

Aquind Interconnector

Deadline 5 submissions

The following are summaries of the details that the Council will raise at the appropriate hearings

Issue Specific Hearing 1 dDCO

A separate paper has been submitted setting out the Councils views on how the Order could be revised to improve its clarity and understanding.

Agenda item 4.2

The Rochdale Envelope Question

4.2.1 In response to the invitation to comment on whether the dDCO has acknowledged all the situations where the Rochdale Envelope has been applied, WCC wishes to draw the ExA attention to the following. The location of the HDD launch compound at the southern end of the Denmead Meadows drilling operation is still unresolved. The location for the compound will be either on the north or south side of the Hambledon Road. Whilst there seem to be technical difficulties in the use of the southern location, it is the Council understands that this site is still under consideration and no final absolute decision has been made on a choice between the two. The applicant confirmed this situation in paragraph 7.7.4 Table 2.7 Applicants Response to Deadline 3 Submissions (REP4-027).

“Plots 3-14, 3-15, 3-16 and 3-17 have been retained to provide flexibility for the location of Horizontal Directional Drilling (HDD) launch compound.

The Applicant notes the need for a discussion regarding usage of land and possible impacts and will facilitate those discussions”.

The Councils proposal to revise requirement 4 would address the absence in the dDCO of the need for a decision on the choice of the HDD launch compound.

4.2.2 Parallel to the decision on the HDD launch compound is the related matter of how the cables would leave the Hambledon Road and enter the land on the northern side, if that is the location for the compound. The Council has documented its concerns at each deadline over the applicants reluctance to commit to the retention of the trees on the northern boundary of the road to the open ground beyond. On the basis that the location of the compound is fixed then there does not seem to be any reason why this commitment cannot be given.

4.2.3 The Council notes the request to the applicant to clarify the situation regarding the Converter Station height. The Council wishes to take this opportunity to comment on that situation. It understands that the height variation is to allow some flexibility in the design of the roof and its supporting structure. The final decision will rest with

the contractor at the time the detailed design is finalised. The Council has sought clarification what weight will be given to minimising landscape impact in that decision. This is particularly pertinent if the lower building results in a higher capital outlay.

Agenda Item 4.3

The Fibre Optic Cable

- 4.3.1 The Council has consider this question in the light of the information provided by the applicant at the various deadlines. The Council has responded at each deadline looking to build up a clear picture of the FOC to the point where it can reach a definitive view on whether this element is clearly associated development or not.

Any review must be set in the context of the section in the Planning Act 2008 and the guidance on associated development April 2013.

A reference to a commercial use of the FOC is acknowledged within the S35 Direction. However, this reference alone is not considered to fundamentally tip the argument in the applicants favour. The Council is of the view that the SofS was “blind” to the full extent of the proposed commercial use when the S35 Direction was made. The Council is of the view that had the SofS been aware of the full magnitude of the amount of the commercial FOC capacity then he would not have accepted it.

The applicant has been slow to share the precise magnitude of the commercial use. Following a number of request, the latest figure to be disclosed is an 80-20% split between the commercial and interconnector use. The actual number of lines that would be offered is thought to add further light on the question.

The criteria for associated development are limited. They are set out in the guidance document referred to above. From the examples given in the guidance, it is clear that the associated development has to have a direct connection to the main element. Whilst this is true at a superficial level in this project, those benefits raised by the applicant in support of the FOC being associated development are not considered to fulfil the qualifying criteria.

Agenda Item 5.6

The Employment and Skills Plan Question

- 5.6.1 The Council has noted the information contained within the Environmental Statement and specifically chapter 25 (Socio Economic) relating to the employment potential associated with the project and the background information on the general employment situation in the host authorities. Whilst Winchester is recognised as fortunate in having a high active employment base, it is nevertheless consider beneficial if the applicants commit to an Employment and Skills Plan.

The workforce within the District has a bias towards the service sector with a lower level of employees in the construction industry than the South East region. It is also

considered that additional support is needed for the unemployed in the District who may become demoralised in an area of relatively high employment. It would also help rebalance the overall labour market.

The applicant's statement that the nature of the project will require a specialised workforce to install elements of the project is accepted. However, it is recognised that this still leaves open the ability of local companies and workers to become engaged in other elements of the project. These include the earthworks, landscaping and the road gangs. Whilst they may be considered minor elements in the context of the overall scheme, they are significant elements worthy of attention.

The applicants concern that a Plan will not work in this instance or lock them into an unproductive search for local firms or employees is not justified. Past experience with such Plans is to set realistic expectations and as part of that process to allow a developer to broaden any search if the initial local enquiries prove unproductive. Accordingly, the concern that the plan may in some way lock the applicant into a position that cannot be fulfilled will not materialise.

The Council has been in discussion with the applicant on this matter and provided contact details and information. It is hoped this will allayed any concerns and they will participate in the request.

As part of the Plan, the Council is also seeking the applicants support in firing the enthusiasm of students from local educational establishments on career opportunities by arranging carefully controlled site visits.

Having initially sought to achieve an ESP through a legal agreement the Council has noted its attainment through a requirement at other NSIPs and is now prepared to accept that route in this instance.

Compulsory Acquisition Hearing 1

Agenda item 3.3

The use of the Deed of Covenant

3.3.1 The use of the Deed of Covenant as a mechanism to acquire landscape rights over land that the applicant does not intend to own is a proposal that the Council is not familiar. Consequently, it has sought clarification on the practicalities of using this approach and also of the ability for the deed to be maintained throughout the life of the development. This later point includes the ability to take enforcement action if the deed is breached.

The Council has sought further information on this matter. The most recent formally submitted detail was in the deadline 4 response. This refer to the provision of a model of the deed and makes reference to enforcement provision under the relevant section of the Planning Act 2008. This is still under consideration and discussion with the applicant.

The indication by the Council to reinforcement of the mechanism behind the use of the deed would only become relevant if the level of confidence in the use of a deed of covenant was low. In such a circumstance the Council would look to the applicant to achieve the security of the nominated features by some other means.

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Agenda item 9.2

Consideration of Alternatives

9.2.1 Winchester City Council submitted paper at procedural deadline B (PDB-006) relating to the applicant's consideration of the countryside route in the alternatives assessment (chapter 2 of the ES.) The Council notes the reference to this option on 9.2. On the basis this is a Compulsory Acquisitions hearing and the Council has not been asked directly to respond on this matter it is assumed the discussion will not encompass the merits of the countryside route against the road route.

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Issue Specific Hearing 3

Agenda item 6.(o) DCO provisions

The Council notes the invitation to comment on Article 9. However, it is considered that the position has moved on as reflected in the revised version of Article 9 which is set out in the Council's response to the dDCO and which is copied below together with the short commentary.

Part 2

Principle Powers

9 Defence to proceedings in respect of statutory nuisance

— Where proceedings are brought under section 82(1) of the Environmental Protection Act 1990(1) (summary proceedings by person aggrieved by statutory nuisance) in relation to a nuisance falling within paragraph (g) (noise emitted from premises so as to be prejudicial to health or a nuisance) and (ga) (noise that is prejudicial to health or a nuisance and is emitted or caused by a vehicle, machinery or equipment on a street) of section 79(1) of that Act no order may be made and no fine may be imposed under section 82(2) of that Act if –

the defendant shows that the nuisance –

relates to premises, vehicles, machinery or equipment used by the undertaker for the purposes of or in connection with the construction, of the authorised development and that the nuisance is attributable to the carrying out or use of the authorised development in accordance with a notice served under section 60 (control of noise on construction site) or a consent given under

(1) 1990 c. 43. There are amendments to this Act which are not relevant to this Order.

section 61 (prior consent for work on construction site) of the Control of Pollution Act 1974⁽²⁾; or

is a consequence of the construction of the authorised development and that it cannot reasonably be avoided;

For the purpose of paragraph (1) above, compliance with the controls and measures relating to noise described in an approved construction environmental management plan or noise management plan will be sufficient, to show that an alleged nuisance could not be reasonably avoided.

Where a relevant planning authority is acting in accordance with section 60 (4) and section 61 (4) of the Control of Pollution Act 1974 in relation to the construction of the authorised development then the local authority must also have regard to the controls and measures relating to noise referred to in a relevant construction environment management plan approved pursuant to requirement 15.

Section 61(9) (consent for work on construction sites) of the Control of Pollution Act 1974 as it relates to proceedings under Section 82 of the Environmental Protection Act 1990 and section 65(8) of that Act (corresponding provision in relation to consent for registered noise level to be exceeded), will not apply where the consent relates to the use of the premises by the undertaker for purposes of or in connection with the construction, of the authorised development.

In this article “premises” has the same meaning as in section 79 of the Environmental Protection Act 1990⁽³⁾.

COMMENTARY: Having initially taken a view that this Article was not justified at all, the Council has refined its position and is now suggesting that it could be retained if revised. In order to progress discussions, the Council is putting forward the above, which is a revision to the applicants latest version. The Council does not consider that maintenance and operation should be exempted. Reference to these have been removed. The main change is the removal of original 9(a)(ii) because it was seen as repetition.

End

30 November 2020

(2) 1974 c.40. Sections 61(9) and 65(8) were amended by section 162 of, and paragraph 15 of Schedule 3 to, the Environmental Protection Act 1990, c.25. There are other amendments to the 1974 Act which are not relevant to the Order.