

**From:** [Barnard, Megan](#)  
**To:** [Aquinid Interconnector](#)  
**Cc:** [Maguire, Ian](#); [Williams, David](#); [Samuels, Tristan](#)  
**Subject:** AQUIND - Portsmouth City Council - Deadline 2 Submission  
**Date:** 20 October 2020 22:30:47  
**Attachments:** [20201020 - PCC Letter to PI re Deadline 2 Final.pdf](#)  
[Appendix 1 - DoT letter 180718 - street works permit scheme.pdf](#)

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Evening,

On behalf of Portsmouth City Council, please find attached submission for Deadline 2 in respect of the Application by AQUIND Limited for an Order granting Development Consent for the AQUIND Interconnector Project.

Grateful if you could confirm receipt.

Kind regards, Meg

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Our Ref: 20201020

Date: 20/10/2020

Via email to  
[aquind@planninginspectorate.gov.uk](mailto:aquind@planninginspectorate.gov.uk)

FAO the Planning Inspectorate

Dear Sirs,

**RE: Deadline 2 Submission in respect of the Application by AQUIND Limited for an Order granting Development Consent for the AQUIND Interconnector Project.**

In line with the Examining Authority's requests for deadline 2 of the examination, please find responses on behalf of Portsmouth City Council in summary form set out below:

**Task A - General comments on responses for Deadline 1**

1. Portsmouth City Council ('PCC' or 'the Council') have reviewed the documents submitted by Aquind, the Local Authorities, affected landowners, statutory undertakers, and interested third parties. At this stage, subject to the further detailed comments set out below and in the accompanying Appendix, PCC maintains its position as set out in the conclusion to its Written Representation (Document REP1-174), namely that PCC objects in the terms set out therein, in respect of the substance of the application; the unjustified scale of the order limits; and of the proposed scope of the draft DCO which seeks to disapply other consenting regime. In addition PCC maintains its objections based upon the applicants identified procedural failings and legal concerns. PCC reserves its position to respond to new evidence as the examination continues.

## Comments relating to Highways and street works

2. With regard to highways matters and compulsory acquisition raised by Aquind's Deadline 1 Response to Relevant Representations Doc 7.9.4; PCC in its capacity as local highway authority (LHA) remains highly concerned as to any justification for formal compulsory acquisition of highways land when, as set out by PCC a number of times, as a licensee Aquind could exercise more limited rights to lay its apparatus in the highway. In addition, the permanent acquisition of such land may detrimentally affect or frustrates future development on the basis of its presenting as a ransom strip whereas again the interconnector could be constructed using lesser rights i.e. easements.
3. In addition with regard to the applicant's proposals to acquire highway subsoil, it is highly relevant to note that the proposed installation is not significantly deeper than any other statutory utility plant and the acquisition of the subsoil is simply not necessary to facilitate the installation. PCC in its capacity as LHA considers that the proposed power within the dDCO to make, alter, impose and enforce TROs should only be with the consent of the LHA. This should be explicitly stated in the DCO and that the absence of a response by the LHA is deemed to be a refusal or objection not a deemed grant.
4. With regard to PCC's permit scheme in respect of road works and street works, the applicant notes its implementation but seeks to rely on the provisions of NRSWA 1992 and bespoke provisions in the DCO rather than complying with the permit scheme. PCC objects to this. The permit scheme provides a system which the DfT is promoting PCC and many other highway authorities to adopt in order best to manage the network beyond the simple provisions of noticing in NRSWA (see **Appendix 1** attached). The permit scheme allows for the efficient and effective coordination of works to be carried out by undertakers, making specific and appropriate provision for the installation of such equipment and its maintenance whilst allowing for the management of the network to the required standard. There is no reason to create a separate system for the interconnector works which could itself have a stalling or negative effect on others trying to coordinate their own works under the Permit Scheme.
5. With regard to traffic impacts, the impact of construction on the highway network cannot simplistically be considered only in the context of delays / journey times but must also assess the impact of extended queue lengths / redistribution of traffic on the safety of the network which has not been adequately assessed in the TA. Further traffic assessment and or technical information and/or a supplementary TA is required.
6. With regard to the simple calendar working restrictions proposed, in Doc 7.9.4 at table 2.6 these do not take account of either special events or Portsmouth FC football matches which have significant impact on network demands, assessed by the applicant to be similar to peak hour conditions, nor peak hour working time constraints on traffic sensitive routes. The LHA at such times seeks to ensure that traffic management is pulled in tight to any excavation to

preserve 2 lane operation in each direction rather than shuttle working. Where this cannot be achieved an alternative route for the cable should be found or works undertaken around these events. This would be achievable and required through the permit scheme albeit this may require the applicant's installation programme to be revisited. This however in the circumstances, is not unreasonable.

7. The LHA is not content with the optionality of joint bays being located outside of the carriageway where practical. It is essential that the LHA has clarity over the route and joint bay locations to be able properly to assess the impact of the construction of the interconnector.

*Comments on the Applicant's response to the Council's Relevant Representation in respect of Compulsory Acquisition*

8. The Council has reviewed the Applicant's 'Response to the Relevant Representations' (document library reference REP1-160), in particular the responses made in respect of the Council's relevant representation (RR-185).
9. The Council refutes the Applicant's position that it has justified the extent of land sought in the draft Order, and also highlights that general engagement 'on numerous aspects of the Proposed Development' (Compulsory Acquisition matters, Table 2.6), does not constitute efforts to acquire by agreement.
10. The repetition of the description of the FOCs does not adequately satisfy the concerns of the Council that the inclusion of additional FOC capacity does not satisfy the definition of Associated Development and the Applicant should not form part of an application for compulsory acquisition powers (please see below).
11. In respect of the response from the Applicant to the Council's concerns over the treatment of Special Category Land included in the Order Limits, the Applicant has shown that it has failed to have regard for the significant impact that the proposals will have on recreational land in Portsmouth. The Applicant states again that 'the land will be no less advantageous than it was before to the persons specified in Section 132(3) of the Planning Act 2008' due to there being no apparatus above ground and the works being temporary. However, the displacement of users will be for extended years – up to 7 – with a further period for maintenance. This cannot be defined as temporary, as users could be permanently lost to the sites. The Applicant has also failed to acknowledge that the ORS building (and permanent screening) is part of a car park serving Fort Cumberland open space and thus users will be permanently displaced as car parking space will be lost.
12. The Applicant has failed to address the Council's concerns in respect of their approach to the inclusion of highway land in the Order Limits, and the failure to negotiate with Affected Persons. The Council has repeated its concerns in this submission, in respect to its comments on the Applicant's response to the First Written Questions, question CA1.3.5.

13. With reference to the Statement in Relation to FOC (Doc Ref 7.7.1 submitted at Deadline 1) the Applicant has stated "Whilst it is not possible to state with absolute certainty the extent to which the size of the ORS is dictated by the proposed commercial use, it is anticipated that approximately two thirds of the cabinets within the ORS will be available for commercial use".
14. The Applicant's admission that two thirds of the land required is for commercial purposes means that the case for compulsory acquisition of the land cannot be made, as it is neither part for the Proposed Development, or Associated Development, as it is not 'necessary for the development to operate effectively to its design capacity' (Planning Inspectorate's Advice Note Thirteen<sup>1</sup>, paragraph 2.9). The Applicant has clearly confirmed that two thirds of the cabinets are not required to support the Proposed Development, and as such should not be considered as Associated Development. As such, in addition to the Council overarching objection to the use of the car park land servicing open space land, the Applicant should reconsider its proposals to a scale that can be demonstrated to satisfy the definition of Associated Development, and locate the facility in a more appropriate location.

*Comments on the Applicant's responses to the Examining Authority's First Written Questions (document library reference REP1-091).*

*Ref CA1.3.1*

15. PCC considers that the Applicant's conjecture 'that funding for the Project is likely to be available to enable the compulsory acquisition within the 7-year period' is ambiguous and does not satisfy the requirements of the 'Planning Act 2008 - Guidance Related to the Procedures for the Compulsory Acquisition of Land' (the 'Guidance'). The Guidance sets out that an applicant for compulsory acquisition powers should 'be able to demonstrate that there is a reasonable prospect of the requisite funds for acquisition becoming available.' A speculative assertion that investors to fund the compensation liability will be secured at a later stage is incompatible with the Guidance. The Guidance also makes clear where financial ambiguity arises, an Applicant has to take steps to provide confidence that funds will be in place to resource the compensation liability, viz:

*'It may be that the project is not intended to be independently financially viable, or that the details cannot be finalised until there is certainty about the assembly of the necessary land. In such instances, the applicant should provide an indication of how any potential shortfalls are intended to be met. This should include the degree to which other bodies (public or private sector) have agreed to make financial contributions or to underwrite the scheme, and on what basis such contributions or underwriting is to be made.'* [para 17 of the CA Guidance]

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<sup>1</sup> [https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/12/Advice\\_note\\_13v2\\_1.pdf](https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/2014/12/Advice_note_13v2_1.pdf)

16. The Applicant has not demonstrated how shortfalls are going to be met. To that end it has not demonstrated it has the funds to acquire any blighted land or rights it seeks to purchase compulsorily as well as the compensation for any other impacts the proposals may have for which it makes provision under the dDCO . As such, there is no justification for granting the applicant compulsory acquisition powers in the absence of certainty over funding for the compulsory acquisition powers.

#### Ref CA1.3.3

17. As set out below in addressing the issue of the commercial FOC infrastructure and whether it qualifies as associated development under the PA 08, there are clear difficulties in the applicant seeking to rely upon commercial benefits from those aspects that are clearly not the principal Development, exceed that which should be considered associated development and it is argued should not be granted consent nor accordingly justify compulsory acquisition.

#### Ref CA1.3.4

18. PCC considers that the Applicant's response to justify its making no assumption as to the likely future service of any blight notices and hence no provision within its funding is weak and fails to understand the implication of the powers it is seeking to acquire. In other words the Applicant's assumptions are wrong.

19. Further, whilst there is reference within the dDCO to potential claims arising from section 152 of the Planning Act 2008 and which in turn make reference to section 10 of the Compulsory Purchase act 1965, and Part I of the Land Compensation Act 1973. The Applicant fails to recognise that such claims can be made.

#### Ref CA1.3.5

20. The Council has reviewed the Applicant's Highway Subsoil Position Statement document (library reference REP1-131) submitted at Deadline 1.

21. The Applicant states in paragraph 3.2 of the document *'No rights are sought in the Book of Reference [APP-024] in relation to the part of the land which is vested in the highway authority.'*

22. This is then confirmed in paragraph 6.5:

*'For sake of clarity, it is confirmed that where the Proposed Development is to be located in land forming part of the vertical plane which makes up the highway, the statutory authority provided by the Order by virtue of the New Roads and Street Works Act 1991 is to be relied upon, and no acquisition of rights over the land forming the highway are required and/or sought in this regard.'*

23. The Book of Reference (still) does not in fact exclude the acquisition of Council land where it identifies land that is the highway authority's. Such land in accordance with the above should be excluded from the Book of Reference (and the powers sought) as confirmed in the Position Statement.
24. As the Council has confirmed in its submissions, no efforts to acquire rights in the highway land have been made, as it has been stated the Applicant will be reliant on New Roads and Streets Works Act 1991. However, at present, the Applicant, despite the statement to the contrary, is still applying for powers (as per the Book of Reference). The Book of Reference, and the Draft DCO need updating to explicitly exclude the acquisition of rights in the Council's highway land.
25. The Council notes that the Applicant has considered other infrastructure schemes to inform the approach taken to owners of sub-soil interests in section 4 of the statement. Here, it has confirmed that contrary to the position taken by the Applicant, compensation was offered to owners of subsoil in all the schemes, being Thames Tideway Tunnel, Crossrail 2, HS2 and Channel Tunnel Rail Link (Hs1). In all cases, c£50 was put forward as compensation, and in the cases of Thames Tideway Tunnel (c£250), HS2 (c£250), and Channel Tunnel Rail Link (c£500) payment was also offered towards surveyors fees (even if one was not appointed - HS2). [Note - the link to the HS2 policy did not work in the statement - we have reviewed the HS2 Decision Document for Properties above Tunnels].
26. Rather than failing to engage and negotiate with subsoil owners, these applicants and promoters identified in advance what compensation was proposed for the owners of the interests of subsoil. The Applicant has failed to offer any compensation, not even the ~£50 that it has asserts would be payable. The Applicant has also demonstrated a clear lack of understanding of the principles of the compensation code. Paragraphs 3.11 and 3.12 of the statement discuss the differences in the purpose for which the rights in sub-soil are being acquired - paragraph 3.11 states 'The "tubes" of subsoil required for the main tunnel of the Thames Tideway Tunnel, for example, had an internal diameter of between 6.5 and 7.2 metres, as well as requiring further subsoil for the protection zone to surround the tunnel.'
27. The Council is aware that the ExA will not consider matters of compensation per se but it makes these points in order to illustrate the wholesale failure of the Applicant to address these fundamental issues when seeking these wide powers to acquire compulsorily interests in land and the need to demonstrate that it has sought to negotiate with those whose rights it wishes to accrue. The purpose of the acquisition (of subsoil or rights in subsoil) is irrelevant to the compensation that should be offered.
28. The Council cannot, understand why the Applicant has failed to offer compensation to Affected Persons with an interest in the subsoil, especially given the precedent schemes that it references.

29. The Council considers that such efforts should be made and that the Property Cost Estimate be revised to accommodate such acquisition of subsoil rights (if the Property Cost Estimate does not take account of such acquisitions). Given the level of disruption to the residents along the line of the route, the Council would also recommend that the Applicant provide the higher end of payment above the compensation for the rights sought, in line with the Channel Tunnel Rail Link, being  $\pounds 500$  (plus the  $\pounds 50$ ) in order better to reflect the scheme, as the Applicant has done in the statement, the disruption to owners of properties adjacent to highway included in the Order will be significant.

Ref CA1.3.6

30. Please see the Council response to the Examining Authority's First Written Questions submitted for Deadline 1, reference, REP1-172, response to CA.1.3.106 and CA.1.3.108. The applicant has put forward some wide ranging and material changes to the order limits and the Council notes the concerns raised by the ExA in its rule 17 response under The Infrastructure Planning (Examination Procedure) Rules 2010 (see below) .

Ref CA1.3.10

31. As noted in the Council's comments in respect of CA.1.3.3, the applicant is wrongly reliant upon future financial benefits arising outside of 'the Scheme' once it is operational whereas the funding statement should be based there being a clear evidence that the funding is available now.

Ref CA1.3.11

32. It is the Council's position that compulsory acquisition powers should not be confirmed in absence of the Crossing Agreement. This is a clear and fundamental impediment to the delivery of this Proposed Project.

Ref CA1.3.17

33. The Council's refers the ExA to Written Representation submitted for Deadline 1, reference, REP1-174, Chapter 3 (paragraphs 3.5 and 3.6 in particular).

Ref CA1.3.18

34. The Council's refers the ExA to its own response to the Examining Authority's First Written Questions submitted for Deadline 1, reference, REP1-172, response to CA.1.3.106 in respect of comments made in respect of Milton Common (paragraph V).



### Ref CA1.3.20

35. The Council has reviewed the Applicant's 'Position Statement in respect of refinement to the Order Limits' document submitted at Deadline 1 (document library reference REP1-133). However, further to the Rule 17 letter issued by The Examining Authority to the Applicant on 15th October 2020, the Council is aware that there are procedural uncertainties relating to the request made by the applicant in respect of these changes and indeed whether or not they are material changes to the Application.
36. The Council as an objector to the compulsory acquisition of its land and an Affected Person of course welcomes any reduction in the proposed land take however the fact that these issues are only being addressed at this late stage is consistent with the frustrations and concerns expressed throughout by the Council as to the applicants approach prior to making the application and the absence of a number of important details.
37. This is not in line with the spirit of the PA 2008 procedures which seek to ensure that the sorts of matters that are being addressed only now by the applicant should have been dealt with and identified well before the application was made.
38. The Council will await the applicant's response to the Rule 17 letter and will continue to seek to assist the ExA as best it can.

### Ref CA1.3.22

39. As noted in the Council's Written Representation submitted for Deadline 1, (reference, REP1-174, Chapter 3 paragraphs 3.18 and 3.21) it remains concerned in its capacity as freehold owner and landlord to allotment holders in respect of the allotment land that the applicant seeks to acquire permanent rights over that those allotment holders' interests have not been identified within the Book of Reference.
40. This is a significant and critical omission and a failure to comply with the relevant provisions of the PA 2008 (in particular Ss44 and s.123) as well as the CA Regulations. It would as a result make it unlawful to grant the applicant the power to acquire the proposed rights in respect of plot 10-13 and 10- 14 and any other rights which impinge on current allotment holders' rights. In addition the Council is seeking to confirm whether the allotments should be subject to the protective provisions of the Allotments Acts.

### Ref CA1.3.25

41. The Council considers the 7-year period for the exercise of compulsory acquisition powers and temporary use are clearly excessive. The applicant seeks to rely on the fact that this is a linear scheme to justify the time but the Southampton to London Pipeline DCO only provided for 5 years for the duration of powers, during which the project will see the replacement of 90 kms of pipeline.

42. In addition, the period is at odds with the approach taken to the evidence of funding support for the scheme development and CA. The longer the time granted the greater the need for clarity and assurance now for affected persons and those affected more widely.

Ref CA1.3.31

43. See response for ref CA.1.3.5.

44. The Applicant at least recognises it cannot go so far as to exclude the right of owners of the subsoil to seek compensation and confirms it has taken a somewhat unattractive and dismissive approach that those who may be affected will just have to seek compensation claims as opposed to the applicant taking any form of conciliatory approach or to negotiate or proffer some level of compensation as others have.

Ref CA1.3.33

45. The Council does not agree with the Applicant's statement that 'the special category land when burdened with the rights sought in the Order will be no less advantageous to any person or the public than it was before' (paragraph 1.5.5 of the Statement of Reasons). The proposals will impact upon circa 17 playing fields, along with recreational land at Milton Common and Zetland Fields. The users of the special category land face years of displacement, with no alternative facilities provided, and as such permanent displacement from the land may result. Further, the citing of the ORS facility in the Fort Cumberland car park will displace users of the open space land due to the permanent loss of car parking spaces for the building and screening planting.

46. No replacement land has been offered in face of this clear loss and as such the Council is of the opinion that the Applicant has wholly failed to satisfy the tests set out in S.132 (3) of the Act and without any or any proper justification or understanding as to its impact or without recognising the impact of the permanent rights it seeks to retain over such land.

Ref CA1.3.34

47. The Council believes that HDD should be secured in the DCO and identified in the Land Plans, as per the 'narrow working widths' that were identified in the Southampton to London Pipeline DCO Land Plans.

Ref CA1.3.47

48. As per the update in the Compulsory Acquisition Schedule submitted by the Applicant for Deadline 1 (reference REP1-124, ID number 33), the Council can confirm a meeting with the Applicant's agent on 7th October 2020, with the Council's appointed surveyor. The Council's surveyor issued meeting notes and actions arising from the meeting on 12th October 2020, but as of the date of this submission, there has been no response from the Applicant's agent, and therefore no further progress.

Ref CA1.3.66

49. See response to CA.1.3.33.

Ref CA1.3.67

50. The Council does not agree with the Applicant's stated position that it has demonstrated all 'reasonable alternatives to acquisition.' Heads of Terms were only issued to the Council after the Application was submitted to The Planning Inspectorate. The Heads of Terms do not provide for the acquisition of highway land, yet powers are being applied for in the highway. Highway land should be excluded from the dDCO if it is proposed NRSWA provisions will apply. The intrusion into Special Category Land is extensive and excessive, and HDD has not been properly considered as an option to mitigate impacts on Special Category Land.

Ref CA1.3.68

51. This level of intrusion would result in significant disruption to the allotments, the occupiers of which have not been included in the Book of Reference and as such have not been engaged in the Examination.

Ref CA1.3.73

52. The explanation of the widths of the easements are noted - this is contradictory however to the position the Council had been briefed on previously by the Applicant, where it was stated an 11 metre easement would (generally) apply.

53. There has been no detail provided however in respect of the easement widths required for the HDD, a particular concern for the reception site at Farlington Playing Fields where the location of the cables will be critical in determining the impact on playing fields.

Ref CA1.3.75

54. It is the Council's position that the contractor should work to refined provisions of a made DCO, rather than have excessive flexibility to the detriment of Affected Persons and users and occupiers of this excess of Order land. The highway width is circa 9.5 metres; it is unclear why the Applicant cannot limit its Order widths to 9.5 metres wherever possible, along the line of the route.

Ref CA1.3.93

55. The Council does not agree with the Applicant's response in respect of the impact during construction but also the impact of permanent rights going forward to access the cables through the land for maintenance and monitoring purposes (see response to CA1.3.33)

Ref CA1.3.94

56. If the Applicant's position as set out here which indicates a large percentage of the rights sought where the development is to be placed within highway land, there is no justification for seeking compulsory acquisition powers over it.
57. To that end the PCC highway land should be removed from the Book of Reference and not subject to the application for compulsory acquisition powers.

Ref CA1.3.96

58. The Council does not believe that powers of compulsory acquisition should be granted to the applicant unless funding for the acquisition can be demonstrated in accordance with the CA guidance (see response to CA 1.3.1). This the applicant has signally failed to do.

Ref CA1.3.103

59. The Council considers it important to understand what compensation provision has been provided for in respect of acquisition of rights in highway land, in the Property Cost Estimate. This is not apparent.

Comments in respect of the HDD Position Statement Note (document library reference REP1-132) and the Framework Management Plan for Recreational Impacts (document library reference REP1-144).

60. The Council has reviewed both documents submitted by the Applicant at Deadline 1. A key concern is the amount of recreational land impacted by the Proposed Development. The two documents are inconsistent in detailing the impact on Farlington Playing Fields.

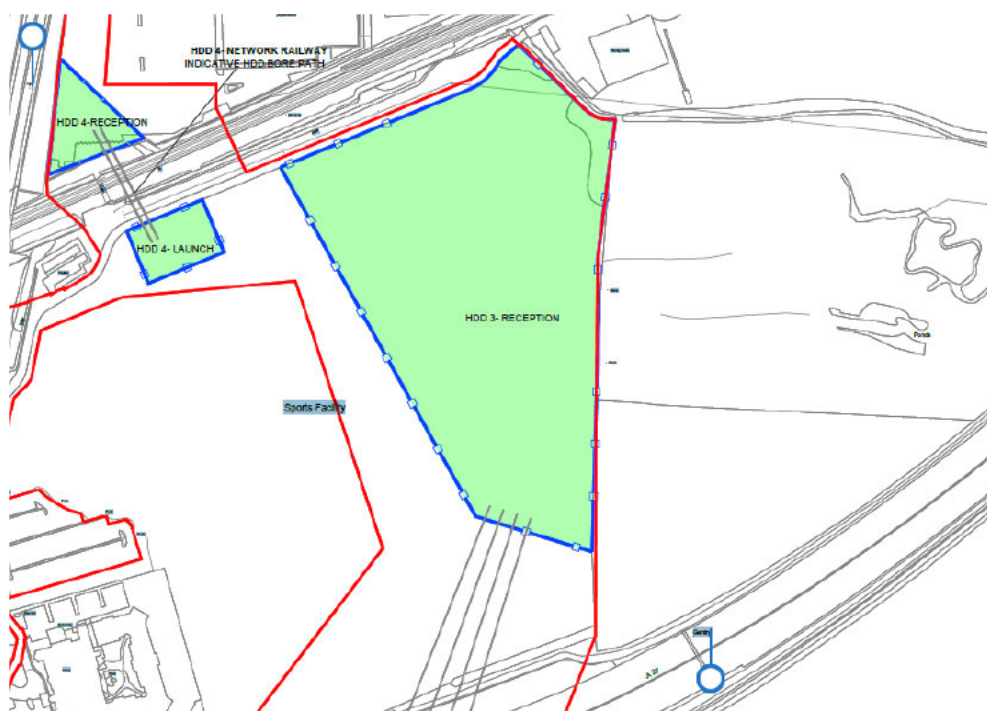
Farlington Playing Fields

61. This is the City Councils largest sports ground and has 2 cricket squares, 10 senior football pitches, and 1 junior football, and rugby training. Over 56 different teams use the football pitches at Farlington.
62. On an average Sunday morning during the football season this would host 10 or 11 football games affecting over 240 individual people not including any spectators. There are also some games on Sunday afternoons and occasional mid-week games.
63. Cricket matches are played at weekends as well as mid-week.
64. This sports field hosts in a season an average 238 senior football matches, and 39 cricket matches plus junior football on regular basis a year. Over the season this would affect over 5700 football participants and Over 900 cricketers with a loss in revenue to the council in the region of £13,500 for

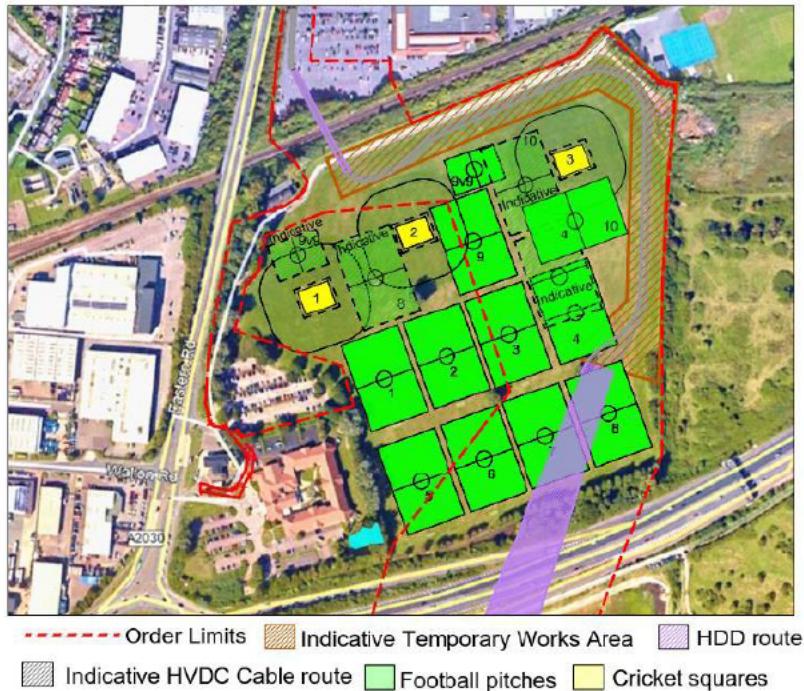
football and £3200 for cricket per annum. While the income is important to Portsmouth City Council the bigger issue is the lack of facilities to the residents of Portsmouth. This would be multiplied year on year for the duration of the works up to 7 years.

65. This site hosts camping for the victorious music festival in August each year where the whole field is used for camping over the weekend we cannot have bare ground and unfortunately within the city no other site offers the space or infrastructure required. Loss of this facility would result in significant financial penalties to Portsmouth City Council and possible effect the whole Victorious festival for a period of up to 7 years. (a plan of the camp site for 2019 can be supplied if required)
66. The Aquind submission states as a guide (but not confirmed) that they will be on site for around 52 to 58 weeks between April 2022 and Sept 2023 there is no mention of re-instatement between works or whether reinstatement will be carried out on completion of all works.
67. Aquind have not offered any mitigation as to how sports fixtures will be accommodated, bearing in mind they also require an unspecified area of the car park as a site compound. The order limits impact directly on 8 senior pitches the 9v9 and 1 cricket the car park and access road so we have to assume this would make the majority of the whole field depending on car park and access availability unusable for up to 2 years plus the reinstatement times of 6 to 12 months this would make nearly 3 years of disruption. However order limits would be in place for 7 years so even this 2 -3 year estimate is not confirmed.
68. Farlington also has an integrated land drainage system covering the whole site and any damage to part of this may impact on the integrity of the whole system. (plans can be supplied if required) The scale of the order limits would indicate that a large area of the field would be impacted either through digging or heavy vehicle movements which would damage the drainage below ground, potentially requiring a large part of the field drainage to be completely re-laid. This would take several months to be usable as playing surface further impacting on the sports field. This must be taken into consideration during and after works are completed, no mention of how or when this will be reinstated without full re-instatement the field is prone to flooding and potentially unusable.
69. Any disruption to this sports ground would have significant impact on both football and cricket over a number of seasons. Unfortunately Portsmouth City Council does not have the capacity to move these games to alternative venues. This would be completely unacceptable to both football, and cricket leagues and with only limited alternative pitches available may void whole league seasons for 2- 7 years with the subsequent health and wellbeing of users affected.

70. No mitigation or alternatives have been put in place by Aquind for the loss of the sports pitches or potential impact on victorious camping.
71. Farlington sports field is also a designated site for overwintering birds any disruption or lack of grazing availability during the winter months could have significant impact on the wild life that use this site no mitigation has been put place by Aquind or any assurance that grass cover would be intact for the winter months.
72. The HDD Position Statement (Doc Ref. REP1-132 / Deadline 1 Submission 7.7.3) sets out the reception area in Appendix 2 (Sheet 11):



73. The Framework Management Plan indicates the land requirements for the HDD reception site will be as per Plate 2 of the document:



**Plate 2 - Farlington Playing Fields, indicative construction lay-out**

74. The two areas set out in the two documents show inconsistencies in terms of the anticipated land requirements. Even where the Phasing of the works is shown in the Framework Management Plan indicates the works to be at their most intrusive (Phase 3 and Phase 8), the proposed impacts do not correlate to the proposed land requirements shown in Plate 2 of the HDD Position Statement. The Order Limits at Farlington Fields are drawn very widely, and the Council has stated in its previous submissions the concerns over the impact on this widely used recreational site, and the long term impacts on its users. The Council requests that the HDD proposals are reviewed further at this location, with confirmation impacts will be kept to an absolute minimum. The ambiguity over the proposals means the Council has no confidence the Applicant has an understanding of how it intends to use the land, and as such cannot satisfy the compulsory acquisition tests.

75. In addition to impacts on Farlington Playing pitches the Framework Management Plan for Recreational Impacts (document library reference REP1-144) makes comments on several other recreational areas. Overall this document fails to offer much, in any mitigation for the loss or interference of facilities and amenities focussing instead on limited avoidance measures.

### Langstone Harbour Sports Ground

76. This is a popular sports ground with 1 cricket square and 1 football a pitch , this field is also used by the sailing centre for training and outdoor activities as well as an additional football pitch to the north leased out to Baffins Milton FC

77. The City Council only has 5 Cricket squares available for public use and 1 of these is used almost entirely by 1 club at Drayton with potentially 1 or 2 cricket squares out at Farlington, discussed above, this means a means a potential reduction of 40% - 60% capacity for cricket for up to 7 years .
78. At Langstone the cricket season runs from end of April to beginning Sept and hosts an average of 37 per season matches affecting 888 participants with a loss in revenue of approximately £3050, the football season runs from Sept to April and hosts around 54 football matches being one of our larger pitches many of these are cup games and finals these pitches the loss of this pitch for the season would affect around 1300 participants per season with a loss of revenue in the region of £3000.
79. Baffins Milton FC play in the Wessex league and lease this pitch and surrounds from PCC they would have approximately 18 home fixtures plus friendlies and training , their pitch has also been the home of Portsmouth ladies in recent years, the complete number of fixture for this pitch is unknown.
80. There is no mitigation measures or alternatives in place for the loss of sporting facilities during a period of 11 weeks as described by the Framework Management Plan or loss of the Tudor sailing clubs boat storage area which is within the order limits.

#### University of Portsmouth playing and fields and Langstone sports site

81. PCC retains concerns in respect of the unmitigated impact on the recreational and sporting provision at the University of Portsmouth Site which is used throughout the year by both the university and the wider community. PCC find it unacceptable that the temporary loss extends over 16 week periods and again no mitigation is considered beyond the avoidance attempts should the order limits be altered. The council is progressing a Statement of Common Ground with the University and will provide further comments in due course.

#### Bransbury Park

82. This park has 3 football pitches hosting approximately 54 games in a season and although the work plans appear to miss the football pitches any loss to the field access and /or car park would have significant effect on the use of the pitches and ability to complete league fixtures. An average of 33 different teams use these pitches affecting 1296 participants per season with a loss of revenue in the region of £3000.
83. The park and car park is also used by local people for dog walking and general use including a skate park and open space any loss of areas of the park for any period would be detrimental to the health and wellbeing of the local residents as the next nearest open space is some distance away.



84. The order limits include the whole car park part of Football pitch 2, running adjacent to some very mature trees and tracks across the whole park from Bransbury rd to Glasgow road in a wide swathe. Again no mitigation has been offered for the loss of pitches (12 weeks) and the loss of parking provision (4 weeks per joint bay). Some avoidance has been suggested through pitch reconfiguration, but this would of course result in the loss of informal recreational area at this site. PCC do not accept therefore that the works will result in no recreational disturbance to users of the football pitches, due to the loss of parking, and due to wider harm to recreational amenity.
85. Impacts on other, smaller or more informal recreational areas, such as Milton Common, Zetland Field and Portsdown Hill will be proportionately less but will still result in an unmitigated loss of local amenity. While some direct avoidance measures are considered, such as the relocation of football goals, no mitigation or other community compensation has been suggested for the general temporary loss of recreational space, amenities and ecological space.
86. The impacts on Fort Cumberland Car Park are significant with the majority of the car park removed for prolonged periods, totalling 66 weeks including a single period of 44 weeks. Again no mitigation is offered throughout construction which is not considered acceptable. During operation, when a significant part of the car park is acquired for the ORS the proposed mitigation is to surface the car park to optimise parking density. Due to the proximity to heritage assets and the current landscape character the Council notes Historic England's position on the current visual impact assessment and must reserve its position on the appropriateness of this as a mitigation strategy.

#### Associated Development – FOC Commercial Infrastructure

87. With regard to the applicant's case that a large proportion of works proposed which do not relate to the interconnector should somehow be treated as 'associated development' under the Planning Act 2008 PCC notes the applicant's response and what PCC considers are extraordinary arguments at Doc Ref 7.1.1 "Statement in Relation to FOC "in response to the ExAs written question with reference DCO1.5.2 i.
88. These submissions, in PCC's submission, are a clear acceptance either that subject of the application cannot be the subject of proceedings under the PA 2008 or that at a minimum the development is not associated development under the PA 2008.
89. This is because the applicant apparently seeks to argue that because it argued that the FOC infrastructure amounted to AD in accordance with s115 of the PA 08 in its application for a direction under s 35 that the interconnector be treated as a project of 'national significance' and the Sof S did not in issuing the direction take issue with that, this means that "irrespective of whether the commercial use of the FOC Infrastructure constitutes 'associated development' as defined in Section 115 of the Act, it has already been confirmed that such development is to be treated as

development for which development consent is required (rather than for which development consent may be granted) [sic].”

90. This is seemingly a reference to s31 which states that “Consent under this Act (“development consent”) is **required** for development to the extent that the development is or forms part of a nationally significant infrastructure project.” This is the same language used in s35 which is headed “Directions in relation to projects of national significance” and which of course refers to the SofS’s powers to so direct in relation to development as long as it meets certain criteria.
91. The reference to development for which “development consent may be granted” is seemingly a reference to s.115 which of course lists the three forms of such development i.e. (a) development for which development consent is required, or (b) associated development, or (c) related housing development.
92. There is no provision within s35 to treat development that is identified as associated development as being anything else.
93. The applicant’s own application under s35 clearly referred to the FOC as being ‘associated development’ under s115. It did not seek to argue that it comprised the development which formed under s.35 (1) (a) “part of—(i) a project (or proposed project) in the field of energy, transport, water, waste water or waste, or (ii) a business or commercial project (or proposed project) of a prescribed description,” or that the FOC was somehow “(b) ... development [that ]will (when completed) be wholly in one or more of the areas specified in subsection (3) nor did the Sof S say he thought that the “the project (or proposed project) is of national significance” when considered with any “other project” or “any other business or commercial projects (or proposed projects) of a description prescribed under paragraph (a)(ii)” under s.35.
94. What the Sof S did direct was that “that the proposed Development, together with any development associated with it, is to be treated as development for which development consent is required” It is this conclusion that Herbert Smith Freehills on behalf the applicant asks the ExA to conclude means the SofS somehow was directing that “any development associated with” the proposed Development is something ‘else’. That something else is confused and has no basis in statute. It appears to be an argument either this is now part of the Project (despite that not being the application) or it seems is asking the ExA to conclude that the SofS was directing that the FOC Infrastructure already constitutes ‘associated development’ for which consent is required or rather a special kind of associated development because it there was reference to associated development within the direction.
95. This is plain nonsense.

96. The project being considered was the interconnector. It was the project or Proposed Development that that the SofS concluded was to be treated as development for which development consent was required. No conclusion or direction was given about the specific associated development that the applicant referred to for the clear reason that there is no power so to do under s35.
97. The applicants give the lie to these submissions in any event by going on to argue that the FOC why the “commercial use of the FOC Infrastructure would constitute associated development application”.
98. The applicants begin rightly by reference to s.115 and identifying the “Guidance on associated development applications for major infrastructure projects” published by DCLG in March 2013 (‘the AD Guidance’).
99. PCC does not repeat the relevant parts of the AD Guidance which set out criteria for AD namely paragraphs 5 and 6.
100. PCC notes the comment at para 4.6 of the applicants submissions (doc ref 7.7.1) in which it states rather surprisingly that the “proposed Development is not an NSIP (though has been confirmed to be of national significance)” by which it is assumed that this is a reference to the interconnector not falling within any of the NSIPs listed generally in s.14 of the rest of Part 3 of the PA 2008. It clearly has been concluded by the SofS that it should be treated as an NSIP however as a consequence of his direction under s35.
101. This point takes the applicant seemingly nowhere as there does not appear to be nor should there be debate about what the ‘principal development’ is in this context and by which the decision is to be made as to whether the FOC Infrastructure is AD i.e. the interconnector and its use for the transfer and conversion of electricity.
102. It is notable that throughout the rest of the document the applicant seeks to blur the line between the “two smaller diameter” FOCs which have specific function as part of the interconnector for data transmission and the rest of the FOC which is proposed solely because the applicant wishes to use the ‘spare capacity’.
103. The applicant’s legal representatives argue that this is “so as to realise the full benefit of the Proposed Development and to ensure it operates effectively to its design capacity” however the commercial FOC use does not benefit the interconnector i.e. the Principal Development nor does it have anything to do with its operation.
104. The applicant confirms however at various points within the document that but for the commercial use of the FOC there would be at least a smaller ORS, as noted above, and accepts, as it must, that the Telecommunications buildings are only required as a consequence of the commercial FOC use.

105. PCC asks the ExA to conclude from this response and the applicant has wholly failed to show that the FOC commercial infrastructure should be treated as associated development in accordance with s115. In addition, the ExA and the SofS have no power to treat this issue as somehow addressed or concluded by the SofS's direction under s35.

### **Task B - Comments on responses to ExQ1**

106. PCC notes that there have been a significant number of additional documents submitted by the Applicant and other interested parties at Deadline 1. Whilst the Council has had the opportunity to begin to digest some of this additional information, the timescales and availability of documents on the website have inevitably prevented officers from being in a position to review, and potentially comment, on all relevant material. It is also noted that additional uncertainty has been raised by the Applicant's submissions regarding the Order Limits. While PCC has sought to assist the ExA on certain key matters discussed above and further specific responses below, we must reserve our position in respect of other matters submitted in respect of Examination Questions 1 at this time.
107. With regard to the Examining Authorities Questions (ExQ1), whilst PCC have reviewed the applicant's answers, it is pleased to provide responses to those questions which were directed at both PCC and the Applicant, namely: MG1.1.22, MG1.1.26, AQ1.2.4, AQ1.2.8, CA1.3.41, CH1.4.4, DCO1.5.9, DCO1.5.17, DCO1.5.44, DCO1.5.57, LV1.9.10, N1.11.7, N1.11.10, TT1.16.3, TR1.17.1, TR1.17.3
108. MG1.1.22. This question asked, 'Does Portsmouth City Council accept that it would take responsibility for the maintenance of the proposed landscape planting at the landfall after 5 years of establishment, as suggested at 1.6.4.1 of the Outline Landscape and Biodiversity Strategy [APP-506]? Does the Applicant have a fall back proposal if agreement was not reached? PCC's response to this is that it should be the applicant's responsibility to maintain planting for at least five years following the completion of construction of the whole project. Given the physical and temporally linear nature of the project, it is considered that the requirement as set out in Requirement 8 (2) should be amended to, inter alia: 'Any tree or shrub planted as part of an approved landscaping scheme that, within a period of five years after planting or completion of the project whichever is the later, ...must be replaced in the first available planting season with a specimen of the same species and size as that originally planted, unless otherwise approved by the relevant planning authority.' As noted at Deadline 1 PCC also suggests that an appropriate commuted sum should be paid in respect of the reasonable costs of maintaining the landscaping after this period. This is even more necessary in light of the Applicant's proposed amendment to Requirement 8 which expressly requires all landscaping to be retained, managed and maintained; an obligation that would transfer to PCC with its associated reasonable expectation from effected communities. It is noted that the Applicant has not provided a response to the Examination Question in respect of whether they have a fall back proposal if agreement cannot be reached.

109. MG1.1.26. This question asked, 'The proposed cable route includes a number of areas with known contamination issues, especially at Milton Common. Has the Applicant provided sufficient evidence to demonstrate that, should the cable be installed at these locations, contamination could be dealt with appropriately and in such a way that there would be no significant adverse effects on human health, the water environment or biodiversity?' With regard to this, PCC considers that the Applicant has not provided sufficient evidence to demonstrate that contamination along the whole run will be identified and dealt with in such a way to avoid adverse effects on human health, the water environment or biodiversity. The ground investigation has provided a general coverage of the Onshore Cable Route. It did not target areas of suspected historical contamination (locations were targeted because of ease of access as they were open space and owned by the council) and the desk study was undertaken retrospectively. Their testing was to inform the construction design to protect their cable, which is not vulnerable to contamination because of its industry standard design. These are engineering matters and not PCC's Contaminated Land Team's (CLT) concern. PCC CLTs concern remains about the residual impacts of the project and the poorer ground condition that is likely to be left. The key concern is about contamination being disturbed and new exposure created unless these areas are identified and systems of working put in place. PCC CLT have previously queried the approach that the cable will take through Milton Common disused landfill, which may go through the sea defences, and through the areas of remediation that the council installed (ground gas vent trench, capping soils). The Applicant's confirmation that they will comply with an un-agreed document is not reassuring unless it can be ensured that ground gas protection will be maintained, working on the site will avoid poaching the land, and that exposure of fill material during and after works is prevented. The restoration must ensure that afterwards the residents have Milton Common with an uncontaminated surface that is suitable for use.
110. AQ1.2.4: This question asks: 'Can you fully explain the requirements of the air quality Ministerial Directives relating to parts of the Portsmouth City Council area in terms of levels, timescales, and so on? Can you explain the mitigation measures that are being pursued by the Council at present to achieve these aims, and comment on any implications of the Proposed Development for the Directives and for the Council's proposed measures? The Aquind reply states that 'Given the negligible impacts at receptors and the concentrations recorded in the Do-Minimum scenario, and the temporary short-term nature of the impacts, the Proposed Development has no material impact in terms of potential delay to compliance with the Ministerial Direction. A description of these aspects is included in the updated ES Addendum Chapter 23 (APP-138 Rev 002). PCC note this response and reserve our position to identify whether there are more than negligible impacts as the Applicant continues to refine the proposal with their additional submissions.
111. CA1.3.41. This question asks: Has any contact been made with the following Statutory Undertakers to consult over and agree protective provisions? (Appendix B of the Statement of Reasons [APP-022] refers.) If so, what are the current positions of the Applicant and each of the following. If not, why not? If agreement has not been reached on protective provisions, what is the

envisaged timescale for such an agreement? i) ESP Utilities Group Ltd. ii) GTC Infrastructure Ltd (GTC Electricity). iii) GTC Infrastructure Ltd (GTC Gas). iv) Hampshire County Council. v) National Grid Electricity Transmission plc. vi) Portsmouth City Council. vii) Southern Water Services Ltd – Sewers. viii) SSE PLC (Gas). PCC would note that the applicant has contacted Portsmouth City Council as Highway Authority with regard to protective provisions, however currently these do not meet our expectations. PCC's submission is that the Applicant should be required to comply fully with the Portsmouth City Council Permit scheme. Further submissions in respect of the protective provisions will be made at the latter Deadlines.

112. CH1.4.4 This question asks, For Section 1 of the Proposed Development (from ES paragraph 21.6.4.5 [APP136]), the assessment of effects on the settings of assets appears to focus exclusively on views, and relies, in some cases, on established or proposed planting to mitigate effects. Could the Applicant, Historic England and the relevant local authorities comment on the adequacy of this, or whether other factors that contribute to setting should have been considered. To what extent should the ExA and Secretary of State take established vegetation and proposed mitigation planting into account in the assessment of setting? PCC note the deadline 1 response from Historic England and the fact that discussions are ongoing with this expert body. PCC concurs with the implied and expressed concerns that new landscaping will take time to establish, may not become a permanent addition and will have, as yet, unassessed impacts on the heritage value of the area. Should the ExA, to some extent, take proposed planting into account, the interrelationship between that consideration and the fact that the Applicant seeks to transfer the permanent maintenance of that planting to PCC.
113. DCO1.5.9: This question asks, 'In Article 42 of the dDCO [APP-019], is the precision around TPOs sufficient? (TPO plans [APP-018] and Schedule 11 refer.) The Applicant seeks powers over any tree in the Order limits rather than providing a schedule (as per model provisions and as is usual in other recently made DCOs). Schedule 11 of the dDCO [APP-019] (TPO trees) only lists 'potential removal' and 'indicative works to be carried out'. How can this be specific enough to understand the impact of the Proposed Development on trees? If this remains unchanged, should the ExA in weighing the benefits and disbenefits of the Proposed Development therefore assume the loss all of the trees within the Order limits during construction and throughout the lifetime of the Proposed Development, given that 42(2)(b) of the dDCO [APP-018] removes any duty to replace lost trees? PCC's response to this is that it remains somewhat vague and more detail ought to be asked for, for example a definite route ought to be proposed and those trees definitely at risk identified. Sheet 6 Figure 3 of the Tree Retention Plan - appears to fail to take into account the presence of a cemetery, Christ Church, Portsdown, and a significant change in levels between the cemetery and highway. It should be noted that all the trees in the cemetery are covered by a TPO. Please see the image below.



114. DCO1.5.17: The applicant's answer to this question is noted. However PCC reserve their position with regard to this.
115. DCO1.5.44: This question asks, Could the Applicant and the local planning authorities please review the definitions of 'commence' and 'onshore site preparation works' set out in Article 2(1) of the dDCO [APP-019]? A number of site preparations are listed to be excluded from the definition of commencement. Does the Applicant believe that these definitions in Article 2 of the dDCO would allow such site preparation works to be carried out in advance of the choice of Converter Station option, and the discharge of Requirements, including approval of the CEMP, the landscape and biodiversity mitigation schemes and the surface water drainage system? On what basis does the Applicant believe this is acceptable? Does the Applicant believe that the onshore site preparation works include the creation of site accesses, and, if so, would this conflict with the need for design approval of 'vehicular access, parking and circulation areas' for Works 2 and 5 in Article 6 and Requirement 10? The definition of 'onshore site preparation works' includes 'diversion or laying of services', while Requirement 13 (contaminated land and groundwater) does not include an exclusion from the preparation works similar to the one in Requirement 14(2). Does the Applicant believe that intrusive works such as the laying of services could be carried out on any contaminated land before a management scheme has been agreed? If so, is this acceptable? Should Requirement 13 include similar wording to Requirement 14(2)? Also, could the Applicant provide a detailed explanation as to why each of the elements of onshore site preparations works are excluded from the definition of commence, notwithstanding any commencement control through a Construction Environment Management Plan (Explanatory Memorandum [APP-020] paragraph 5.3.2)? The response must include details of the benefits implied in paragraph 5.3.7 of the Explanatory Memorandum. Could the local authorities comment on whether they are agreeable to these exclusions?

116. With regard to the applicant's answer, the applicant's comments and amendments following Deadline 1 are noted. Requirement 15 has been made stricter, with "substantially in accordance" replaced with "in accordance" multiple times. The possible content of a CEMP for any given "phase" has also been expanded.
117. An Outline Landscape and Biodiversity Strategy is to be certified by the SoS for the purposes of the DCO. Requirement 7 (Landscaping) and Requirement 9 (Biodiversity Management Plan) provide that respective schemes/plans must be submitted for Works No 4 (a new insertion in the case of Requirement 7 (Landscaping)) in accordance, where relevant, with the certified Outline Landscape and Biodiversity Strategy. The applicant's answer focuses on retention required by the Outline Landscape and Biodiversity Strategy, which would presumably specify certain assets that must not be removed. The implication would seem to be that significant "onshore site preparation works" such as "(c) site clearance" and "(d) removal of hedgerows, trees and shrubs", in other words significant landscaping works, could occur in any pre-commencement phase. PCC will need to be convinced that the Outline Landscape and Biodiversity Strategy is sufficiently detailed so that it would be acceptable for such "onshore site preparation works" to occur without the schemes and plans required by Requirements 7 (Landscaping) and 9 (Biodiversity Management Plan) for their respective phases. PCC reiterates its concern to date that provisions relating to trees elsewhere in the dDCO are inadequate.
118. Given that substantial site clearance including the removal of removal of hedgerows, trees and shrubs would be permissible under current drafting, PCC would like the applicant to expand on why it is confident that onshore site preparation works would not impact surface and foul water management.
119. PCC is pleased to note that "creation of site access" and "laying and diversion of services" have been removed.
120. PCC is not clear how the Applicant's contention that the "onshore site preparation works are not works of a scale where further controls are required in relation to them", when the scale of any particular phase is within the Applicant's discretion, meaning that onshore site preparation works for the entire length of Works No 4, for example, could be submitted as a single "phase".
121. PCC is pleased to note that a Requirement 13(2) similar to Requirement 14(2) has been inserted.
122. With regard to each exclusion, PCC would comment:
- a) Because "commencement" under Requirement 14 includes pre-construction archaeological investigations, they are prohibited until a written scheme for investigation has been approved. This is acceptable.



- b) Because "commencement" under Requirement 13(2) (as amended) includes environmental surveys and monitoring, such surveys and monitoring are prohibited until a written scheme for investigation has been approved. This is acceptable.
- c) Firstly, PCC would like to know why the applicant is of the view that site clearance would not impact surface and foul water management in a way that requires mitigation. [Secondly, if Requirement 13(2) and the CEMP address contamination in the context of soil disturbance through site clearance then the Council is satisfied with the exclusion in this particular respect.]
- d) PCC queries whether the removal of hedgerows, trees and shrubs could firstly impact surface and foul water management and, secondly, disturb soils. Can soil disturbance through the removal of trees, hedges and shrubs be adequately accounted for in the CEMP and by 13(2)? Thirdly, PCC will want to be satisfied that the Outline Landscape and Biodiversity Strategy is sufficiently detailed to permit the removal of minimal trees and does not lead to trees worthy of protection being removed because they are not the subject of a TPO (due to being in the Council's ownership) or other unduly permissive wording.
- e) Ditto comments for b)
- f) Remedial works for contamination are subject to Requirement 13(2) and 13(3)-(5). It is reasonable that these are subject to the schemes specified therein but do not commence particular Works.
- g) PCC agrees that receipt and erection of construction plant and equipment would be unlikely to be perceived as development in any case.
- h) PCC agrees that temporary display of site notices and advertisements is not development, but would like to see a caveat that such notices and advertisements must only advertise site entrances.
- i) PCC would expect the CEMP to specify the nature of the temporary buildings and structures required. Requirement 15 could be amended to specify the nature and period that such temporary buildings and structures will be required.

123. DCO1.5.57: As paragraph 12.4 of the Explanatory Memorandum refers to the division of discharging requirements as between the local planning authority and the local highway authority. As PCC is unitary, this is probably less of a concern than for the other authorities

124. LV1.9.10: The applicant's answer to this question is noted. As above, however, PCC would reserve their position with regard to addressing this point in more detail as the examination progresses.N1.11.7:

125. The applicant's answer to this is noted.

126. N1.11.10: The applicant's answer to this is noted.

127. TT1.16.3: The applicant's answer to this is noted.

128. TR1.17.1: The applicant's answer to this is noted, but please also see the comments on DCO1.5.9 above. PCC would ask the ExA to note its earlier comment. The applicant is seeking to remove a considerable number of trees and which will clearly have a harmful impact upon the appearance of the area and considerable loss of amenity.

129. TR1.17.3: The applicant's answer to this is noted

### **Task C - Comments on Local Impact Reports (LIR) from Local Authorities**

130. PCC broadly endorses and supports its sister authorities and the contents of the Local Impact Reports. PCC would however specifically draw the ExA's attention to the following:

#### **Havant Borough Council:**

Havant identify that 'The cable route corridor in this area caters for the bus 'Star' routes 7 and 8 between Portsmouth and Waterlooville which is a key access facility to Queen Alexandra Hospital and Portsmouth's employment areas'

Havant identify concerns that, 'The proposed route is already constrained to further improvement in general capacity due to the available highway land and frontages of private properties. The ongoing ability for the Highway Authority to be able to maximise the use of the highway land therefore remains paramount on this key connection to Portsmouth and the A27/M27 corridor and therefore should not be constrained by the provision of non-highway infrastructure within the Highway Boundary.

PCC clearly concurs with this view.

#### **Hampshire County Council:**

HCC raises and identifies issue of common concern to PCC, namely the impacts on the highway network, the acquisition of subsoil rights and the justification for these powers. PCC considers this adds weight to its own arguments and to the points generally against the DCO and the applicant's approach.

### **Task D - Comments on Written Representations (WRs)**

131. PCC also broadly endorses and would support the comments raised in the written representations which highlight concerns and objections to the application. PCC would though specifically draw the Examining Authority's attention to the following extracts from Written Representations submitted by:

- i. Southern Gas Networks ('SGN')
- ii. Freeths LLP on behalf of the University of Portsmouth ('UoP')
- iii. Network Rail
- iv. Newsteer Real Estate Advisers on behalf of Sainsbury's, Farlington (Sainsbury's)
- v. Historic England

132. (i) SGN "strongly objects to the proposed compulsory acquisition by the Applicant of rights in land in order to construct, operate and maintain the Works for the reasons given in this Written Representation. Given the importance of the safe and continued operation of SGN's statutory gas distribution undertaking, SGN considers it is to be of the utmost importance that full protections are first put in place and that the Proposed Development should proceed by way of agreement rather than compulsory acquisition affecting SGN's interests in land and which risks serious detriment to its statutory undertaking."
133. PCC supports SGN's position but would also point out that the fact that the applicant has not achieved this with SGN by this stage is indicative of the failure in its approach and the weakness of its position.
134. (ii) UoP highlights two concerns: (1) Operational: disruption to the provision of sports facilities to its students and the local community together with impact on the University's business, and (2) 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. They recommend that the Furze Lane route option be dropped entirely.
135. PCC supports the University's position. PCC and UoP are in the process of agreeing a Statement of Common Ground with Portsmouth City Council in relation to Langstone Campus and the Applicant's Deadline 1 submissions. The draft SoCG is at an advanced stage and will be submitted as soon as possible.
136. (iii) Network Rail - Network Rail considers the proposed development, if carried out in relation to Plot 7-11, would have serious detrimental impact on the operation of the railway and would prevent Network Rail from operating the railway safely and efficiently and in accordance with its Network Licence. Until such agreements are in place, and clearance has been obtained, Network Rail is unable to withdraw its objection to the DCO.'
137. PCC concurs with Network Rail's position.
138. (iv) Sainsbury's- highlights that its principal concerns with the application is focused on: (i) the lack of consideration to alternative cabling routes, and (ii) the extent of the acquisition of rights over land. The proposed cabling route, and the extent of rights proposed to be acquired over land, covers a significant portion of the car park and access routes at Sainsbury's Farlington which has the potential to impact on SSL's current management of the store, cause considerable disruption and result in significant losses. As such, it is our client's request that alternative cabling routes, such as, but not necessarily limited to, a route along A2030 Eastern Road, and a revision to the extent of the acquisition of SSL's land should be considered during the examination.

139. PCC concurs with the general concerns regarding the extent of acquisition of rights over land.
140. (v) Historic England "As set out in the summary to the WR: In the case for designated heritage assets, we draw your attention to (i) 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. 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. 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. AND (ii) 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.
141. PCC supports and concurs with these views (see above)

**Task E - Comments on Statements of Common Ground (SoCG) requested by the ExA**

142. Due to the significant number of additional documents submitted within the Applicant's responses, the Statement of Common Ground has not been formally progressed since Deadline 1. Officers will continue to meet with the Applicant, and other parties, to discuss matters arising and anticipate being in a position to provide an updated Statement of Common Ground by Deadline 3. It is noted that other Local Authorities are proposing a similar approach

**Task F - Comments on Statement of Commonality for SoCG**

143. Comments on the Statement of Commonality for the Statement of Common Ground are not being provided at this time.

**Task G - Further information requested by the ExA under Rule 17 of the Examination Rules2**

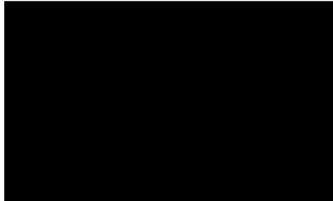
144. There have been no formal requests for information from PCC under Rule 17 of the Examination Rules. PCC note the formal request made by the ExA to the applicant on 15 October 2020 in respect of third party submissions and other issues.

### **Concluding comments**

We reserve the right to expand on these comments at the appropriate time. We trust that the above and enclosed submissions meet your requirements.

Should you require any additional information or clarification, please do not hesitate to contact me.

Yours sincerely,



**Ian Maguire**  
**Assistant Director Planning & Economic Growth**

**Cc**  
David Williams, Chief Executive, Portsmouth City Council  
Tristan Samuels, Director of Regeneration, Portsmouth City Council