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To: [Aquind Interconnector](#)
Cc: [Kasseean, Anita](#)
Subject: FW: AQUIND (EN020022) - DEADLINE 2 - Mr Michael Jefferies & Mrs Sandra Jefferies (ID: 20025044) [BMG-LEGAL.FID44973510]
Date: 20 October 2020 21:16:39
Attachments: [AQUIND Deadline 2 Letter - M&S 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. Michael Jefferies and Mrs. Sandra Jefferies (Registration Identification Number: 20025044)

Submitted in relation to Deadline 2 of the Examination Timetable

We act for Mr Michael Jefferies and Mrs Sandra Jefferies.

We refer to the above and attach our clients' 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. Michael Edwin Jefferies and Mrs. Sandra Helen Jefferies (Registration Identification Number: 20025044)

Submitted in relation to Deadline 2 of the Examination Timetable

As you are aware, we act for Mr Michael Edwin Jefferies and Mrs Sandra Helen Jefferies (our "**Clients**").

Our Clients jointly own the freehold interest in land known as Hillcrest, Old Mill Lane, Denmead, Hampshire, PO8 0SN ("the **Property**").

The area covered by plot numbers 1-11, 1-13, 1-15, 1-16, 1-17, 1-19, 1-23 and 1-24 falls within our Clients' 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 the term "*responses to Deadline 1*" is a relatively wide requirement. We 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 a revised draft DCO and large parts of the Environmental Statement have also been revised). These revised drafts appear to be in addition to the documents the Examination timetable states are 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 bold below were the ones that would have been the most relevant to our Clients' 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 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 Clients' Written Representations by Deadline 2, which we do not believe was the intention of the Examining Authority ("**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 **bold** at paragraph 2.3 of this letter, for the purposes of our Clients' 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 are still required to consider in light of the Rule 17 Letter, and by when. We would also like to in the meantime reserve our Clients' 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 Clients' relevant representations are contained in document number reference RR-070, in relation to the Property (our "**Clients' Relevant Representations**").
- 3.3 Our Clients' 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 **Converter Station Location - Alternative Location:** Our Clients' Relevant Representations state that either proposed location of the Converter Station (options B(i) and B(ii)) will make little difference to them given that both options are located in extremely close proximity to the Property. Either a more eastward, or indeed a new alternative location would reduce the impact of the Converter Station on our Clients. In section 5.7 of page 5-98 of its Responses to Relevant Representations, the Applicant accepts "*some immediate visual receptors would be affected*" but refers to the criteria set out at paragraph 2.4.5.2 of Chapter 2 (Consideration of Alternatives) of the ES (APP117) leading to the identification of the Converter Station site needing to be in close proximity to the existing Lovedean Substation. Some of those criteria appear not to be met, for example the need for "*good quality roads... that allow transport of multiple 300 tonne loads using a multi-wheel low-loader trailer*". Old Mill Lane, off which the Property is located, is far from a road that would appear to meet that criterion being a tight one car-width lane. Another criterion is to "*minimise close proximity to dwellings*", which is clearly not achieved in relation to the Property. In its Responses to Relevant Representations the Applicant refers to "*being able to utilise the*

topography" to arrive at the most suitable location. However, in relation to the Property, the impact is exacerbated by the fact that the topography slopes downwards away from the Property towards the Converter Station location. Technical, highway, environmental and residential amenity impact reasons are referred to. Nonetheless, the Applicant's response fails to demonstrate how it has met the criteria in relation to our Clients and the Property. We therefore maintain our Clients' objections in relation to alternative location and reserve their position. We will consider the Applicant's responses to our Clients' Written Representations (document number REP-236), which are to be submitted at Deadline 2, in relation to this issue, and will comment further at Deadline 3.

3.5 **Amenity:** Our Clients' Relevant Representations state that their amenity is particularly acutely affected due to the degradation of the rural setting because of the very close proximity of their Property to the proposed Converter Station. Factors affected include views and visual amenity and the oppressive impact due to the height of the proposed Converter Station. This is exacerbated by the fact that the topography slopes downwards away from the Property which reduces the limited effectiveness of any proposed landscaping mitigation which in any event (in the absence of additional topographic issues) would be inadequate even after years taken to reach maturity. Our clients will also suffer substantive negative impacts due to construction phase noise, dust and light and, in perpetuity, operational noise daily. Such impacts would be unaffected by locational options B(i) and B(ii). In section 5.12 page 5-105 of its Responses to Relevant Representations, the Applicant refers to various proposed mitigation measures and "*new woodland planting to provide some screening*". By the use of the word "*some*" the Applicant accepts that the screening is to be found wanting and this is confirmed by Figure 15.48 (Indicative Landscape Mitigation Plan (Option B(i)(north)) of the ES (APP-281) to which the Applicant refers showing a very thin belt of new "*proposed native mixed woodland*" and nothing more between our Clients' Property and the proposed Converter Station. Such a woodland mix will inevitably include deciduous species which will visually screen even less effectively in winter months. We consider such mitigation measures to be inadequate. The mitigation referred to by the Applicant for construction phase light pollution focusses on the "*design and layout of site construction areas*" to reduce impact and refers us to paragraph 15.7.1.2 of Chapter 15 (Landscape and Visual Amenity) of the ES and paragraph 1.4.2.7 in the Outline Landscape and Biodiversity Strategy (APP-506) (which is now paragraph 1. 5.1.4 in the updated OLBS (APP-506 Rev002)). Again this is inadequate because our Clients would have no opportunity to comment and influence such layouts, rather it would be imposed on our Clients. Our Clients would also have no input into any operational phase lighting scheme as may be developed by the appointed contractor the requirement for which the Applicant refers to as being contained in the Onshore Outline Construction Environmental Mitigation Plan (APP-505 Rev002) at paragraph 5.2.2.1. We cannot locate such a paragraph. In relation to noise and dust the Applicant's response is inadequate, simply generically referring to the noise and vibration assessment at Chapter 24 (Noise and Vibration) of the ES (APP-139) and dust addressed with reference to an updated ES Chapter 23 Air Quality (APP-128 Rev002) which at present we are unsure is admissible. We therefore maintain our Clients' objections in relation to amenity and reserve their position. We will consider the Applicant's responses to our Clients' Written Representations (which are to be submitted at Deadline 2) in relation to this issue, and comment further.

3.6 **Noise and Vibration – Construction:** In relation to construction noise please refer to paragraph 3.5 above and the Applicant's response. In section 5.15 page 5-108 of its Responses to Relevant Representations, the Applicant responds by additionally referring to the "*embedded*" noise mitigation detailed in Appendix 24.2 (Best Practicable Measures to be Employed during Construction) of the ES (APP-461), to be secured through the OOCEMP (APP-505). The document is very general and provides little detail. In section 5.15 page 5-108 of its Responses to Relevant Representations, the Applicant refers to predicted vibration impacts in Section 24.6 to 24.9 of Chapter 24 (Noise and Vibration) of the ES (APP-139) and concludes they "*are not of*

sufficient magnitude to cause building damage". Whilst this may be the case, this does not mean that the impact of vibration caused by construction works cannot be felt and would not have a detrimental impact on the day to day lives and wellbeing of our Clients. We therefore maintain our objection to the impacts of construction noise and vibration on our Clients' amenity and personal health given the extreme proximity of our Clients' Property to the Converter Station.

- 3.7 **Noise and Vibration – Operation:** Our Clients' Relevant Representations state their concern over the operational effects of noise. In section 5.17 page 5-110 of its Responses to Relevant Representations, the Applicant refers to "*embedded*" and "*additional*" mitigation measures leading to the conclusion that the operational effects "*are expected to be negligible (not significant)*". We therefore maintain our objection because the difference between what is "*negligible*" (i.e. all but nil) and "*not significant*" is vast and therefore offers no comfort or represents an acceptable response.
- 3.8 **House Price and Land Value:** Our Clients' Relevant Representations did not state this as a concern and therefore the Applicant's Responses to Relevant Representations at section 5.19 page 5-111 are inapplicable.
- 3.9 **Compulsory Acquisition:** Our Clients' Relevant Representations state their concern that the Applicant failed to demonstrate compulsory acquisition is necessary and proportionate, permanent landscaping rights are needed and that all reasonable alternatives have been explored. The Applicant's Responses to Relevant Representations at section 5.20 page 5-111 refers 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). Further at section 5.25 page 5-118 the Applicant states that permanent landscaping rights are required over areas to assist with screening and are considered reasonable in relation to the scale of the project. However, these fail to address our Clients' concerns, particularly the extent of the proposed land take and the implications of the permanent landscaping rights. We therefore maintain our Clients' objections in relation to the necessity and proportionality of the proposed compulsory acquisition and the landscaping rights and reserve their position. We will consider the Applicant's responses to our Clients' Written Representations (which are to be submitted at Deadline 2) in relation to this issue, and comment further.
- 3.10 **Converter Station Location and Design:** Our Clients' Relevant Representations set out their concern with the height, proximity and location of the Converter Station. In section 5.24 pages 5-115 and 5-117 of its Responses to Relevant Representations, the Applicant refers to its assessments of the reasonable alternative options, landscape and visual impact assessments. Given the extreme proximity of the Converter Station to the Property we maintain our Clients' objections in relation to location and design and will consider the Applicant's responses to our Clients' Written Representations (which are to be submitted at Deadline 2) in relation to this issue, and comment further.
- 3.11 **Landscaping and Landscape:** Our Clients' Relevant Representations state their objections to the adequacy of the landscaping given the locational relationship of the Property to the Converter Station and the topography. In sections 5.25 page 5-117 and 5.26 page 5-119 of its Responses to Relevant Representations, the Applicant refers to proposed mitigation planting and that it will "*over time provide screening for some visual receptors*" and explains that further planting enhancements will "*contribute to a partial screening function*". The Applicant's response therefore accepts that landscaping mitigation will be inadequate even once mature, some receptors may never be screened and others only partially so. We therefore maintain our Clients' objections in relation to landscaping and landscape and will consider the Applicant's responses to our Clients'

Written Representations (which are to be submitted at Deadline 2) in relation to this issue, and comment further.

3.12 **Concerns not responded to:** Our Clients' Relevant Representations also raised issues relating to breach of their humans rights. Our Clients' also refer to the diversity of wildlife and biodiversity on their doorstep. The Applicant's Responses to Relevant Representations do not provide any direct responses 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 Clients' Relevant Representations.

4.2 We retain our Clients' 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 – Rev 001 (document reference number 7.6.1) and the Applicant's Compulsory Acquisition and Temporary Possession Objection Schedule – Rev 001 (document reference number 7.6.3).

5.2 These documents contain statements by the Applicant regarding its engagement with our Clients in relation to Heads of Terms stating "*Heads of terms in Negotiation*" and "*the Applicant has engaged with the landowner since late 2017 and is committed to working with the landowner to address the concerns raised where possible*". Our Clients' did not instruct agents until September 2019 which suggests the Applicant's response is conflating meetings in relation to their statutory duty to consult and the separate duty to negotiate an agreement prior to consideration of compulsory acquisition. Following a meeting in December 2019 and a meeting in February 2020 with our Clients' agents, a revised offer was promised in March 2020. However, this has yet to materialise. As stated above, we will consider further 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 if necessary at Deadline 3. In light of this and the clarifications we have requested at paragraph 2.9 of this letter, we maintain our Client's objections and reserve their 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

Blake Morgan LLP

Blake Morgan LLP