another v Transport for London [2018] UKSC 63. The most relevant passages are those which discuss the statutory history of what constitutes the highway at paragraphs 6 to 12.

These passages confirm the Baird Principle and the principle of the "zone of ordinary use", which identify the extent of the vertical plane which forms the highway and is vested in the local highway authority.

The Baird Principle provides that statutory vesting confers ownership only of that slice of the land over which the highway ran, viewed in the vertical plane, as was necessary for its ordinary use, including its repair and maintenance (see paragraph 8).

The principle of the zone of ordinary use further and more fully identifies the slice of the vertical plane which constitutes the highway, being "*the surface of the road over which the public had highway rights, the subsoil immediately beneath it, to a depth sufficient to provide for its support and drainage, and a modest slice of the airspace above it sufficient to enable the public to use and enjoy it, and the responsible authority to maintain and repair it, and to supervise its safe operation*" (see para 9).

It follows then that land which is not within the zone of ordinary use does not form part of the highway and ownership of this is not vested in the highway authority, and in turn such land is presumed to be in private ownership of the owners of land either side of the highway by virtue of the ad medium filum principle. For this reason, where the interconnector apparatus is buried in land which is not within the zone of ordinary use, an easement to allow for its construction, use and maintenance is required.

I trust this provides clarity, but should there be any further queries on this issue please do not hesitate to let me know.

Best regards,
Martyn

Martyn Jarvis
Senior Associate
Herbert Smith Freehills LLP

www.herbertsmithfreehills.com
[Linkedin](#)

From: Gill, Juliet <[REDACTED]@portsmouthcc.gov.uk>
Sent: 18 March 2020 17:50
To: Hardwick, Alan <[REDACTED]@wsp.com>; Aquind <[REDACTED]@portsmouthcc.gov.uk>; May, Paddy <[REDACTED]@portsmouthcc.gov.uk>; Nash, Kelly <[REDACTED]@portsmouthcc.gov.uk>; Temerko, Vladimir <[REDACTED]@aquind.co.uk>; Jarvis, Martyn <[REDACTED]@hsf.com>; Haddrell, Kath <[REDACTED]@wsp.com>; Cowan, Alan <[REDACTED]@wsp.com>; Gander, Stacey <[REDACTED]@wsp.com>; O'Sullivan, Alan (Avison Young - UK) <[REDACTED]@avisonyoung.com>; Banting, Alan <[REDACTED]@portsmouthcc.gov.uk>; '[REDACTED]@colas.co.uk' <[REDACTED]@colas.co.uk>; Todd, Lee <[REDACTED]@portsmouthcc.gov.uk>; [REDACTED]@portsmouthcc.gov.uk; Nash, Vernon <[REDACTED]@portsmouthcc.gov.uk>; Flynn, Steven <[REDACTED]@portsmouthcc.gov.uk>; Darlow, Paul <[REDACTED]@portsmouthcc.gov.uk>
Cc: Williams, Chris <[REDACTED]@wsp.com>; UK - Project - Aquind DCO <[REDACTED]@wsp.com>
Subject: RE: Aquind and PCC (Transport and SoCG)

Good afternoon Alan

Due to the Coronavirus the Council is only operating essential services. PCC officers involved with the DCO, other than myself, do not currently have access to IT. Work on the DCO is therefore extremely limited for the time being.

Kind regards

Juliet Gill

Principal Solicitor, Planning

Legal Services

From: Hardwick, Alan <[REDACTED]@wsp.com>
Sent: 18 March 2020 16:24
To: Aquind <[REDACTED]@portsmouthcc.gov.uk>; May, Paddy <[REDACTED]@portsmouthcc.gov.uk>; Nash, Kelly <[REDACTED]@portsmouthcc.gov.uk>; Temerko, Vladimir <[REDACTED]@aquind.co.uk>; Jarvis, Martyn <[REDACTED]@hsf.com>; Haddrell, Kath <[REDACTED]@wsp.com>; Cowan, Alan <[REDACTED]@wsp.com>; Gander, Stacey <[REDACTED]@wsp.com>; O'Sullivan, Alan (Avison Young - UK) <[REDACTED]@avisonyoung.com>; Banting, Alan <[REDACTED]@portsmouthcc.gov.uk>; '[REDACTED]@colas.co.uk' <[REDACTED]@colas.co.uk>; Todd, Lee <[REDACTED]@portsmouthcc.gov.uk>; [REDACTED]@portsmouthcc.gov.uk; Nash, Vernon <[REDACTED]@portsmouthcc.gov.uk>; Gill, Juliet <[REDACTED]@portsmouthcc.gov.uk>; Flynn, Steven <[REDACTED]@portsmouthcc.gov.uk>; Darlow, Paul <[REDACTED]@portsmouthcc.gov.uk>
Cc: Williams, Chris <[REDACTED]@wsp.com>; UK - Project - Aquind DCO <[REDACTED]@wsp.com>
Subject: Aquind and PCC (Transport and SoCG)

All

Please see attached the meeting notes from last weeks meeting, and the draft Statement of Common Ground with the extracts from the Relevant Representation included. Apologies for the delay in getting this out to you all.

Any comments please let me know.

With regards to the SoCG, I propose that we work by using tracked changes so each party can see changes/comments as part of the ongoing engagement.

Kind Regards

Alan

Alan Hardwick BSc(hons) MSc MRTPI
Associate – Planning Consultancy



[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

[Redacted]

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Judgments

London Borough of Southwark and another v Transport for London

[2018] UKSC 63, (Transcript)

SUPREME COURT

LADY HALE P, LORD REED, LORD CARNWATH DP, LORD LLOYD-JONES AND LORD BRIGGS SCJJ

24, 25 OCTOBER, 5 DECEMBER 2018

5 DECEMBER 2018

T Morshead QC, C Banner for the Appellant

D Elvin QC, R Moules for the Respondents

Gowling WLG (UK) LLP (Birmingham); Dentons UK and Middle East LLP (London)

LORD BRIGGS: (with whom Lady Hale, Lord Reed, Lord Carnwath and Lord Lloyd-Jones agree)

INTRODUCTION

[1] This appeal raises an interesting but complicated question as to the meaning of the GLA Roads and Side Roads (Transfer of Property etc) Order 2000 (SI 2000/1552) (“the Transfer Order”) made by the Secretary of State in exercise of powers conferred by s 405 and following of the Greater London Authority Act 1999 (“the GLA Act”). By that Act Parliament reorganised local government in London and created the Greater London Authority (“GLA”) under a directly elected Mayor of London. The GLA performs its strategic transport and road traffic functions through the appellant Transport for London (“TfL”), which became the highway authority

for those public highways in London designated as GLA roads, in the GLA Roads Designation Order 2000 (SI 2000/1117) ("the Designation Order"). Previously those highways had been the responsibility of individual London borough councils as local highway authorities including, for their respective areas, the respondents London Borough of Southwark and the City of London Corporation ("the Councils").

[2] As its name implies, the Transfer Order provided for the transfer from local highway authorities to TfL of specified property and liabilities relating to highways designated as GLA roads by the Designation Order. The present dispute concerns, in particular, the meaning of the following provisions in art 2 of the Transfer Order ("art 2"):

"(1) Subject to para (2) and art 4 below, on the operative date there are hereby transferred to Transport for London in relation to each GLA road -

(a) the highway, in so far as it is vested in the former highway authority;

(b) the property mentioned para (3) in so far as, on the designation date, it was vested -

(i) in the former highway authority for the purposes of their highway functions in relation to the GLA road ...

...

(3) The property referred to in para (1)(b) is -

(a) land, other than land -

(i) vested in the former highway authority for the purpose of being used for the storage of material required wholly or mainly for the maintenance and improvement of other highways;

(ii) where the former highway authority is a relevant authority, held by that authority for the improvement or development of frontages to the highway, or of land adjoining or adjacent to the highway; ..."

The dispute arose, and was directed to be determined as a preliminary issue, in an arbitration held under art 8 of the Transfer Order. At its heart, the appeal is about what is transferred by the words in para (1)(a) of art 2:

"the highway, in so far as it is vested in the former highway authority."

The question is whether that phrase captures everything which the former authority owns in the vertical plane bounded by the road, which may include all the airspace above and all the subsoil below the surface of the road, or only that part which is necessary for the operation, maintenance and repair of the road, ie a slice of the airspace and a slice of the underlying subsoil.

[3] The Secretary of State's drafting team adopted, as their model for art 2, the content of s 265 of the Highways Act 1980 ("s 265") which provides for the transfer of property and liabilities upon a highway becoming, or ceasing to be, a trunk road. Although not part of that Act, art 2 therefore forms part, at least by inheritance, of what counsel fairly described as the rich tapestry of the highways legislation in England and Wales.

[4] In *Farrell v Alexander* [1977] AC 59, at 73, Lord Wilberforce said:-

"... self-contained statutes, whether consolidating previous law, or so doing with amendments, should be interpreted, if reasonably possible, without recourse to antecedents, and that the recourse should only be had when there is a real and substantial difficulty or ambiguity which classical methods of construction cannot resolve."

Goodes v East Sussex County Council [2000] 1 WLR 1356 was a case about the Highways Act 1980, and its predecessor, the Highways Act 1959. After citing Lord Wilberforce's well-known dictum, Lord Hoffmann continued, at p 1360H:

"It seems to me quite impossible, in construing the Act of 1959, to shut one's eyes to the fact that it was not a code which sprang fully formed from the legislative head but was built upon centuries of highway law. The provisions of the Act itself invited reference to the earlier law and in some cases were unintelligible without them."

See also, to much the same effect: *Cusack v Harrow London Borough Council* [2013] UKSC 40; [2013] 1 WLR 2022, per Lord Carnwath at para 19 and per Lord Neuberger at paras 64-65.

[5] Lord Wilberforce's wise words have lost none of their force, in an era which has seen an exponential increase in the complexity of legislation. It is hard enough on the law-abiding public that legislation is often unintelligible without the assistance of skilled lawyers. It is even worse if its meaning requires, in addition, the assistance of a legal historian. None the less, this is a case, as were the *Goodes* and *Cusack* cases, where neither the analysis of the dispute as to statutory meaning, nor the appropriate solution to it, can be undertaken without substantial recourse to the history of English and Welsh highways law and in particular legislation. Even the innocent sounding word "highway" is itself capable of having a range of different meanings, dependent upon the context in which it is used.

THE STATUTORY HISTORY

[6] The word highway has no single meaning in the law but, in non-technical language, it is a way over which the public have rights of passage, whether on foot, on horseback or in (or on) vehicles. At common law, at least prior to 1835, there was, generally speaking, no necessary connection between those responsible for the maintenance and repair of a public highway and those with a proprietary interest in the land over which it ran. Prima facie the inhabitants of the parish through which the highway ran would be responsible for its repair, but they were not a corporate body suitable to hold ownership rights in relation to it: see *Sauvain on Highway Law* (5th ed, 2013) at para 3-05. As he puts it:

"It was left to statute, therefore, to create an interest in land which was to be held by the body on whom the duty to repair had fallen."

Parliament began this task, in a rudimentary way, in s 41 of the Highways Act 1835, continued it in s 68 of the Public Health Act 1848, s 96 of the Metropolis Management Act 1855 and s 149 of the Public Health Act 1875. They all provided for a form of automatic vesting of a property interest in the land over which the highway ran in favour of the body responsible for its maintenance and repair.

[7] A basic feature of the conveyance or transfer of freehold land by reference to an identified surface area is that, unless the context or the language of the grant otherwise requires or provides (eg by a reservation of minerals), its effect is to vest in the transferee not only the surface of the ground, but the subsoil down (at least in theory) to the centre of the earth and the air space up (at least in theory) into the heavens. Viewed in the vertical plane, the transferee acquires ownership not only of the slice on the surface but of the whole of the space above it, and the ground below it.

[8] But a series of 19th century cases beginning with *Coverdale v Charlton* (1878) 4 QBD 104 and culminating in the decision of the House of Lords in *Tunbridge Wells Corpn v Baird* [1896] AC 434, established that the successive statutory provisions for the automatic vesting of proprietary interests in highways in the bodies responsible for their maintenance and repair operated in a much more limited way than would a simple conveyance or transfer of the freehold. First, it was a determinable, rather than absolute, fee simple, which would end automatically if the body responsible for its repair ceased to be so responsible (eg if the road ceased to be a public highway): see *Rolls v Vestry of St George the Martyr, Southwark* (1880) 14 Ch D 785. Secondly it was inalienable, for so long as that responsibility lasted. Thirdly, and most importantly for present purposes, statutory vesting conferred ownership only of that slice of the land over which the highway ran, viewed in the vertical plane, as was necessary for its ordinary use, including its repair and maintenance. Following the example of counsel, I shall call this “the Baird principle”.

[9] That slice of the vertical plane included, of course, the surface of the road over which the public had highway rights, the subsoil immediately beneath it, to a depth sufficient to provide for its support and drainage, and a modest slice of the airspace above it sufficient to enable the public to use and enjoy it, and the responsible authority to maintain and repair it, and to supervise its safe operation. That lower slice was famously labelled “the top two spits” in *Tithe Redemption Commission v Runcorn Urban District Council* [1954] 1 Ch 383 at 407. A spit is a spade’s depth. Although colourful, that phrase says nothing about the necessary airspace above the surface. Again following counsel’s example, I prefer the phrase “zone of ordinary use”.

[10] It is common ground that the zone of ordinary use is a flexible concept, the application of which may lead to different depths of subsoil and heights of airspace being vested in a highway authority, both as between different highways and even, over time, as affects a particular highway, according to differences or changes in the nature and intensity of its public use. A simple footpath or bridleway might only require shallow foundations, and airspace of up to about ten feet, to accommodate someone riding a horse. By contrast a busy London street might require deep foundations to support intensive use, and airspace sufficient to accommodate double-decker buses, and even the overhead electric power cables needed, in the past, by trolley buses and, now, by urban trams.

[11] The Baird principle was developed so as to limit, in the vertical plane, the defeasible freehold interest automatically vested in the body responsible for the repair of a highway. This was because, in a series of leading judgments, the court regarded this statutory vesting as a form of expropriation of private property rights without compensation, and was therefore concerned to limit its effect strictly to that which was necessary to achieve the Parliamentary objective, that is conferring upon highway authorities sufficient property to enable them to perform their statutory duties of the repair, maintenance and operation of highways. Thus for example, in *Coverdale v Charlton*, Bramwell LJ said (at p 116) that it would be monstrous

if the highway authority thereby acquired rights in valuable minerals below the surface. In *Rolls v Vestry of St George the Martyr, Southwark* James LJ in a celebrated passage at p 796 said, of s 149 of the Public Health Act 1875:

“It seems to me very reasonable then to interpret this enactment in a way which gives everything that is wanted to be given to the public authority for the protection of the public rights without any unnecessary violation of the rights of the landowner.”

In *Tunbridge Wells Corpn v Baird* Lord Halsbury LC said, after approving every word of what James LJ had said in the passage quoted above:

“That the street should be vested in them as well as under their control, may be, I suppose, explained by the idea that as James LJ points out, it was necessary to give, in a certain sense, a right of property in order to give efficient control over the street. It was thought convenient, I presume, that there should be something more than a mere easement conferred upon the local authority, so that the complete vindication of the rights of the public should be preserved by the local authority; and, therefore, there was given to them an actual property in the street and in the materials thereof. ... It is intelligible enough that Parliament should have vested the street qua street and, indeed, so much of the actual soil of the street as might be necessary for the purpose of preserving and maintaining and using it as a street.”

At p 442 Lord Herschell said:

“My Lords, it seems to me that the vesting of the street vests in the urban authority such property and such property only as is necessary for the control, protection and maintenance of the street as a highway for public use.”

[12] The modern successor currently in force, to the 19th century legislation to which those authorities refer, is s 263 of the Highways Act 1980. It provides, so far as is relevant, as follows:

“Vesting of highways maintainable at public expense.

(1) Subject to the provisions of this section, every highway maintainable at the public expense together with the materials and scrapings of it, vests in the authority who are for the time being the highway authority for the highway.

(2) Subsection (1) does not apply -

to a highway with respect to the vesting of which, on its becoming or ceasing to be a trunk road provision is made by s 265 below, ...”

It was, rightly, common ground between counsel that the Baird principle is firmly embedded in s 263. Apart from the section numbers, this provision for automatic vesting was taken, word for word, from s 226 of the Highways Act 1959. In its 1959 Report, the Committee of Consolidation on Highway Law, chaired by Lord Reading, which had been asked to consider the then draft bill, and whether amendments “not of substantial importance” to existing legislation should be made, clearly understood the rationale for the application of the

Baird principle to what became s 226 (then cl 225), at para 135. They said:

“The enactments reproduced in the clause have frequently been considered by the courts and it has been held that they vest in the highway authority the property in the surface of the highway and in so much of the actual soil below and the air above as may be reasonably required for its control, protection and maintenance as a highway.”

[13] Of rather more recent origin are those statutory antecedents to what is now s 265 of the Highways Act 1980, which make provision for the transfer of property and liabilities in connection with the designation of a highway as a trunk road, and the revocation of any such designation. These provisions respond, not to the need to vest in a highway authority rights formerly enjoyed by private owners of the land, but rather to the need to transfer such rights (and liabilities) from one highway authority to another where the changed status of the highway causes a change in the identity of the public body responsible for its maintenance, repair and operation. Prior to 1929 there was no specific statutory provision for this purpose. In *Finchley Electric Light Co Ltd v Finchley Urban District Council* [1903] 1 Ch 437 the question was whether the defendant as local highway authority could restrain the running of a power cable by the plaintiff at a height of 34 feet above Regents Park Road in London. The council had acquired property rights in relation to the road by automatic vesting under s 149 of the Public Health Act 1875 (a direct statutory predecessor of what is now s 263), the previous owners having been turnpike trustees, who had acquired it for the construction of a road. The fact that the council's predecessors in title were turnpike trustees did not permit the Court of Appeal to do otherwise than apply the Baird principle to the automatic vesting achieved by s 149, even though the turnpike trustees had acquired their title by conveyance in unqualified terms, so as to have been the owners of the whole of the vertical plane above and below the location of the road. Collins MR said:

“It seems to me that the standard which determines this question is, not how much the owner has to give, but how much the local authority under the Public Health Act have the right to take.”

[14] A hesitant start towards a more bespoke regime for transfers of property between successive highway authorities was made in s 29 of the Local Government Act 1929, in relation to main roads (renamed county roads) for which, thereafter, county councils rather than local councils were to be responsible. Section 29 affords little assistance for present purposes because it appears to provide for the vesting only of the materials of the road and the drains belonging to it, leaving the vesting of property in the land itself (including the airspace above it) to the then provision for automatic vesting, in the Public Health Act 1875.

[15] A more ambitious property transfer scheme was undertaken in relation to newly designated trunk roads by s 7 of the Trunk Roads Act 1936. It provided as follows:

“Transfer of property and liabilities.

(1) When a road becomes a trunk road, then, subject to the provisions of this section, of the property which immediately before the date on which the road became a trunk road was vested in the former highway authority for the purposes of their functions in relation to the road ... there shall, as from that date, be transferred to, and vest in, the Minister, by virtue of this section, the following property, that is to say:-

The road and any land (not being land vested in the former highway authority for the purpose of being used for the storage of materials required wholly or partly for the maintenance, repair or improvement of other roads or land acquired for the improvement or development of frontages or of land abutting on or adjacent to the road); ...”

[16] This was the provision in force in relation to trunk roads when the Reading Committee came to review the consolidating and amending Highways Bill in 1959. Clause 229 of the Bill (which became, without amendment, s 228 of the 1959 Act) provided as follows:

“Transfer of property and liabilities on change of status of highway.

(1) Where a highway becomes a trunk road, then, subject to the provisions of this section, there shall, as from the date on which the highway becomes a trunk road, be transferred to the Minister by virtue of this section -

(a) the highway, in so far as, immediately before said date, it was vested in the former highway authority, and

(b) the property mentioned in the next following subsection, being property which, immediately before the said date, was vested -

(i) in the former highway authority for the purposes of their functions in relation to the highway, or

(ii) in a council for the purposes of functions in relation to the highway under any enactment to which this section applies, ...

and the highway and other property so transferred shall by virtue of this section vest in the Minister:

(2) The property referred to in para (b) of the foregoing subsection is -

(a) land, other than land -

(i) vested in the former highway authority for the purpose of being used for storage of materials required wholly or mainly for the maintenance or improvement of other highways, or

(ii) acquired for the improvement or development frontages to the highway, or of land adjoining or adjacent to the highway ...”

[17] It will be immediately apparent that there are significant linguistic similarities and differences between s 7 of the 1936 Act and s 228 of the 1959 Act. What was previously called “the road” is now called “the highway”. Whereas, in the 1936 Act, the transfer both of the road and other property (including land) was all regulated by the condition that it had been vested in the former highway authority “for the purposes of their functions in relation to the highway” that condition is, in the 1959 Act, applied in the same language to other property including land, but not in express terms to the highway. Rather, the condition relating to the highway itself is that it is transferred “in so far as, immediately before the said date, it was vested in the former highway authority”. There is also, in s 228(6), a provision for reverse transfer where a trunk road ceases to be a trunk road but it is not suggested that this significantly affects the present dispute.

[18] Nothing in the Reading report (which includes a short commentary on what was then cl 227) suggests that the Committee thought that these changes to the language and layout of the provisions for transfer of property in relation to trunk roads effected any material change to the substance of those provisions.

[19] The wording of s 228 of the 1959 Act was carried forward into what is now s 265 of the 1980 Act with very little alteration. The phrase “and the highway and other properties so transferred shall by virtue of this section vest in the Minister” has been removed. As already noted, art 2 of the Transfer Order takes as its model the provisions of s 265, again with no amendment which has any consequence in relation to the present dispute. It was, more or less, common ground that since art 2 had been drafted on the basis of the model constituted by s 265, it was to that section that recourse had to be made to resolve the dispute as to the meaning of the article.

ANALYSIS

[20] The question for determination on this appeal, which is more focussed than the more widely-drawn preliminary issues, is whether the provision in art 2(1)(a) for the transfer to TfL of “the highway” in relation to a GLA road, and the identical provision in s 265(1)(a) in relation to a trunk road, is governed by the Baird principle so as, in every case, to limit the property transferred within the vertical plane above and below the highway to the zone of ordinary use. The appellant TfL claim that it is not so limited. The respondent Councils say that it is.

[21] This would be an arid academic question if the only way in which local authorities (including the respondent Councils) could ever acquire property rights in relation to highways was by automatic vesting under s 263 and its predecessors. If that were so, the former highway authorities would only own the zone of ordinary use, and nothing in the airspace above it or the soil below it could ever be transferred, either under s 265(1)(a) or under art 2(1)(a). But local highway authorities may also acquire, and the Councils certainly have acquired, property rights in relation to highways by other means. They include compulsory purchase and acquisition by private treaty, which is completed in both cases by conveyance or transfer. Furthermore, local authorities may come to have property rights in relation to highway land for purposes other than highways purposes, and may acquire such rights, again, by compulsory or voluntary purchase, by means of conveyance or transfer. In the generality of such cases (save, that is, where there is a reservation of part of the vertical plane in the conveyance, or where the transferor does not own the whole of it) the local authority will acquire ownership of the whole of the vertical plane, not just the zone of ordinary use. Local authorities may also come to have ownership rights in relation to highways by being or becoming adjoining owners: see below.

[22] Furthermore, the ownership of airspace above, and subsoil below, the zone of ordinary use relating to a highway may, particularly in Central London, be of substantial commercial value. Buildings are commonly constructed across a highway in the airspace above that part needed for its use as such. The ground beneath highways is often intensively used for other purposes, such as underground railway stations, public lavatories and even, under the approach to Blackfriars bridge, a shooting gallery. Similarly, ownership of the airspace and subsoil, even where not yet used for buildings or other structures, may have substantial development value. These complexities are well illustrated in the admirable award of the arbitrator Mr John Male QC, and in the supporting materials.

[23] There is nothing new about disputes concerning highway ownership arising from commercial motivation. The question in the very earliest case, *Coverdale v Charlton*, was whether the highway authority had a sufficient proprietary right in the surface of the highway to let it for pasturage, sufficient to enable the

plaintiff as lessee to bring proceedings for interference with it. It was sufficient for the court's affirmative conclusion that the highway authority did own the surface of the highway, so that the vertical plane issue in the present case did not arise.

[24] TfL's case, which was broadly accepted both by the arbitrator Mr John Male and, on the first appeal, by Mann J, may be summarised in this way. The purpose of the Transfer Order, as part of a scheme under which TfL replaced the Councils as highway authority in relation to GLA roads was, at least in relation to property rights, to place TfL squarely in the shoes of those Councils. Accordingly, whatever part of the vertical plane was owned by the Councils on the operative date, transferred under art 2(1)(a) to TfL.

[25] From the generality of this conclusion the arbitrator made this exception. Where particular layers or slices of subsoil and/or airspace (for example, certain structures) may have received or acquired a separate identity by the operative date, such that they could not properly be called parts of the highway, ownership in those slices would not pass to TfL. This qualification is recorded in para 265.2(1)(c) of his award.

[26] On appeal, Mann J recorded a more significant concession made by Mr Morshead QC on behalf of TfL, namely that its claim "related to land acquired for or appropriated to highway purposes": see para 56 of his judgment. At common law (and subject to any statutory vesting) the owner of land adjoining a highway is taken to be the owner of the subsoil beneath it and the airspace above it "*ad medium filum*" ie as far as the centre line of the highway. If the same person owns the adjoining land on both sides of the highway, then prima facie that person owns the whole of the vertical plane defined by the highway, outside the zone of ordinary use. As the judge explained, the specific purpose of TfL's concession, quoted above, was to renounce any claim to a transfer of parts of the vertical plane above and below a GLA road where the Council's ownership of it derived from its status as the owner of adjoining land.

[27] The Councils' case, which was broadly accepted by the Court of Appeal, may be summarised as follows. The purpose of the Transfer Order, like the purpose of all provisions for statutory vesting of property in highway authorities, was to vest in TfL only those ownership rights in the vertical plane of the highway which were necessary to enable it to perform its functions as highway authority. Thus the Baird principle applied to art 2 just as much as it did to statutory vesting under s 263 and to transfer of property relating to trunk roads under s 265. That was apparent from the fact that in all those instances, the drafter defined the property transferred as "the highway", which had by the time of the Transfer Order come to have a clear and consistent meaning, limited to the zone of ordinary use. Further, any more generous interpretation of art 2(1)(a) would expropriate from the Councils valuable property rights, particularly in Central London, without compensation to their ratepayers. Accordingly, art 2(1)(a) transfers as "the highway" only the zone of ordinary use, leaving the Councils as continuing owners of anything else which they owned on the operative date within the vertical plane.

[28] The question really boils down to this: does the Baird principle apply to art 2? In respectful disagreement with the Court of Appeal, I do not regard art 2 or, for that matter, s 265, as governed or constrained by the Baird principle. My reasons follow.

[29] In my judgment art 2(1)(a) transfers to TfL ownership of all that part of the vertical plane relating to a GLA road vested in the relevant council on the operative date, but only to the extent that ownership was then vested in the council in its capacity as former highway authority. That is, in my view, the true meaning of the phrase "the highway, in so far as it is vested in the former highway authority". It follows that:

- i) rights held by the Councils in the vertical plane of a highway as adjoining owner, for purposes other than highway purposes, do not pass under art 2(1)(a). This is because they are not held

by the Council in its capacity as highway authority.

ii) rights originally acquired for purposes other than highway purposes, or appropriated to those other purposes by the operative date, do not pass under art 2(1)(a). This is so whether or not some non-highway structure has by then been constructed. If acquisition or appropriation for non-highway purposes has occurred by the operative date, it matters not that the relevant purpose has yet to be fulfilled, so that the relevant part of the vertical plane remains undeveloped.

iii) rights originally acquired for highway purposes in the vertical plane, for example by conveyance on compulsory acquisition for highway purposes, do pass under art 2(1)(a), even if they extend beyond the zone of ordinary use, provided that they have not, by the operative date, been appropriated to some non-highway use outside the zone of ordinary use.

iv) All these consequences, and in particular the first, flow from the true construction of art 2, rather than merely by way of TfL's concession as recorded by Mann J.

[30] It may be that sub-para (ii) of the above summary differs a little from the reasoning of the arbitrator. This is because, whereas he regarded a non-highway structure actually built in the vertical plane (like an over-flying building or underground public lavatory) as falling outside the definition of "highway" for all purposes, he did not (at least expressly) also regard the acquisition or appropriation of part of the vertical plane for non-highway purposes as sufficient on its own to take that part, even if undeveloped, out of the property transferred under art 2(1)(a).

MEANING OF "HIGHWAY"

[31] The Court of Appeal concluded that "highway" as used in art 2 and s 265 had a clear common law meaning, limited in the vertical plane to the zone of ordinary use. I respectfully disagree. The word "highway" is not a defined term, either in the 1980 Act, in the Transfer Order, or in the GLA Act. There is a limited explanation, in s 328 of the 1980 Act that:

"In this Act, except where the context otherwise requires, 'highway' means the whole or a part of a highway other than a ferry or waterway."

This is largely circular so far as concerns the core meaning of "highway" and, in any event, subject to context. It does not follow that the interpreter is therefore required to find some uniform meaning of the word "highway" wherever it is used, either in the relevant legislation or, as the Court of Appeal thought, at common law.

[32] There is in my view no single meaning of highway at common law. The word is sometime used as a reference to its physical elements. Sometimes it is used as a label for the incorporeal rights of the public in relation to the locus in quo. Sometimes, as here, it is used as the label for a species of real property. When used within a statutory formula, as here, the word necessarily takes its meaning from the context in which it is used.

[33] In agreement with counsel and with the Court of Appeal, I do consider that the meaning of art 2 is to be found by an examination of the meaning of the almost identically worded s 265. This is not merely because

of the linguistic similarity between those two provisions, but because the whole of the structure for the transfer of property and liabilities in the Transfer Order is closely modelled on the pre-existing structure of the provisions in s 265 relating to trunk roads.

[34] It is tempting but, in my view, wrong to assume that, where ss 263 and 265 both refer to “highway” as a label for real property rights which are to be vested in a highway authority, the word “highway” must therefore have precisely the same meaning in both sections. This is not merely because the word appears as part of two quite differently worded provisions. Rather, it is because, although now lying almost side by side in a consolidating statute, the two sections have completely different ancestry, and serve two very different purposes. As already noted, s 263 takes away from private ownership only those rights in the vertical plane of the highway which are necessary to enable the highway authority to perform its statutory functions of operation, maintenance and repair. By contrast, s 265 merely transfers rights in the vertical plane already owned by one public authority to a successor public authority, so that the successor can stand in the shoes of its predecessor so far as ownership is concerned. This is, in particular, apparent from the way in which the Bill which became the Trunk Roads Act 1936 was described to Parliament by the then Minister for Transport at its second reading. Speaking of cl 7, he said:

“The basis for the transfer is, as laid down in cl 7, that the Minister should take over the road and all properties and liabilities attaching to it ...”

[35] In the House of Lords the Earl of Erne, speaking for the Government, described the objectives of the Bill as follows:

“The principle on which the Bill is based is to make a clean transfer of responsibility ...”

[36] As already explained, s 7 of the Trunk Roads Act 1936 is the original progenitor of what is now s 265, having been significantly re-worded in 1959 as s 228 of the Highways Act 1959, without any apparent intention thereby to effect any change of substance in its meaning.

[37] There is no reason why the Baird principle should apply so as to restrict the nature or extent of property being transferred between two public highway authorities, one of which is stepping into the shoes of the other. The only limitation which does need to be imposed is one which restricts the rights transferred to those enjoyed by the former highway authority in its capacity as such. If the former authority enjoys rights in the vertical plane of the highway in some other capacity, such as adjoining owner, or for other public purposes, there is no sensible reason why those rights should be transferred to its successor as highway authority, merely because of the happenstance that they were vested in the former authority on the operative date.

[38] Full effect to that qualification upon the extent of the rights transferred is given if the words in s 265(1)(a) “in so far as, immediately before the operative date, it was vested in the former highway authority” are taken as meaning vested in the former highway authority in its capacity as such. When this way of interpreting s 265(1)(a), and the similarly worded art 2(1)(a), was suggested by the court to Mr Morshead for TfL, he acknowledged, upon reflection although not by way of concession, that this might well be correct.

[39] By contrast, the respondent Councils' case, that “highway” in s 265 and art 2 can never mean more than the zone of ordinary use, makes the words which immediately follow, quoted above, redundant. A highway authority always has vested in it the zone of ordinary use, because of s 263, so the qualification beginning with the words “in so far as” then becomes meaningless.

MULTI LAYERING

[40] Both the arbitrator and Mann J were powerfully affected by a perception of the unattractive consequences of the Councils' construction, under what may be labelled as multi-layering of the vertical plane. Where a local highway authority had acquired land by compulsory purchase (or private treaty) for the purpose of building a road, and thereby had the whole of the vertical plane conveyed or transferred to it, the effect of the Councils' construction of s 265 and art 2 would be, for the first time, to split that vertical plane between two successive highway authorities, one owning the top slice and the bottom slice, and the other owning the middle slice constituted by the zone of ordinary use. As the arbitrator put it, at para 104:

“With all due respect to the Councils, I cannot see what rational purpose is served by there being two public bodies owning different layers of what was formerly owned by one single public body.”

[41] I agree. The Court of Appeal acknowledged that this was a consequence of its interpretation but noted that multi-layering of the vertical plane was already endemic within Central London, and that it was an insufficient factor to overcome what it regarded as the plain meaning of the word “highway”. In my view, where the transposition of the settled meaning of a word from one section to another section of a complex consolidating statute produces an irrational result, that is a powerful reason for treating the word as having different meanings in those different contexts. Furthermore, although art 2 only has effect in London, s 265 has effect in urban and rural areas alike.

[42] It is of course true that some layering of the vertical plane is inevitable in relation to highways, both in rural and urban areas. For example, it occurs whenever there is automatic vesting under s 263. But in such a case the layering arises between a public authority on the one hand and private owners on the other, for reasons which are not irrational. Equally, and particularly in the modern urban environment, there may be layering of the vertical plane between different public authorities, such as those responsible for highways, sewers and underground railways. Again, this is for reasons which have a rational purpose. By contrast, the irrationality identified by the arbitrator is that arising from two different highway authorities owning parts of the vertical plane in the same highway. To that I would add that, on the Councils' case, by virtue of the transfer of highway functions from one to the other, the former authority, which held rights in the vertical plane only as highway authority, continues to enjoy those rights while it has no further statutory responsibilities to discharge in its capacity as such. It is difficult to identify any sensible purpose served by such an outcome.

[43] I acknowledge also that my interpretation of art 2(1)(a), which limits the rights transferred to those transferred by the former highway authority in its capacity as such, will also lead to layering of the vertical plane in some cases where it did not previously exist. This will occur, for example, where the former authority is an adjoining owner (with rights *ad medium filum*) or where the former authority has rights in part of the vertical plane for other statutory purposes, such as sewerage or the operation of underground railways. But again, there is nothing irrational about layering of that kind.

SECTION 266A

[44] The Court of Appeal was significantly influenced in its reasoning by a perception of the difficulties which might flow from TfL's interpretation of art 2, in conjunction with s 266A of the Highways Act 1980. Mr Elvin QC for the respondent Councils pressed the same point upon us in his own excellent and succinct submissions. Section 14B of the 1980 Act empowers the Mayor of London to direct that a highway or proposed highway shall become or cease to be a GLA road. Section 266A provides for transfer of property and liabilities upon such an event. It contains provisions which broadly reflect art 2(1)(b) and (3) of the

Transfer Order, for the transfer of property including land, but contains no equivalent to art 2(1)(a) providing expressly for the transfer of the highway itself. Mr Elvin submits that this must mean that in such a case, rights in the highway itself are transferred only under s 263, subject of course to the Baird principle. Thus, if TfL's interpretation of art 2(1)(a) is correct, TfL would receive more of the vertical plane upon the original designation of a GLA road under the Designation Order than it would have to give back under s 266A if that designation was subsequently revoked under s 14B, an irrational outcome which cannot have been intended.

[45] I agree that this would be a surprising and probably unintended outcome, but not that it is the consequence of the omission of an express reference to the highway in s 266A. In my judgment, a preferable view may be that when a highway becomes or ceases to be a GLA road by virtue of an order made under s 14B, rights in the nature of real property in the vertical plane of the highway pass under s 266A(4)(a) as "land". It is preferable to Mr Elvin's construction because a conclusion that rights in the highway itself only pass by virtue of s 263 would introduce the Baird principle into a context (transfer between successive public highway authorities) to which it has no sensible application. I accept that this requires the word "land" to be given a different, larger, meaning in s 266A than it has in art 2, but this is simply because its narrower meaning in art 2 is necessitated by the separate express treatment of rights in the highway as real property; ie as land. It is another example of identical words having different meanings as necessitated by their different contexts.

[46] I need express no final view on the interpretation of s 266A because it is not directly in issue in this case. Its later date means that it cannot be an aid to the interpretation of s 265, which was the model chosen for art 2, rather than the differently framed s 266A.

THE BAYLIS CASE

[47] Mr Elvin sought also to derive assistance from dicta of Mr Lewison QC (as he then was) in *Secretary of State v Baylis (Gloucester) Ltd* (2000) 80 P & CR 324, in a judgment with which the Court of Appeal agreed. The issue in the *Baylis* case did relate to what had by the time of the trial become a trunk road, but it had nothing to do with the extent of rights in the vertical plane of a highway transferred between highway authorities under what is now s 265. The dispute was about whether the strip of land in dispute, which adjoined the physical surface of the road, had ever been dedicated to the public as part of a highway, and that turned upon the true construction of a written agreement between the then owner and the county council. The adjacent highway (for which the dedicated strip was to facilitate an improvement) had later been designated a trunk road, but that had no consequence for the determination of the dispute. In an otherwise unimpeachable summary of the effect of land becoming part of a highway, Mr Lewison said:

"The effect of 'trunking' a highway is that the highway vests in the Minister (now the Secretary of State). The extent of such vesting is such part of the land as is necessary for the highway authority to perform its statutory functions. It has been described as the 'top two spits'."

It did not matter in that case whether the Secretary of State received the top two spits (or as I would prefer to call it the zone of ordinary use) or the whole of the vertical plane. Furthermore the former highway authority had never obtained more than the zone of ordinary use, because its title depended upon automatic vesting under what is now s 263, following dedication. I therefore respectfully disagree with that small (and obiter) part of Mr Lewison's succinct summary of the relevant highways law, for the detailed reasons which I have given.

EXPROPRIATION

[48] A final reason why the Court of Appeal was persuaded that transfers under art 2 should be subject to the Baird principle of necessity was that, otherwise, the residents and ratepayers of the respondent Councils would be deprived, without compensation, of more property than was necessary to fulfil the purpose of constituting TfL as the relevant highway authority. I have not been persuaded by this analogy. In every case of a transfer between highway authorities, whether under s 265 or art 2, the former authority is being relieved of its responsibilities for operation, maintenance and repair of the relevant highway, and all associated liabilities (subject to certain exceptions). The transfer of property held by the former highway authority in its capacity as such is simply the quid pro quo for that relief from responsibility. The ratepayers get the full financial benefit of that relief from responsibility. There may be cases where the value of the transferred ownership of the vertical plane exceeds the financial burden of the responsibilities, eg where the vertical plane outside the zone of ordinary use has development value. That may be part of the reason for this long and costly litigation. But usually it will have no such excess value. The meaning of art 2 and s 265 cannot vary as between one highway and another by reference to such infinitely variable economic comparisons.

BURDEN OF PROOF

[49] While acknowledging that art 2(1)(a) of the Transfer Order might best be interpreted as subject to the limitation that rights in the highway should have been vested in the former highway authority in its capacity as such, Mr Morshead for TfL submitted that there should, nonetheless, be a strong presumption that all rights in the vertical plane as were in fact vested in the former highway authority on the operative date were vested in it in that capacity. It would be, he said, for the former authority (here the respondent Councils) to prove otherwise, the burden being firmly upon them.

[50] I can see no good reason why any such presumption or burden of proof should be identified as flowing from the true interpretation of art 2. The papers lodged with the court on this appeal demonstrate that the resolution of these vertical plane issues in the context of highways in Central London, where they cannot be agreed, is an intensely fact-sensitive and complex task. As already explained, the Councils will have acquired rights in the vertical plane in a variety of different ways, and it will be necessary to analyse both the extent of the rights acquired, and the capacity in which the Council acquired those rights. Sometimes the GLA road has a non-GLA highway running over or under it. There are frequently buildings and other structures encroaching upon the vertical plane of the highway, outside the zone of ordinary use. The arbitrator should not be saddled with a presumption as to the outcome of that difficult factual analysis, one way or the other.

THE LATERAL PLANE

[51] It was mentioned by counsel, and in the statement of agreed facts and issues, that the resolution of the dispute in this appeal would also have consequences in the lateral plane, rather than only the vertical plane, of land defined by a highway. That may be so, but all the argument before this court has been directed to the vertical plane. Nothing in this judgment should be taken as implying any view about lateral plane issues, which were not explored.

CONCLUSION

[52] For the above reasons, I consider that this appeal should be allowed. The interpretation which I conceive to be correct differs in some small respects from that adopted by the arbitrator and indeed by Mann J, in dismissing the first appeal. Furthermore the questions as originally framed in the preliminary issues determined by the arbitrator have since narrowed. It will therefore be necessary to receive submissions about the precise form of order which this court should now make in relation to the preliminary issues which

are the subject of this appeal.

Appeal allowed.

