



# The Planning Inspectorate

## **Planning Act 2008 – section 91**

### **Application by AQUIND Limited for an Order granting Development Consent for the AQUIND Interconnector Project**

#### **Agenda for Issue Specific Hearing 3 dealing with Environmental Matters (ISH3)**

In its letter dated 9 November 2020, the Examining Authority notified Interested Parties of its decision to hold an Issue Specific Hearing on the following date:

<b>Hearing</b>	<b>Date and time</b>	<b>Location</b>
Issue Specific Hearing 3 Environmental Matters	15 December 2020 10.00 am  Arrangements conference starts at 09.30 am	Online via Microsoft Teams invitation

#### **Participation, conduct and management of the Hearing**

This is the third Issue Specific Hearing to be held in this Examination. It is being held because the Examining Authority wishes to question the Applicant and hear from Interested Parties about various environmental matters arising from documentation submitted with the application documents, together with any updates and responses at the preceding submission Deadlines.

Government restrictions relating to Coronavirus (COVID-19) are in force, requiring people to avoid non-exempt gatherings of more than six people and to work from home if possible. The Examining Authority will therefore conduct this Hearing using digital and telephone technology. Invited participants can join using a computer, laptop, tablet, mobile phone or landline telephone. It is the Applicant's intention to livestream the Hearing, and a recording will be made available on the Planning Inspectorate's National Infrastructure website.

The Examining Authority invites and would particularly like to hear from the following Interested Parties during this Hearing:

- The Applicant;
- Hampshire County Council;
- East Hampshire District Council;
- Eastleigh Borough Council;
- Havant Borough Council;
- Portsmouth City Council;
- South Downs National Park Authority;
- Winchester City Council;

- Marine Management Organisation (MMO);
- Natural England;
- CPRE Hampshire.

The named parties have been invited because they are:

- public bodies or other parties that are named in the draft provisions in the draft DCO;
- public bodies with policy and regulatory responsibilities associated with the subject matter;
- national and local authorities for the affected area; or
- persons or organisations with another related and relevant special interest.

Invitees will receive a joining link or telephone number through which you can join the Arrangements Conference in a separate email, shortly before the Hearing. This is solely for your use. Please join the Arrangements Conference at the appointed time shown above and wait until the Case Manager registers you, and then admits you to the Hearing. The Arrangements Conference allows procedures to be explained and enables the Hearing to start promptly.

Participation in the Hearing is subject to the Examining Authority's power to control the Hearing. Interested Parties may be invited to make oral representations at the Hearing<sup>1</sup> (subject to the Examining Authority's power to control the Hearing). Oral representations should be informed by the Relevant Representations, Written Representations and Local Impact Reports made by the person by whom (or on whose behalf) the oral representations are made.

However, representations made at the Hearing should not simply repeat matters previously covered in a written submission. Rather, they should draw attention to those submissions in summary form and provide further detail, explanation and evidential corroboration to help inform the Examining Authority.

The Examining Authority may ask questions about representations or ask the Applicant or other parties to comment or respond. The Examining Authority will probe, test and assess the evidence through direct questioning of persons making oral representations. Questioning at the Hearing will therefore be led by a member of the Panel, supported by other Panel members.

This agenda is for guidance only. It is not designed to be exclusive or exhaustive. The Examining Authority may add other issues for consideration, may alter the order in which issues are considered and will seek to allocate sufficient time to each issue to allow proper consideration. In particular, it is noted that this agenda has been compiled in advance of written submissions for Deadlines 3, 4 and 5. As such, matters may have progressed in the interim and any other information or updates provided at those Deadlines has not been taken into account. The detail of the agenda may be changed once these documents have been received.

Any lack of discussion of a particular issue at a Hearing does not preclude further examination of that issue, including through the inclusion of questions in the Examining Authority's Further Written Questions (ExQ2) (if issued).

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<sup>1</sup> s91 Planning Act 2008

Should the consideration of the issues take less time than anticipated, the Examining Authority may conclude the Hearing as soon as all relevant contributions have been made and all questions asked and responded to.

If there are additional matters to be dealt with or there are submissions that take a considerable amount of time, there may be a need to continue the session for longer on the day or at a subsequent sitting.

Breaks will be taken during the Hearing as directed by the Examining Authority. All parties should note that the agenda given below is to provide a framework for this Hearing and offer discussion points; it does not constrain the Examining Authority to specific topics. The Examining Authority may wish to raise other matters arising from submissions and pursue lines of inquiry in the course of the discussions which are not included in this agenda.

References in square brackets [] are to the unique document identification number in the Examination Library. This document is regularly updated and can be found on the Planning Inspectorate's National Infrastructure website at:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/EN020022/EN020022-000996-Exam%20Library%20%E2%80%93%20Published%20Version.pdf>

The Hearing will have regard to submissions already set out in the following documents and any subsequent revisions or updates submitted for Deadlines 2, 3, 4 and 5 (amongst others). You may find it useful to have copies available on your screen or printed beforehand:

- Works Plans [APP-010] and [REP1-014];
- Draft DCO [REP1-021];
- Portsmouth City Council Local Impact Report [REP1-173];
- Winchester City Council Local Impact Report [REP1-183].

May we draw your attention to Deadline 5 on the Examination Timetable (Monday 30 November 2020). Please ensure that you submit a full transcript of any oral submission that you intend to make at this Hearing by that date. Note that any illustrative or supporting material that you wish to share must be submitted in advance with this transcript, as it will not be possible for you to show it on screen during your contribution to the Hearing.

Please contact the case team if you have any questions:  
[aquind@planninginspectorate.gov.uk](mailto:aquind@planninginspectorate.gov.uk)



# Agenda

<b>Title of meeting</b>	AQUIND Interconnector Issue Specific Hearing on Environmental Matters
<b>Date</b>	15 December 2020
<b>Time</b>	10.00 am
<b>Venue</b>	Online via Microsoft Teams invitation
<b>Attendees</b>	Invitees

- 1. Examining Authority's opening remarks**
- 2. Purpose of the Hearing and speakers' introductions**
- 3. Habitats Regulation Assessment**
  - a) Visual disturbance
    - Answers to ExQ1 ME1.10.33 suggest a difference of opinion between the Applicant and Natural England in relation to the inclusion of visual disturbance immediately adjacent to the Chichester and Langstone Harbours SPA/ Ramsar site boundary and its supporting habitat on qualifying SPA flock features as a Likely Significant Effect in the Habitats Regulations Assessment. Notwithstanding the proposed mitigation of works being avoided in such areas during the over-wintering period, should the HRA report be updated?
    - With references to the Works Plans, are there any construction areas that Natural England is particularly concerned about in respect of this possible Likely Significant Effect?
  - b) Can the Applicant and Natural England provide an update on the HRA and the extent of progress towards common ground. The Statement of Common Ground submitted at Deadline 1 suggests all matters have been resolved, but the document is still labelled 'draft'.
  - c) In ExQ1 HAB1.1.18, the Examining Authority asked Natural England to provide electronic copies of the conservation objectives and, where relevant, the supplementary advice on conservation objectives for a list of European sites. We were referred in the answer to links to external websites. This raises a concern that the information is not in the Examination, that links could break, or the objectives might change during or after the Examination. Is it possible for the Applicant and Natural England to agree the information and for the Applicant to submit it into Examination, perhaps as an Annex to the HRA report, the Statement of Common Ground or in any other suitable submission?

#### 4. Landscape, visual impacts and tranquillity

##### d) Lighting

- For clarity, can the Applicant confirm the number, height and construction of lighting columns and lightning masts at the Converter Station site, including any on the roofs of the buildings?
- We note the Applicant's comment at Deadline 2 that, '*The Applicant can confirm that there will be no flashing lights on the lightning masts.*' Could the Applicant please confirm whether this refers to aviation safety lighting, and if any part of the Proposed Development, including the cranes and other plant to be used during the construction at the Converter Station, will require aviation safety lights?
- What lighting will be used at the proposed telecommunications building and compound near to the Converter Station and will it be limited to emergency use only? If this building is intended to be accessed by third party commercial companies using the surplus fibre-optic cable capacity, what control will the Applicant have over its use and lighting?
- What are the various parties' conclusions with regards to the Proposed Development's likely effects on the International Dark Skies Reserve, and can common ground be confirmed between the Applicant and the relevant local authorities?

##### e) Landscape and Visual Impact Assessment

- Please could the Applicant summarise why the South Downs National Park is said to be of medium sensitivity for the landscape and visual assessment, and in particular how this relates to the usual EIA tenet that 'importance' is an inherent quality of the receptor irrespective of the potential effect that they are exposed to. Please explain how the approach taken accords with the guidance set out in GLVIA<sup>2</sup>, or, if it has been modified, how and why. Given the 'nationally important' status of the National Park and the purposes behind its designation, does the medium sensitivity rating undervalue its overall importance?
- Can South Downs National Park Authority confirm the relevance and importance of the additional viewpoints requested in answer to ExQ1 LV1.9.1? What additional benefits would there be in understanding the Proposed Development from those representative viewpoints? Is there an update on common ground with the Applicant on this matter?
- Can the Applicant explain why the cranes (including two 84-metre high telescopic cranes) to be used in the construction of the proposed Converter Station were not included in the LVIA? What effect will these have on landscape and views, and over what extent and period? Is an additional assessment necessary? Why does the Applicant consider that the significance of construction stage effects at would not change as a

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<sup>2</sup> Guidelines for Landscape and Visual Assessment, 3<sup>rd</sup> edition, Landscape Institute and IEMA, 2013.

result of their presence, and do the South Downs National Park Authority and other relevant local planning authorities agree?

- In the answer to OW1.12.16 in ExQ1, the Applicant notes that an indicative location and surface finish for the proposed car park in Work No. 3 has now been identified and that the capacity has been increased from 150 to 226. How was this feature assessed in the LVIA? Does this new information alter the assessment in any way?

f) Landscape Mitigation Proposals

- Could the South Downs National Park Authority provide an update on its suggestion in its Local Impact Report that some land required for landscape mitigation appears to be out of the Applicant's control? Has common ground been reached with the Applicant over this matter?
- Following the Applicant's submission of further information and detail at Deadline 1, does the South Downs National Park Authority have any remaining concerns or objections in relation to the updated landscape mitigation proposals for the Converter Station? Has common ground been reached with the Applicant over this matter?

g) Tranquillity

- Can the Applicant demonstrate how the predicted effects on tranquillity have been taken into account in the EIA for users of the South Downs National Park, including the potential effects of construction traffic, movements of HGVs, movement of AILs, car parking provision, access and haul roads?
- Please provide an update on any common ground between the Applicant and the South Downs National Park Authority on the predicted effects of the construction and operation of the Proposed Development in relation to tranquillity and any mitigation that has been proposed.

h) Design

- In terms of the design of the Converter Station building and the corresponding elements of the LVIA, is there any update on the design meetings held between the Applicant and the relevant local planning authorities and progress towards agreeing the design principles? What matters, if any, remain unresolved between the parties in terms of the design and colour palette proposed for the Converter Station buildings?
- Please could the Applicant briefly summarise how these design principles would be secured to ensure that the final building design would be in accordance with them, such that the views of each of the local planning authorities that participated in the process are taken into account?

**5. Marine matters**

i) The Deemed Marine Licence

- Can the Marine Management Organisation (MMO) and Natural England confirm if the methods of non-burial protection for the cable are acceptable and adequately secured in the DCO and Deemed Marine Licence? Following the Applicant's response at Deadline 2, do you still consider that further detail needs to be added to the design parameters to confirm maximum amount of cable protection required?
- MMO previously noted that it was unclear and had concerns about the purpose of proposed Deemed Marine Licence Part 1, 4(5) that permits '*any other works as any be necessary or expedient.*' Is there any progress to report on achieving common ground on this matter? If not, what is the basis of outstanding differences?
- Are all the necessary Deemed Marine Licence conditions in place to satisfy the MMO that all of the mitigation required for the Proposed Development can be secured?
- Further to the Deadline 2 submissions from the parties, have the Applicant and MMO progressed discussions over the outstanding differences between them in relation to the assessment of the AQUIND Interconnector/ Atlantic Crossing interaction and protection? If not, what are the implications if agreement cannot be reached?

j) Marine habitats and assessments

- In ME1.10.3 and ME1.10.23 of ExQ1, we asked the Applicant to supply figures to show the location of the WFD sensitive sites and habitat locations (Table 8.4 of the ES [APP-123]) and suspended sediment levels (Table 8.6 of the ES [APP-123]) and sensitive habitats respectively. In response, the Applicant directed us to defra's MAGIC maps website. Are MAGIC maps a suitable option for this purpose, given that maps have to be constructed by users inputting data and that non-technical Interested Parties may not be familiar with their workings. At present, we do not consider the relevant information to be in the Examination. Please could the Applicant review its previous response and consider whether illustrative representations of the necessary data on a base map could be produced?
- Whilst it is stated that a precautionary approach was taken to determine the study areas for the baseline, could the Applicant provide reassurance that Figure 8.1 does not need updating to reflect the regional boundaries used in the ES? Are the MMO and Natural England content with the extent of the study area?
- With reference to the Applicant's answer to question ME1.10.6, could Natural England and the Marine Management Organisation confirm they are satisfied that the most appropriate and up-to-date environmental information has been used to inform and influence the definition of the Zone of Influence relating to benthic receptors?

**6. Noise**

k) Robustness of the assessment

- With reference to ExQ1 N1.11.3, could the Applicant clarify the meaning of its response: *'Within the onshore cable corridor, the relative distance between the illustrative cable route and the noise sensitive receptors influences the magnitude of noise level experienced by any receptor. The magnitude of impact and overall noise effect assigned to this magnitude of level is influenced by the duration, timing and frequency of exposure to that noise level, which is not altered by the alignment of the cable route.'* The first part suggests that the distance between the cable installation and a receptor does influence the impact perceived at the receptor, as might intuitively be expected as noise diminishes with distance from source. The second part could be taken to contradict this. Notwithstanding the ultimate judgement of whether such an impact is significant or not, could ExQ1 N1.11.3 be reconsidered in respect of the different effects that might be perceived at sensitive receptors near those stretches of the route where it would be possible for installation to come substantially closer than the illustrative route?
- How robust is the assessment of magnitude of change in the noise environment and the determination of significance in the light of this? How does it relate to the adopted EIA approach of assessing the worst case?
- Subsequent to all relevant parties' answers to ExQ N1.11.2, does the information provided in the noise assessment chapter of the Environmental Statement [APP-139] fully reflect the requirements of the stated methodology and standard BS 5288? Should it include information about daytime noise levels generated during construction? If so, does it include adequate information about this matter? Should it include details of noise levels for daytime work and relate these to a work programme for the number of days that noise-generating work will be carried out?
- Would the dDCO allow the breaking and cutting of road surface or resurfacing of roads during night-time? If so, is further noise assessment necessary to determine the worst-case impact on noise sensitive receptors?

l) Robustness of the methodology

- With reference to the Applicant's response at Deadline 2 to question ExQ1 N1.11.7, several relevant local authorities indicate that they remain unclear how magnitude of noise change has been assessed. Notwithstanding the Applicant's response that *'little reliance has been placed on the generic definitions in Table 24.13 of the ES'*, would the clarity of the noise assessment, especially for non-technical readers, be improved by a clearer explanation of how the magnitude of change, sensitivity of receptors and predicted significance of effect was dealt with in the noise assessment?
- For the Applicant's Deadline 2 response, please clarify with specific references what is meant by *'The magnitude categories adopted for*



*each assessment element are underpinned by the appropriate British Standard or guidance document'*. Do parties believe that the ExA and Secretary of State can have confidence that the method and conclusions of the noise assessment are reliable and robust?

- Would the alternative approach based on the Noise Policy Statement for England suggested at Deadline 1 by Portsmouth City Council in response to ExQ1 N1.11.7 be more appropriate?
- Following the Applicant's submission at Deadline 2 [REP2-014], does CPRE Hampshire have any remaining concerns from its Written Representation [REP1-253] regarding noise generated from both construction and operation of the Converter Station, the requirements of NPS EN-1, the use of BS 4142 as the assessment standard, the incorporation of 'uncertainties' in the assessment, and the interpretation of the technical note on BS 4142:2014+A1:2019 (prepared by members of the Association of Noise Consultants Good Practice Working Group)? Is there now common ground between the parties?

m) Continuous or periodic exposure to noise

- In relation to ExQ1 N1.11.5, the Applicant has provided further explanation at paragraph 17.3.2.3 of the ES Addendum [REP1-139] to explain how successive periods of noise have been treated in the noise assessment. Havant Borough Council and East Hampshire District Council had earlier expressed concern about the methodology. Does this update satisfy these concerns and is there now common ground between the parties on this matter?

n) Optical Regeneration Stations

- Does Portsmouth City Council have any further observations or concerns regarding the noise assessment presented in the Environmental Statement in respect of the construction and operation of the Optical Regeneration Station buildings at the Fort Cumberland car park? Has enough information been provided to satisfy the Council that any noise emanating from the buildings can be mitigated effectively?

o) DCO provisions

- In relation to Winchester City Council's Local Impact Report [REP1-183], can the Applicant clarify the use and meaning of the phrase '*cannot reasonably be avoided*' as incorporated into Article 9 of the dDCO, and how this could relate to any noise nuisance and any subsequent levels secured in the Requirements (for example, Requirement 20)? Could Winchester City Council please explain its concerns in relation to this, and the 'Best Practice documents' it refers to?
- What '*unreasonable impediment to the delivery of the Proposed Development*' could the Applicant foresee emerging if Winchester City

Council's proposal to delete Article 9 was accepted by the Secretary of State?

- Could the Applicant explain how its proposed Article 9 varies from the model provision and explain why the variation is considered necessary.

## **7. Socio-economic assessment**

- p) Could the Applicant clarify the answer to ExQ1 OW1.12.12 in relation to any existing subsurface land drainage systems that may exist in the Farlington Playing Fields? Does the submission in response that '*All existing drainage systems should be identified and plotted, incorporate into new drainage designs – if new drainage required*' allow for any damage and restoration of such systems? If so, what would the projected timescale be for effective restoration? What certainty can be expected that any damage will be made good when this statement is prefaced with '*should be*'? Please could Portsmouth City Council describe 'its own purpose-built drainage system' mentioned in its Local Impact Report?