

Aquind Interconnector application for a Development Consent Order for the 'Aquind Interconnector' between Great Britain and France (PINS reference: EN020022)

Mr Robin Jefferies and Mrs Sandra Jefferies Registration Identification 20025045

Interested Party's response of the Applicant's Responses to the Written Representation (REP1-239) Submitted in relation to Deadline 4 of the Examination Timetable

<p>Argument contained in Carpenter's comments on Applicant's response to Relevant Representations under Deadline 1 (REP2-029) (Paragraph Number)</p>	<p>AQUIND response (provided at Deadline 3 in section 3 of Table 2.6 of REP3-014)</p>	<p>Ian Judd and Partners Comments at Deadline4</p>
<p>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.</p>	<p>It is not the case the Applicant has considered only the type (i.e. grade) of agricultural land that would be lost and has failed to consider the effect on the business that operates on the land. The relevant baseline description of the farm holding affected is set out in paragraph 17.5.1.9 of Chapter 17 (Soils and Agricultural Land Use) of the ES (APP-132) and the impacts during construction at paragraph 17.6.2.12. This states that approximately 1 ha (33% of the 3ha land holding) will be required temporarily and permanently from Mill View Farm, which would be a high magnitude of impact on a low sensitivity holding and give rise to a moderate adverse temporary and permanent effect, which is considered significant for the farm. The effect on Mill View Farm will be to reduce the</p>	<p>Not resolved The holding operates an equestrian livery use, commercial storage use, and residential uses. There is not any agricultural uses on the land, other than the agricultural storage building. Whilst 33% of the land is to be lost, all of this land is used as part of the livery business and makes up a much greater area of the land occupied for that use. Landscaping rights are to be located on the main access track to the paddocks and will cause a further loss of land and cost of re fencing the paddocks. The Applicant has not inspected the holding (prior to 30th September 2020) and has not assessed the impact on the residential or commercial users.</p>

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.

area of grazing available to the tenant's livery business, and therefore the number of horses that may be kept at livery. The reduction in land will be from the eastern end of the land holding, and access from Old Mill Lane to the remainder of the land and the associated buildings and facilities (such as the outdoor arena) will remain unaffected. There will be an impact on the livery business because of the reduction of land available for grazing, but this does not equate to the loss of the business and the client's tenant's livelihood.

	<p>the Applicant made a diligent inquiry in relation to the landowner's property but did not receive a response from the landowner. The Applicant requested details of the tenancy from the landowner's agent on 10 March 2020 to enable it to be assessed (i.e. type of tenancy, the parties, rent passing, term etc.) and, if necessary, reflected in the Book of Reference but a response was not forthcoming. The Applicant has made a further request for information in relation to this tenancy at Deadline 3 and will add the interest to the Book of Reference should it be required.</p>	<p>Not resolved</p> <p>The emphasis is on the applicant to identify parties that will be affected. If the applicant had a better understanding of the property they would have been aware of the occupiers.</p> <p>Details of the occupiers have been provided to the Applicant.</p>
	<p>Plot 1-29 together with Plots 1-20, 1-23 and 1-32 will accommodate the Converter Station, the Telecommunications Buildings, two attenuation ponds, the Access Road and significant areas of landscaping. These are shown on the Indicative Landscape Mitigation Plans for Option B(i) (APP281) and B(ii) (REP1-137). The land which has been identified as being required is no more than is necessary for the construction, operation and maintenance of the Proposed Development.</p>	<p>Not resolved</p> <p>The applicant has failed to identify specifically what plot 1-29 is to be used for. It is clear from the Indicative Landscape Mitigation Plans for Option B(i) (APP281) and B(ii) (REP1-137) that the Converter Station, the Telecommunications Buildings, two attenuation ponds, the Access Road are all situated on plots 1-32 and only landscaping is located on my client's property. If this is the case, the applicant has not addressed why the freehold ownership is required for Landscaping and why Landscaping Rights are not sufficient.</p> <p>The Applicant has not demonstrated how the Landscaping is necessary for the construction, operation and maintenance of the Proposed Development.</p>
<p>Secondly, despite what the Applicant states, there has been very little progress (on its part) in private</p>	<p>The Applicant has issued revised and improved Heads of Terms to the Landowner at Deadline 3</p>	<p>Not resolved</p>

<p>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.</p>	<p>and the Applicant has requested further information from the Landowner to allow further assessment of the impact on the livery business.</p> <p>A series of weekly calls has also been proposed to progress outstanding matters privately with the landowner and his representatives.</p>	<p>Heads of Terms were received at Deadline 3. We question why it has taken to this point for the applicant to consider the impact of the scheme on the livery and other uses of the property.</p>
<p>Compulsory Acquisition - Proportionality: the Applicant has failed to demonstrate that the extent of the compulsory acquisition is necessary and proportionate, taking only what is required.</p> <p>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.</p> <p>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.</p> <p>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 issue</p>	<p>The Applicant also refers to the Applicant's Response to Written Representations (CA3) (REP2-014) which explains that the proposals also reflect the extensive engagement with and feedback received from the LPAs and that the proposals strengthen the visual screening function as well as biodiversity enhancement. Permanent landscaping rights re hedgerows:</p> <p>In terms of permanent rights the Applicant also refers to the Applicant's Response to Written Representations (CA4) (REP2-014) which explains LPAs concerns over potential loss of vegetation in this area and that Applicant's proposals will significantly strengthen the landscape features in this area, providing an important screening function, to address the feedback received.</p> <p>As such, the acquisition of the rights and restrictions in question is necessary in connection with the Proposed Development and is an entirely proportionate approach to take to secure the necessary rights and restrictions.</p>	<p>Not resolved</p> <p>The Applicant has not published the details of the Consultations with LPA's. The Written Representations (CA3) (REP2-014) clearly indicates that South Downs National Park continue to have concerns in relation to landscaping and screening, which haven't been fully addressed.</p> <p>The applicant has made the statement that the rights are necessary without providing any evidence to justify the necessity or proportionality of the rights sort.</p>

<p>Relevant representations not responded to:</p> <p>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</p> <p>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.</p>	<p>The Proposed Development has been deemed to be Nationally Significant Infrastructure and will be capable of meeting GB energy objectives along with numerous other benefits as set out in the Needs and Benefits Report (APP-115) and the Needs and Benefits Addendum - Rev 001 (REP1-135). These clearly demonstrate the national and international benefits of the Proposed Development, which outweigh the harm caused by the Proposed Development and justify the interference with human rights for this legitimate purpose in a necessary and proportionate manner. Section 7 of the Statement of Reasons explains the consideration that has been given to the powers of compulsory acquisition sought and the European Convention on Human Rights and why the potential interferences are considered to be proportionate and necessary, striking a fair balance between the public benefit and interest in the Proposed Development being delivered and the interference with the rights that will be affected. With regard to compulsory acquisition matters, this issue is addressed in Section 5.20 of the Applicant's Responses to Relevant Reprs (REP1-160). The Applicant therefore considers that the issues raised have been addressed.</p>	<p>We respectfully request that the Examining Authority requires the Applicant to respond formally to these specific issues raised.</p>
<p>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</p>	<p>The Applicant has issued revised and improved Heads of Terms to the Landowner at Deadline 3 and the Applicant has requested further information from the Landowner to allow further assessment of the impact on the farm</p>	<p>Heads of Terms were received at Deadline 3 which we are currently considering on behalf of our Clients</p>

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.

business. A series of weekly calls has also been proposed to progress outstanding matters privately with the landowner and their representatives