

From: [George Howlett](#)
To: [Aquind Interconnector](#)
Cc: [David Conboy](#)
Subject: Written Summary - Compulsory Acquisition Hearing 2 (11th December 2020)
Date: 18 December 2020 11:51:11
Attachments: [2020.12.18 - Response to Planning Inspector.pdf](#)

Dear Inspector,

Please find enclosed our written summary following our attendance of the Compulsory Acquisition Hearing 2 on 11th December, on behalf of Sainsbury's Supermarkets Limited.

For the avoidance of doubt, this forms our written submission for Deadline 6.

Kind Regards,
George

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18th December 2020

Planning Inspector
Via email

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Dear Inspector,

**Re: Application by AQUIND Limited for an Order Granting Development Consent for the
AQUIND Interconnector Project**

Ref: EN020022

We write following our attendance of the Compulsory Acquisition Hearing 2 (11th December 2020) on behalf of Sainsbury's Supermarkets Limited ('SSL') in respect of the above Development Consent Order ('DCO'). The purpose of this letter is to summarise the points made in the hearing in respect of SSL's objection to the acquisition of new rights over a significant area of the car park at Sainsbury's Supermarket, Fitzherbert Road, Portsmouth, PO6 1RR ('Sainsbury's Farlington'). SSL hold the freehold interest in Sainsbury's Farlington.

As explained in the hearing, our client's principal concerns with the application are: (i) the lack of consideration to alternative cabling routes, (ii) the extent of the acquisition of rights over land, and (iii) the inadequate engagement and commitments from AQUIND in respect of their proposals and the undertaking of works.

Our letter of the 6th October 2020 set out these concerns in some detail and we do not seek to repeat the contents of that letter. This letter seeks to summarise the points made at the hearing and as such should not be treated as superseding our previous correspondence but building upon it.

Consideration of Alternatives

As explained at the hearing, AQUIND's proposal to excavate and lay cables across the entire length of the Sainsbury's Farlington store's car park contravenes one of the strategic principles of the scheme as set out in the Environmental Statement, namely that the onshore cable route would be laid in the highway. It also goes against the criteria that there should be minimal impact on the landowners and occupiers which was reportedly adopted when selecting a cabling route.

AQUIND has advanced that it is necessary to utilise private land in this location due to the existence of the elevated section of railway and the preference to extend the cabling route underneath the railway rather than place cables over it. We appreciate there is logic in this given the presence of operational railway infrastructure, but if this necessitates the cabling route passing through a part of the Sainsbury's Farlington store's car park, it does not provide any form of

justification for it extending across the entirety of the car park. It is SSL's position that the cabling route positioned within the car park land should be rationalised as much as possible so to: (i) minimise the impact to the store and the business, and (ii) reduce the amount of land which is sterilised from any future development as a consequence of the existence of the cable. AQUIND's proposed cabling route extends along the entirety of the customer car park's access road which is the sole access to the store from the public highway. The works will result in a significant interference with customer access, an interference which is avoidable.

As presented at the hearing and as shown at Appendix 1, assuming that it is necessary for the cabling route to enter the Sainsbury's Farlington store's car park at its southern boundary, it is entirely feasible that the cabling route could only extend through the southern part of the car park, utilising the reduced level change between the car park and the adopted highway to direct the cabling route into the public highway at this location. As shown in the photographs at Appendix 2, there is a ramped pedestrian footpath that provides access between the store and the public highway and this route can be utilised to move the cabling into the adopted highway. This option has the advantages of: (i) minimising the incursion of the cabling route into private land as per the strategic principles of the scheme, (ii) minimising the disruption to Sainsbury's operations, and (iii) reducing the amount of land which is sterilised as a consequence of the cabling route (which based on experience will likely extend 3-6m from the centre line of the cable route).

In response to this alternative route, at the hearing AQUIND responded that the diversion of the cabling route into the public highway at this location would result in approximately 3 weeks less work on SSL's land and that placing through the entirety of the store's car park represented the "least impactful route", particularly if works were limited to commencing at 18:30 and finishing at 06:00 before the store opened.

This response is entirely baseless: Sainsbury's Farlington trades until 10pm, Monday to Saturday. It does so as a significant volume of custom is derived from evening trading reflecting that many people shop after work. To suggest that 3 weeks of excavating and laying cable in the car park as opposed to on the adjoining public highway would cause less impact to Sainsbury's – a timescale which is by no means definitive or committed to and could realistically extend to months – is entirely without foundation. Placing the cables in the adjoining public highway, particularly if the cables are placed in the footpath, will result in a significant reduction in impact to Sainsbury's and have minimal impact on the general public. Even if placed in the road, the impact would be less given the longer working times available meaning the works will be completed in a quicker timeframe and can be focussed on non-peak travel periods both during the day and in the evenings / overnight working in appropriate locations. The road is also a dual carriageway providing ample space to undertake works.

We note that AQUIND advised in the hearing that they would look to avoid putting cables in the public footpath given the proximity of trees and the potential for roots to interfere with the new cables. We note that there is an existing electricity cable located in the footpath and we expect that any issues can be avoided through an appropriate design, particularly given the width of the footpath.

Reduction of the Order Limit

In the hearing we repeated our concerns that the Order Limit is far too extensive and unreasonable. The extent of the land over which new rights are sought totals 12,279 sq. m and includes the store's sole customer access from the public highway, the entire length of the car park's principal access and circulation road, the car wash, landscaped areas, several rows of car parking and the store's recycling centre.

The extent of rights sought is illustrative of a lack of clarity over delivery of the project. They are excessive, a point acknowledged by AQUIND at the hearing when they advised that they are proposing to reduce the area of land at Sainsbury's Farlington included within the DCO.

It is clear that the majority of the rights sought are not necessary for the delivery of the scheme. These proposed rights have the potential to increase disruption to business, whilst also depreciating the future value of a considerable portion of the property. As highlighted in the hearing, the rights to be acquired are open ended: they are not limited to the construction period but can be exercised into perpetuity. This is not acceptable.

An assessment of the land required for the cabling route is imperative, with the Order Limit's reduced and the cabling route placed in the highway.

Engagement

As explained in the hearing, Newsteer have engaged with AQUIND since May 2020 expressing Sainsbury's concerns and objection to the proposals. The need for alternative routes to be utilised, construction works that are necessary within the SSL's land to be undertaken outside of store trading hours and also outside of the peak Easter and Christmas trading seasons, the extent of land included within the DCO land acquisition plans to be reduced, and traffic management and works programmes to be developed in partnership has been articulated but no substantive response was received until the 26th November 2020.

When this response was received it maintained the same existing route with no justification why the alternative suggested would not be feasible and did not commit to out of trading hours working (proposing that works commence at 18:30 each day despite the store being open until 22:00 and the last customers not existing the car park until after 22:30). The blasé response given at the hearing that the works in the northern area of the car park would only last 3 weeks (I highlight no such commitment has been made) and would be the least impactful option is ignorant of SSL's reasonable concerns and that an alternative, least impactful route exists. No evidence has been provided to substantiate the claim that this is the least impactful route. We contend it clearly is not.

Conclusion

The Ministry of Housing, Communities and Local Government's guidance on procedures for the compulsory acquisition of land under the Planning Act 2008 states:

- Para 8 - The applicant should be able to demonstrate to the satisfaction of the Secretary of State that all reasonable alternatives to compulsory acquisition (including modifications to the scheme) have been explored. The applicant will also need to demonstrate that the proposed interference with the rights of those with an interest in the land is for a legitimate purpose, and that it is necessary and proportionate.
- Para 9 - The applicant must have a clear idea of how they intend to use the land which it is proposed to acquire. They should also be able to demonstrate that there is a reasonable prospect of the requisite funds for acquisition becoming available.

It is evident that AQUIND have not explored all reasonable alternatives to the compulsory acquisition, and that the use of SSL's land is necessary and proportionate. Alternatives clearly

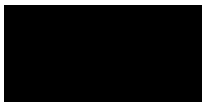
exist and no justification has been presented as to why the cabling route cannot exit the Sainsbury's Farlington store's car park at a much earlier point, this being at the pedestrian access ramp between the car park and Eastern Road, at which point the cabling route can be situated in the public highway. The use of highways rather than private land to locate cables was a principal tenet of the project and should be abided by. It has the advantages of minimising disruption to Sainsbury's and not sterilising land into the future.

The extent of land included within the Order Limits demonstrates that AQUIND do not have a clear idea as to how they intend to utilise the land. These rights are extensive, run into perpetuity and will blight SSL's land going forward. They are simply not necessary to deliver the interconnector project, a point accepted by AQUIND at the hearing.

In summary:

- SSL accept that it may be necessary for the cabling route to enter into their land at the southern end of the car park, but the cable should exit the car park at the earliest possible opportunity, rather than run the length of the car park. A viable alternative cabling route exists, has been presented and should be adopted.
- If works are required at Sainsbury's Farlington, they should be limited to hours where the store is not trading so to minimise the impact on the business (at least 30 minutes either side of trading hours). The opening hours of the store are: Monday – Saturday: 07:00 – 22:00 and Sunday: 10:00 – 16:00.
- Works should not take place in the Easter and Christmas trading periods i.e. the two weeks leading up to Easter Sunday and the five weeks preceding Christmas Day.
- The rights secured over the land should be reduced to the minimum necessary, with only maintenance rights binding the land into perpetuity (with all other rights limited to a reasonable construction period).
- If following the consideration of submissions and evidence the Inspector is satisfied that AQUIND's proposed route through the entirety of the car park is the only viable option and the acquisition of rights justified and is in the public interest, AQUIND should be required to work with Sainsbury's to agree traffic management plans, works programme and to ensure that access and egress from the store car park is possible at all times.

Yours sincerely

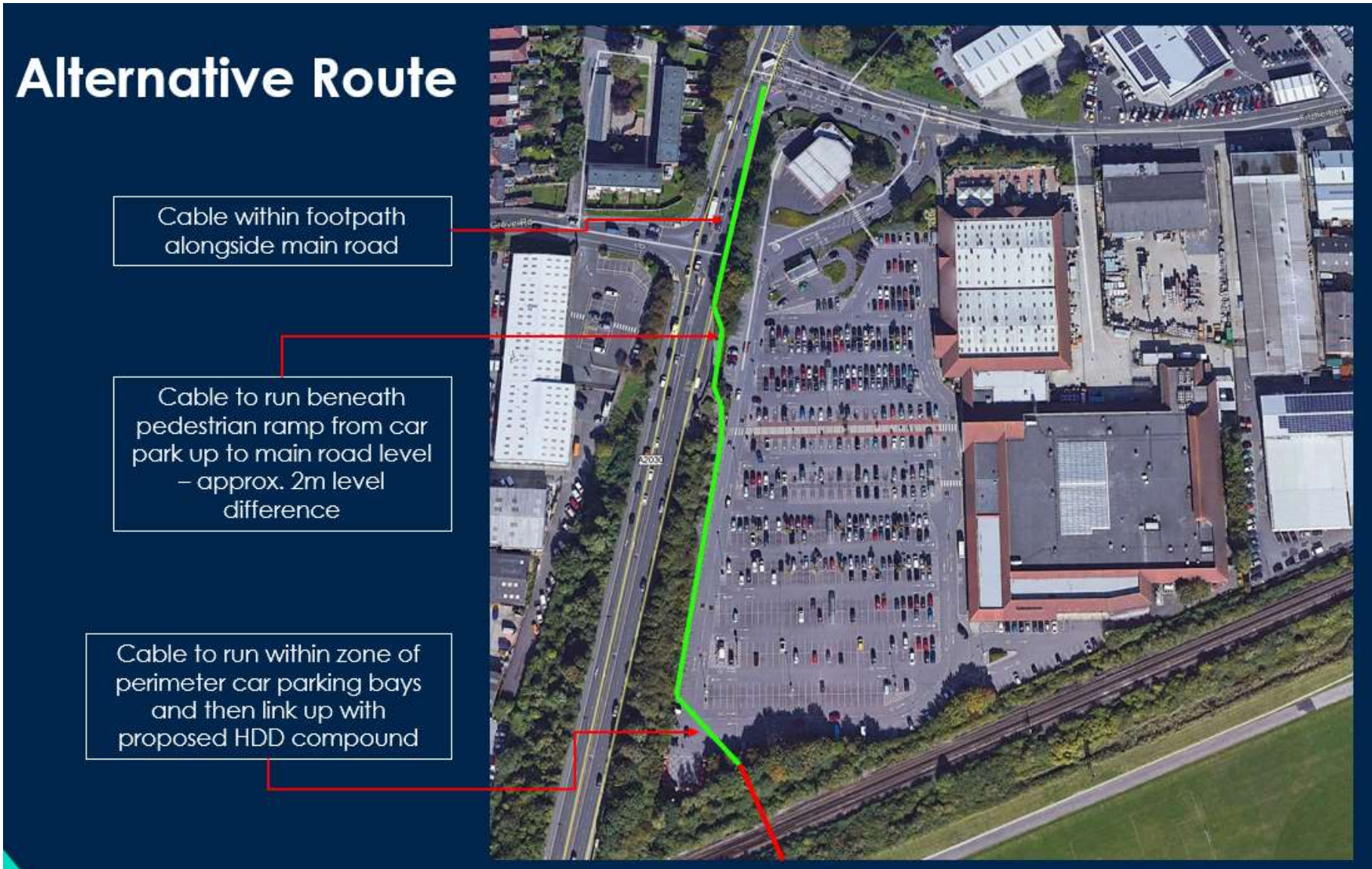


David Conboy

Director

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Appendix 1 – alternative cabling route



Appendix 2 – Photos showing access ramp

