

From: [Noviss, Adrian](#)
To: [Aquinid Interconnector](#)
Cc: [Kasseean, Anita](#)
Subject: AQUIND (EN020022) - DEADLINE 2 - Mr Robin Jefferies (ID: 20025045) [BMG-LEGAL.FID44973516]
Date: 20 October 2020 21:16:53
Attachments: [Deadline 2- Letter to PINS - Robin Jefferies - SUBMITTED BY BLAKE MORGAN ON 20 OCTOBER 2020 - FINAL.PDF](#)

Dear Sirs

Application by AQUIND Limited for an Order granting Development Consent for the AQUIND Interconnector Project (PINS reference: EN020022)

Mr. Robin Jefferies (Registration Identification Number: 20025045)

Submitted in relation to Deadline 2 of the Examination Timetable

We act for Mr. Robin Jefferies.

We refer to the above and attach our client's comments in relation to Deadline 2 of the Examination Timetable.

Kind regards,

Adrian Noviss

Associate

For and on behalf of Blake Morgan LLP

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20 October 2020

Dear Sirs

Application by AQUIND Limited for an Order granting Development Consent for the AQUIND Interconnector Project (PINS reference: EN020022)

Mr. Robin Jefferies (Registration Identification Number: 20025045)

Submitted in relation to Deadline 2 of the Examination Timetable

As you are aware, we act for Mr Robin Jefferies (our "**Client**").

Our Client owns the freehold interest in land known as Mill View Farm, Old Mill Lane, Denmead PO8 0SN.

The area covered by plot numbers 1-26, 1-29 and 1-30 fall within our Client's freehold interest.

We refer to your letter dated 15 September 2020 issued in connection with Section 89 of The Planning Act 2008 and Rules 8, 9 & 13 of The Infrastructure Planning (Examination Procedure) ("**Rule 8 Letter**"), which contains the Examination timetable.

1. Requirements for Deadline 2 of the Examination timetable

1.1 The Examination timetable in the Rule 8 Letter requires (amongst other things) the following to be submitted at Deadline 2:

1.1.1 Comments on responses for Deadline 1; and

1.1.2 Comments on responses to ExQ1.

1.2 We write in relation to the above two requirements.

2. **Comments on "responses for Deadline 1"**

2.1 We note that due to the term "*responses to Deadline 1*", this is a relatively wide requirement but assume it covers all responses submitted in relation to Deadline 1.

2.2 As you are already aware, the Applicant has submitted a large number of revised application documents and plans (including the draft DCO and large parts of the Environmental Statement) that are additional to the documents the Examination timetable states is required in relation to Deadline 1.

2.3 The Examination timetable states that the list of documents below was required in relation to Deadline 1, and we had envisaged that the documents in red below were the ones that would have been the most relevant to our Client to consider commenting on for Deadline 2:

- **Responses to ExQ1;**
- *Local Impact Reports (LIR) from Local Authorities;*
- *Written Representations (WRs) including summaries of all WRs exceeding 1500 words;*
- **Responses to Relevant Representations;**
- *Statements of Common Ground (SoCG) requested by the ExA;*
- *Statement of Commonality for SoCG;*
- **The Compulsory Acquisition Schedule;**
- *Notification by Statutory Parties of their wish to be considered as an Interested Party (IP) by the ExA;*
- *Notification of wish to participate in Open Floor Hearings (OFH1 or OFH2) (see Annex B);*
- *Notification of wish to participate in Compulsory Acquisitions Hearings (CAH1 or CAH2) (see Annex B);*
- *Notification of wish to participate in the Issue Specific Hearing into the draft Development Consent Order (ISH1) (see Annex B);*
- *Submission by the Applicant, IPs and APs of suggested locations for the ExA to include in any Accompanied Site Inspection, including the reason for nomination and issues to be observed, information about whether the location can be accessed using public rights of way or what access arrangements would need to be made, and the likely time requirement for the visit to that location."*

2.4 In light of the large number of additional revised application documents submitted by the Applicant, it is unclear whether we are now required to comment on all or some of the revised application documents individually, or to submit revised Written Representations at Deadline 2 based on those revised documents, in order to satisfy the requirement in the Examination timetable that "*Comments on responses for Deadline 1*" must be submitted at Deadline 2. We note that some of the application documents have been revised as a result of the Applicant's responses to the Examining Authority's First Written Questions.

2.5 To put it another way, we are unclear as to whether all of the additional revised application documents and plans are to be formally treated as "*responses for Deadline 1*" and whether interested and affected parties are required to comment on those particular revised documents by Deadline 2.

2.6 To be required to do so would involve a significant amount of work and an effective re-consideration and revision of our Client's Written Representations by Deadline 2, which we do not believe was the intention of the ExA when it set the requirements for Deadline 2. This is especially so given that the Applicant's responses to Written Representations are also required by Deadline 2.

2.7 Also, we refer to the ExA's letter to the Applicant dated 15 October 2020 issued under Rule 17 of The Infrastructure (Examination Procedure) Rules 2010 ("**Rule 17 Letter**"). We note that the Rule 17 Letter

requests the Applicant to (amongst other things) provide further reasoning for submitting certain revisions, to confirm whether the Applicant is making a formal request to change the application, and whether additional consultation could be required. We note that it is only after the Applicant provides its responses to the requests made in the Rule 17 Letter that the ExA will then decide whether the relevant changes are material and admissible to the Examination.

- 2.8 In light of the above, we have concluded that subject to further clarification and confirmation from the ExA, we are currently not formally required to comment on all the revised application documents submitted by the Applicant in relation to Deadline 1, by Deadline 2 under the requirement "*Comments on responses for Deadline 1*". We have therefore only concentrated on the documents listed in red at paragraph 2.3 of this letter, for the purposes of our Client's submissions in relation to Deadline 2.
- 2.9 We respectfully request guidance from the ExA as to whether we are correct in our approach and if not, which of the revised application documents submitted in relation to Deadline 1 Interested Parties and Affected Parties we are still required to consider in light of the Rule 17 Letter, and by when. We would also like, in the meantime, to reserve our Client's position in relation to all the revised application documents submitted in relation to Deadline 1, until after the ExA has confirmed whether the changes being sought are material and are admissible.

3. **Applicant's responses to Relevant Representations**

- 3.1 We have considered the Applicant's responses to Relevant Representations (document reference number 7.9.4) ("**Responses to Relevant Representations**"). Where the Applicant has referred to an application document in its response, we have assumed it is referring to the original version of that document and not any revised version submitted by the Applicant in relation to Deadline 1 of the Examination timetable.
- 3.2 Our Client's relevant representations are contained in document number reference RR-067, in relation to Mill View Farm (our "**Client's Relevant Representations**").
- 3.3 Our Client's Relevant Representations raised a number of issues. The Applicant's Responses to Relevant Representations do not adequately address them. We take each concern in turn below.
- 3.4 **Amenity – Business Impact:** Our Client's Relevant Representations highlighted that the effect of the compulsory acquisition powers will lead to the loss of business caused by the sterilisation of that part of our Client's field identified as Plot 1-29 causing the loss of our Client's tenant's livery business and impairing his ability to find other tenants. The Applicant has failed to adequately assess the significant harm that the DCO would have on our Client's business as it considers only the type of agricultural land that would be lost and fails to consider the effect on the business that operates on that land. Section 5.12 (on page 5-106) of the Applicant's Responses to Relevant Representations does not provide sufficient justification to address these concerns. It makes a general reference to Chapter 17 of the Environmental Statement (Soils and Agricultural Land Use) (APP-132), Appendix 27.3 (Cumulative Effects Assessment Matrix (Stage 1 & 2)) (APP-479) and Appendix 27.4 (Cumulative Effects Assessment Matrix (Stage 3 & 4)) (APP-480). It also states that, as discussions are ongoing with landowners, no account has been taken of any potential mitigation measures for land holdings so the assessment in the ES presents a worst case for the effects on farm holdings. The Applicant's response goes on to state that mitigation relating to the permanent loss of farmable area to the affected farm holdings are matters of private negotiation and therefore cannot be incorporated into its assessment. Finally, the Applicant states that discussions are ongoing with landowners.

Firstly, the Applicant needs to demonstrate that the public interest outweighs the harm that will be caused by the exercise of such compulsory acquisition powers, and that those powers being sought are proportionate. The harm that will be caused to our Client is the loss of his business and livelihood.

Such a significant harm should not be relegated to be the subject of private negotiations only, without any consideration or scrutiny by the ExA. In this regard, we submit that the loss of businesses and livelihoods needs to be formally assessed and considered in the context of the Examination into whether the compulsory acquisition powers being sought satisfy the various legal and guidance requirements.

Secondly, despite what the Applicant states, there has been very little progress (on its part) in private negotiations with our Client. There has been no progress since May 2020 despite numerous attempts by our Client, their agents and us. We therefore maintain our Client's objections in relation to business impact.

3.5 **Compulsory Acquisition - Proportionality:** Our Client's Relative Relevant Representations stated that the Applicant has failed to demonstrate that the extent of the compulsory acquisition is necessary and proportionate, taking only what is required. The Applicant failed to justify the need for permanent landscaping rights over the hedgerows in Plots 1-26 and 1-30, because those hedgerows run perpendicular to the Converter Station and offer no screening value. Section 5.20 (on page 5-111) of the Applicant's Responses to Relevant Representations does not provide sufficient justification to address these concerns. It makes general reference to the Statement of Reasons (APP-022), Chapter 2 (Consideration of Alternatives) of the ES (APP-117), and the Supplementary Alternatives Chapter submitted as part of the Environmental Statement Addendum (document reference number 7.8.1.3) but the Applicant does not explain which parts of these documents address our Client's concerns and why. Our Client's Written Representations (REP1-239) contain detailed analysis of why the Applicant has failed to justify it requires permanent landscaping rights over the aforementioned plots and that the compulsory acquisition powers being sought are proportionate. In light of this we are going to wait until the Applicant submits its responses to our Written Representations and we will comment further on this issues.

3.6 **Relevant representations not responded to:** Our Client's Relevant Representations also raised issues relating to the Applicant's failure to demonstrate that all reasonable alternatives to compulsory acquisition have been explored and the Applicant has also failed to justify interference with our Client's human rights. The Applicant's Responses to Relevant Representations do not provide any direct response to these concerns. We respectfully request that the Examining Authority requires the Applicant to respond formally to these specific issues raised.

4. **Applicant's responses to ExQ1**

4.1 We have considered the Applicant's responses to ExQ1 (document reference number 7.4.1) and we cannot see any direct reference to our Client's Relevant Representations.

4.3 We retain our Client's position with regard to the Applicant's responses and will look at them with regard to our Written Representations.

5. **The Compulsory Acquisition Schedule**

5.1 We have considered the Applicant's Compulsory Acquisition Schedule and the Applicant's Compulsory Acquisition and Temporary Possession Objection Schedule – Rev 001 which have document reference numbers 7.6.1 and 7.6.3 respectively.

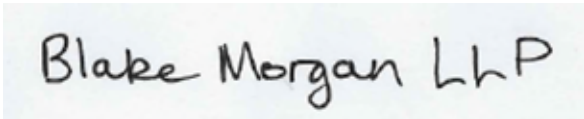
5.2 These documents contain statements by the Applicant regarding its engagement with our Client in relation to Heads of Terms. As stated above, we will consider those in the context of the Applicant's responses to our Client's Written Representations that are due to be submitted at Deadline 2, and we will comment further if necessary at Deadline 3. In light of this and the clarifications we have requested

at paragraph 1 of this letter, we maintain our Client's objections and reserve his position in the meantime.

6 **Conclusions**

- 6.1 None of the Applicant's responses that we have reviewed in relation to Deadline 1 of the Examination timetable have properly addressed our Clients' concerns and objections. In light of this, and the need for clarification from the ExA due to the Rule 17 Letter, we maintain all our Clients' objections and reserve their right to make further comments at the appropriate times as Examination progresses.

Yours faithfully

A rectangular box containing the handwritten text "Blake Morgan LLP" in a cursive, black ink style.

Blake Morgan LLP