



AQUIND Limited

AQUIND INTERCONNECTOR

Applicant's Responses to Deadline 6 Submissions – Hearings – Appendices

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Appendix A – Response to Carpenters Submissions on the Scope of the Authorised Development

**APPLICANT'S RESPONSE TO THE DEADLINE 6 SUBMISSION ON BEHALF OF [REDACTED]
[REDACTED] – POST HEARING NOTE ON THE SCOPE OF THE
AUTHORISED DEVELOPMENT (REP6-135)**

1. INTRODUCTION

1.1 This note sets out the Applicant's responses to the Deadline 6 Submission on behalf of [REDACTED] (the "**Affected Party**" or "**AP**") – Post Hearing Note on the scope of the Authorised Development (REP6-135) (the "**Note**").

1.2 In providing responses to the Note the Applicant has sought to proportionately respond to matters raised where it is considered it will be of assistance to the Examining Authority ("**ExA**"). As such, this response does not seek to address all points raised, noting many of the points raised have already been addressed, either in the written submissions of the Applicant, or on behalf of the Applicant at the hearings into the application for the AQUIND Interconnector Order (the "**Application**") held on the weeks commencing 7 and 14 December 2020.

2. THE PROVISION OF 3 ADDITIONAL SPARE TRANSFORMERS AND A DISASSEMBLED CRANE AT THE CONVERTER STATION

2.1 At CAH2 [REDACTED] on behalf of the AP put forward that additional spare transformers were able to stacked on top of one another at the Converter Station, with the purpose of this submission being to seek to evidence why it was not necessary for the Access Road to the Converter Station to be retained for its operational lifetime.

2.2 In response on behalf of the Applicant it was identified, referencing statements contained at paragraph 5.2.3.41 and 5.2.3.42 of the Design and Access Statement (REP1-032), that the transformers represent the largest and heaviest single load, each weighing about 300 tonnes, and have dimensions which are typically 5m length x 3m width x 4m height. As such, it was evidently apparent that the transformers are not appropriate to be stacked on top of one another.

2.3 It was also identified on behalf of the Applicant that in addition to it being necessary for any faulty transformer to be removed and the spare transformer replaced where used in the event of failure, it is also necessary for appropriate crange to come to the Converter Station to facilitate the replacement of a faulty transformer.

2.4 It was further also identified that an alternative access road suggested, which passes to the east of Stoneacre Copse, would not be appropriate, both because of concerns regarding clearance distances from the above OHL's and also because this would require the removal of Ancient Woodland, which the Applicant deemed unacceptable taking into account the relevant policies providing protections for it.

2.5 Further information in this regard is contained in the Applicant's Written Summaries of its Oral Submissions at CAH2 (REP6-062) and at paragraph 4.1.2 – 4.1.9 of the Applicant's Post Hearing Notes (REP6-063) in relation to CAH2.

2.6 Having heard and seemingly accepted these submissions, paragraph 20 of the Note seeks to find another way in which multiple spare transformers, together now with a disassembled crane, may be stored at the Converter Station. In particular, paragraph 20 of the Note proposes:

2.6.1 there is space immediately south of the 3 transformers on the north side of the Converter Station and the 3 transformers on the south side of the Converter Station, and that a further spare transformer could be situated adjacent to the existing spare transformer, with at least a further two spare transformers situated in the areas to the south of the active electrical transformers, providing a total of 4 spare transformers at the Converter Station, for 40 years;

- 2.6.2 a failed transformer could be unwired and the wires to the transformer be re-wired to a close by spare transformer (with no movement of either) and for the re-wired transformer to then be actively used whilst the failed transformer remains in situ, thus obviating the need for crange; and
- 2.6.3 in the alternative a disassembled crane could be stored on site and assembled to allow for the failed transformer to be removed and moved off-site (with no mention of the roadway required for this) and for a spare transformer to then be moved into place.
- 2.7 On the above basis it is proposed a Requirement is included in the DCO requiring at least 4 spare transformers to be situated at the Converter Station.
- 2.8 With regard to the need for, and the feasibility of, locating four spare transformers at the Converter Station the Applicant responds as follows:
- 2.8.1 There is not a need for four spare transformers to be located at a converter station for an interconnector. The transformers are designed and delivered to ensure the highest level of reliability, robustness and to industry standards. Due to the lead time to replace a transformer of this type, typically nine months, it is the industry norm to have a single spare transformer available at site for in the very unlikely event of failure.
- 2.8.2 The method to exchange a transformer requires a specialised contractor, who would only be deployed in the highly unlikely event of a transformer failing. The specialised contractor would bring all necessary specialist tools and equipment required to site in order to carry out the transformer exchange, in a safe manner and in line with recognised industry recommendations and practices. Such safe industry recommended practices do not involve the simple re-wiring and the leaving in situ of a faulty transformer suggested on behalf of the AP.
- 2.8.3 It would be extremely difficult to near impossible to find the space for four spare transformers of this type within the space available when taking into account all buildings and HV equipment required and the need for appropriate safety distances and circulation space for safe operation and maintenance within the planned 200 x 200m compound. Each Transformer needs to be positioned to ensure full 400Vkv air space clearance is achieved from all local live HV connected equipment. There would be a need to increase the compound area to house all four spare transformers being suggested. The addition of a crane disassembled on site as suggested would further increase the size of the compound area required. As it is not necessary for four spare transformers or a disassembled crane to be located at the Converter Station for the reasons set out above, it would not be justifiable for the compound area to be increased for this.
- 2.8.4 The Access Road is required regardless of the number of available spare transformers at site (or indeed where a disassembled crane were located on site). Should there be a fault to one of the transformers connected to the live system, this needs to be removed and transported off site.
- 2.9 Accordingly, this is not in any sense a technically feasible or appropriate suggestion and the submission on behalf of the AP shows a clear lack of understanding of the infrastructure which is to be provided.
- 2.10 A Requirement of the type suggested by the AP would not be appropriate to be included in the DCO for the reasons set out above.
3. **SECURITY OF THE CONVERTER STATION**
- 3.1 At paragraph 21 of the Note it is suggested on behalf of the AP that the position put forward by the Applicant regarding the ability to remove persons from the land who seek to trespass at the Converter Station may be addressed by amending the technical specifications of the security fence which is to be located on the perimeter of the Converter Station, and the imposition of a Requirement in this regard.

- 3.2 It is confirmed on behalf of the Applicant that the Converter Station has been designed in accordance with National Grid Guidelines and the operational requirements include dual perimeter security fencing with a sterile zone to allow appropriate entry and exit provisions for workers and deter access by others. Further, the perimeter security (fencing and gates) has been designed to National Grid Technical Specifications which state that the overall height of the perimeter fence (external fence) should be 3m above base level with an electric pulse fence installed within the security fence (internal fence) (paragraph 5.2.7.3 of the Design and Access Statement, (REP6-025)).
- 3.3 Whilst these measures provide a robust level of security, it is not the case that persons may not still seek to breach the perimeter of the Converter Station and the Telecommunications Buildings.
- 3.4 Should the Applicant not own land surrounding the Converter Station and the Telecommunications Buildings, it would have no legal right to remove persons from the land in close proximity to them. As such, it would not be able to deter persons from approaching the perimeters of either or remove them from the land where they present a threat to security. By having control over the surrounding land, it is the case that the Undertaker would be able to prevent persons from trespassing on land in their ownership where such persons are doing so for the purpose of seeking to breach the security perimeter fences. As such, by having control over the land the Undertaker is afforded additional, and necessary, powers of control over the land for the purpose of deterrence.
- 3.5 In seeking to draw a comparison the AP makes references to the existing Lovedean Substation, which is seemingly made on the basis of the understanding that the perimeter fence for the Lovedean Substation represents the full extent of National Grid's land boundary.
- 3.6 The Lovedean Substation is registered under HM Land Registry title reference SH28279. Inspection of the title plan shows that, at the closest point, the perimeter fence for the Lovedean substation is approximately 25m away from the boundary of National Grid's ownership boundary, for the majority of the perimeter this distance is approximately 40-50m and in many case extends much further, up to 190m in some cases.
- 3.7 This area includes land which the AP sold to National Grid in November 2013 which, for the avoidance of doubt, includes part of the landscaping and visual impact mitigation measures at the western side of National Grid's ownership.
- 3.8 Whilst the Applicant does not wish to speculate on the reasons for National Grid's land ownership extending some distance beyond the immediate perimeter of the Lovedean Substation, it is evident that National Grid do own and therefore control the areas of land surrounding the Lovedean substation.

4. **SELECTION OF THE OPTION FOR THE CONVERTER STATION AND ITS HEIGHT**

- 4.1 At paragraphs 24 and 25 of the Note the AP requests the imposition of a Requirement in the DCO for the confirmation of the Converter Station option. This requests in particular:
- 4.1.1 the option not selected be deleted from the dDCO and from the Certified Plans so that no reliance can be placed on it thereafter; and
- 4.1.2 following the approval of the details of the height, the parameter envelope is reduced and no reliance can be placed on the area above the approved details for the provision of a Converter Station of greater height.
- 4.2 It is requested that the trigger point for such requirements is very early in the process of the works being approved.
- 4.3 In this regard, the following Requirements, which it is not clear from the statements made whether the AP or its representatives have taken the time to consider, are already included in the dDCO (REP6- 015):
- 4.3.1 Requirement 4 - Converter station option confirmation – which requires the Undertaker to confirm to the relevant planning authority which Converter Station perimeter option shown on the Converter Station Parameter Plan the Converter

Station is to be located within prior to the commencement of any works within Work No.2 or the carrying out of any onshore site preparation works in respect of the area where the converter station is to be located;

- 4.3.2 Requirement 5(1) – Converter Station parameters – identifies the parameter plan which is relevant following the option confirmation required in accordance with Requirement 4, therefore identifying the location of the parameter zones within which the individual elements of the Converter Station must be constructed, and within which they may not;
 - 4.3.3 Requirement 6(1) – Detailed design approval – which requires amongst other matters the scale of the buildings comprised in Work No.2 to be approved by the relevant planning authority (in consultation with the South Downs National Park Authority) prior to the commencement of any phase of Work No.2 relating to that phase; and
 - 4.3.4 Requirement 6(6) – which requires Work No.2 to be carried out in accordance with the approved details.
- 4.4 Noting the above explained Requirements, it is the view of the Applicant that the matters requested are already appropriately secured sufficiently early in the process of the works being approved.

5. LIGHTNING MASTS

- 5.1 Paragraph 31 of the Note identifies that the AP is unaware of the EIA or objective visual evaluation of the Lightning Masts undertaken, despite those being a necessary functioning part of the Converter Station.
- 5.2 The Applicant has explained in the Applicant's Response to Ex Q1, LV1.9.3 (REP1-091) that the Landscape and Visual Impact Assessment (LVIA) considered the Converter Station as a whole within the maximum parameter design envelope as defined on Converter Station and Telecommunications Building Parameter Plans Sheets 1 to 3 (APP-012). The Parameter Plan Sheets 1 to 3 refer to the height of the lightning protection masts located on site (within parameter zones 3 and 4) which are up to 30 m high.
- 5.3 The LVIA did not disaggregate individual constituent parts of the building such as lightning masts. Individual constituent parts are referred to as part of the overall Proposed Development as described in Chapter 3 (Description of the Proposed Development) of the ES (APP-118) and the updated Design and Access Statement (REP6-025). The approach taken to this assessment is entirely appropriate and robust.
- 5.4 The lightning masts are narrow, slender features, and small in relation to the overall massing of the Converter Station. They would be perceptible in some views from up to between one and two kilometres. Such views will largely screen lower elevations of the masts with only the upper profile visible and tapering to a point.
- 5.5 Paragraphs 30 and 33 of the Note state that the dDCO does not fix the number or height of the lightning masts which may be provided. Furthermore, comments are made that there are no controls in relation to the design of the lightning masts, and these are omissions from the dDCO.
- 5.6 At paragraph 33 it is stated that the Converter Station Parameter height of 26m cannot encompass higher volumes than 26m and 4m high masts could only be situated on top of the 22m high building as the Application stands at Deadline 6.
- 5.7 The inclusion of a clear volumetric "roof zone" above the Converter Station is suggested as an approach to cure the suggested lack of controls.
- 5.8 Noting the comments were made at Deadline 6, for the purposes of the Applicant's responses the dDCO submitted at Deadline 5 (REP5-008) is referred to, to evidence how these matters are already sufficiently addressed in the description of the Authorised Development at Schedule 1 and the Requirements contained at Schedule 2:

- 5.8.1 Work No.2 (p) is “*up to 8 lightning masts*”. This therefore represents the upper limit of what consent is sought for, and no more may be constructed than this number on that basis;
- 5.8.2 Table WN2 at Requirement 5(1) confirms the parameter zone which the Lightning Masts may be located within and confirms the maximum height parameter is 30m;
- 5.8.3 Requirement 5 (2) states “*In accordance with the Converter Station and Telecommunications Building Parameter Plans no building within Work No. 2 may be a height which is above +111.100 metres above ordnance datum (excluding the lightning masts which may not be a height which is above +115.100 meters above ordnance datum)*”. This therefore provides the clear objective control on the height of the lightning masts; and
- 5.8.4 Requirement 6(1) requires the approval of the written details of the external lighting and lightning protection to be provided as part of Work No.2.
- 5.9 It is confirmed the position remains unchanged in the dDCO submitted at Deadline 6 (REP6- 015).
- 5.10 Furthermore, Building Design Principle 7 within the Design and Access Statement (REP1-032) provides that Lightning masts of up to 30m in height will be needed and could be attached to the Converter Buildings and/or located within the compound defined on the Parameter Plans.
- 5.11 Taking the above into account, it is considered the location of the up to 8 lightning masts, including the need for their design approval, is adequately and appropriately secured in the dDCO.
- 5.12 The AP also suggests at paragraph 36 of the Note that Article 27 of the dDCO (Acquisition of subsoil and airspace only) would be relied upon to cure the perceived error explained above. In making this statement the AP appears to have misunderstood the effect of Article 27, and more so the effect of the acquisition of the land on which the Converter Station is to be located. In accordance with the Land Plans (REP6-004) and the Book of Reference (REP6-022) the freehold acquisition of the land on which the Converter Station is to be located is sought, and such acquisition may include all subsoil and air rights in relation to that land.

6. **ALTERNATIVE DRAINAGE SOLUTION**

- 6.1 At paragraph 40(d) of the Note it is suggested that drainage (and an attenuation pond) may be provided in a slim linear area immediately to the south of the envisaged bunding to the south of the Converter Station perimeter and a further linear area to the west Converter Station perimeter, into which water may drain from both the east and south along appropriately levelled drainage ditches as part of the cut and fill operation. A location for an attenuation pond, along with the drainages ditches, is also identified on REP6-119
- 6.2 It is understood that the above suggestion is made by the AP on the understanding that the Access Road does not need to be provided permanently, which as discussed above at paragraph 2 of these responses is evidently not the case.
- 6.3 With reference to the Statements of Common Ground between the Applicant, Portsmouth Water (PW) and the Environment Agency (EA) (respectively) as well as Appendix 3 – Surface water Drainage and Aquifer Contamination Mitigation Strategy of Design and Access Statement (REP6-025), the Applicant confirms that the Sustainable Drainage System has been developed in collaboration with PW, EA and HCC LLFA to ensure suitable protection to SPZ1 is provided during the operation of the Converter Station. The Applicant also confirms that from an engineering perspective the attenuation pond and its associated ancillaries (i.e. soakaway system, flow control chamber, etc) are placed in the most appropriate location on the south west of the proposed Converter Station, taking into account constraints posed by the existing features, the required proposed landscaping, HVDC cables, as well as access for future maintenance and inspection. The land on which

these features are to be located is the minimum amount required to provide the necessary Sustainable Drainage System.

- 6.4 The proposed landscaping, which has been developed in close collaboration with LPAs and SDNPA, will provide an important and necessary visual screening function. The proposed planting is located immediately to the south of the Converter Station, at a suitable distance to ensure that electrical earthing remains clear of any risk of root damage, that trees do not fall onto the security fencing compromising safety and breaching unauthorised access, and also that access is maintained to ease the removal of any fallen or felled trees. Therefore, the proposed attenuation pond cannot be located any closer to the south of the Converter Station as suggested as it would otherwise compromise the landscape and screening requirement.
- 6.5 The HVDC onshore cables will enter the Converter Station from the west. With reference to Chapter 3 (Description of the Proposed Development) of the ES (APP-118), the overall working width of 23m is to be provided during construction, with sufficient space also required for access maintenance and any cable replacement during operation. The space that is currently provided between the west side of the proposed attenuation pond and the existing native sensitive hedgerows is approximately 24m wide at the pinch point. Therefore, the attenuation pond cannot be moved any further west as it would otherwise compromise the installation and future access, maintenance and or replacement of the HVDC onshore cables.

7. COMMERCIAL TELECOMMUNICATIONS

- 7.1 At paragraph 63(d) it is stated on behalf of the AP that [REDACTED] through oral evidence submitted that the FOC are not “part of” the authorised development. It is confirmed by [REDACTED] on behalf of the Applicant that this statement is not agreed with.
- 7.2 The Applicant’s position in this regard is that the ‘authorised development’ comprises the development to which the development consent relates.
- 7.3 The FOC are an integral part of the development which the Section 35 Direction was issued in relation to. Therefore it is the case that the FOC and the signal enhancing and management equipment required in connection with the FOC, as referred to in the Statement in support of an application for a Direction pursuant to Section 35 of the Planning Act 2008 (AS-040), are part of the development for which development consent is required in accordance with the Section 35 Direction issued.
- 7.4 Where buildings associated with the use of the FOC are considered to be associated development, such development would be development for which development consent is granted (and therefore relates). In this regard it is noted that the Section 35 Direction (AS-039) directs that the proposed development, together with any development associated with it, is to be treated as development for which development consent is required.
- 7.5 Accordingly, the FOC forming part of the Development which the Section 35 Direction was issued in respect of and provides for, and any additional buildings forming development associated with that, is development for which development consent is required and is therefore part of the authorised development.
- 7.6 At paragraph 65 (b) of the Note it is remarked that the AP’s land is not below the sea nor subject to potential transiting by vessels with anchors, and that the AP is unaware of any fishing on the AP’s affected land requiring boats with anchors. Therefore, protection from “anchors” by the envisaged industry sized diameter of “33-55mm” is not required on this land. This remark is based on an earlier identification at paragraph 63(d) of the Note of information taken from <http://aquind.co.uk/> which in relation to the FOC in the marine environment states:
- 7.6.1 *Installation in the same trench as the power cables and alongside them, together with separation of the two cable systems, ensure [sic] consistent protection against fishing and anchor damage as well as natural hazards.*

- 7.7 Having identified this statement, the AP has sought to take this out of context and apply this to the statements made on behalf of the Applicant in the Statement in relation to FOC (REP1-127) which identifies (at paragraph 5.2):
- 7.7.1 *“To withstand the various physical impacts which the fibre optic cables are likely to be subject to associated with transportation, installation and operation in the marine and underground environment and protect the glass fibres located within it, the fibre optic cables are required to be of an adequate outer diameter. Within the required outer diameter for the fibre optic cables, 192 glass fibres may be installed.”*
- 7.8 In linking these two statements the AP is seeking to identify that the only reason why the FOC needs to be a diameter of 33-55mm, which is sufficient to contain 192 fibres, is to protect from the risk posed by fishing vessels. This is not correct for the following reasons:
- 7.8.1 as is clearly stated, various factors dictate the required outer diameter, including but not limited to their operational protection in the marine environment. Other relevant factors, in particular, include their transportation and installation; and
- 7.8.2 the statement made on the Applicant’s website clearly identifies that it is the laying of the FOC with the power cable, which itself will be protected, and that the cable circuits are separated, and therefore if one is damaged the other is not, which ensures consistent protection for the delivery of commercial telecommunications services.
- 7.9 It is therefore not the case that the inclusion of an additional Requirement parameter as suggested in paragraph 65(c) of the Note would mean an FOC of a lesser outer diameter may be used, and it is also confirmed that the electrical and FOC cables will be laid at a sufficient depth to be protected from agricultural machinery.
- 7.10 Paragraph 67 of the Note provides that Section 122 of the Planning Act 2008 requires development to be “required for the authorised development” or to be “required to facilitate that development” for an order granting development consent to include powers of compulsory acquisition in relation to it. This is not correct. In both instances the term ‘authorised development’ should be replaced with “development to which the development consent relates”, which is the actual wording of Section 122 of the Planning Act 2008.
- 7.11 Having misread Section 122 of the Planning Act 2008 and incorrectly quoted [REDACTED] regarding the FOC not being part of the ‘authorised development’, the AP then goes on in paragraphs 67 and 68 to consider the use of the term “desiring”, suggesting the Applicant has put forward this as the statutory test to be satisfied in relation to Section 122 of the Planning Act 2008, and that the test in Section 122 is therefore not satisfied and the FOC cannot be lawfully located on the AP’s land. For the reasons set out, this is a wholly incorrect interpretation of many relevant matters, which leads the AP to a wholly incorrect conclusion.
- 7.12 As set out above at paragraph 7.3 and 7.4, the FOC and the signal enhancing and management equipment required in connection with the FOC and the additional buildings forming development associated with that, are development for which development consent is required, and therefore if consented would be development to which the development consent relates, which satisfy Section 122(2)(a) of the Planning Act 2008.
- 7.13 Following on from the above misinterpretations, the Note at paragraphs 70 to 75 then considers Section 120(3) of the Planning Act 2008 and its use of the word ancillary, and seeks to apply that to where the Applicant has used the word ancillary in a context not at all relevant to Section 120(3) of the Planning Act 2008. The Applicant considers these paragraphs for the reasons set out to be very confused, and in light of the numerous errors leading to this point of the Note not of genuine relevance to the question of whether Section 122 may apply to the FOC (which for the reasons set out above it clearly does).
- 7.14 At paragraph 76 under a sub-heading “*why the commercial telecommunications development makes a difference to the Affected Party*”, the AP asserts that the Applicant states in paragraph 5.2 of the Statement in relation to FOC (REP1-127) that there is no

benefit to not situating the commercial telecommunications fibre optic cables and related Telecommunications Buildings on the land of the AP. This is a clear misreading of paragraph 5.2 of the of the Statement in relation to FOC (RE1-127), which states:

7.14.1 *Noting that the outer diameter must be of sufficient size to withstand the impacts to which it is likely to be subject, and the use of standard size cable components for this purpose, the size of the cable itself would not change if the number of glass fibres within it was reduced from 192 to a lesser multiple. Therefore, whilst it would be possible to install a cable with fewer glass fibres (and thus less spare capacity), this would not reduce the impacts to any degree. Accordingly, there is no benefit to such an approach being taken, and it is considered this would limit the overall benefits to be provided by the Proposed Development.*

7.15 The statement made at paragraph 5.2 is very clearly made in relation to the FOC, and not the Telecommunications Buildings, coming at the end of a paragraph which solely discusses the requirements for the outer diameter width of the FOC. The Applicant is completely aware that compulsory purchase is a relevant consideration in relation to the Telecommunications Buildings, and it has clearly put forward its case as to why the Telecommunications Buildings, and the FOC, are development for which development consent is required, and also why there is a compelling case in the public interest for the land to be acquired compulsorily for the Telecommunications Buildings (see Section 5 of the Needs and Benefits Addendum (REP1-136)).

7.16 The Note then goes on to consider Section 115 of the Planning Act 2008 and at paragraph 84 submits that the reason why commercial telecommunications may not be associated development is the absence of common purpose. Having reviewed Section 115 of the Planning Act 2008 and the Guidance on associated development applications for major infrastructure projects¹, the Applicant notes neither refer to their needing to be a common purpose between what is development for which development consent is required and associated development, being the development associated with the development for which development consent is required (or any part of it)². At the end of paragraph 84 the Note suggests the ExA should review the statutory term “associated”. It is not understood what this is referring to as the statute providing that defined term, or its relevance to the interpretation of the Planning Act 2008.

7.17 Paragraph 85 of the Note provides various statements in relation to the terms “ancillary” and “primary” and their use on page 8 of the Statement in relation to FOC (RE1-127), where the Applicant has set out reasoning for why there is a direct relationship between associated development and the principal development, being the wording provided in the Guidance on associated development applications for major infrastructure projects. The comments made in this respect take out of context and seek to elevate the importance which is placed on those terms by the Applicant. The purpose of the explanation provided on page 8 of the Statement in relation to FOC (RE1-127) was to explain that if development is ancillary to development for which development consent is required, there is a direct link between that principal development and the ancillary/associated development.

8. LANDSCAPING

8.1 Paragraph 105 of the Note references paragraph 11(ii) of the Guidance related to procedures for the compulsory acquisition of land³, which provides an example of when land may be required to facilitate or is incidental to the proposed development as follows:

8.1.1 *“An example might be the acquisition of land for the purposes of landscaping the project. In such a case the Secretary of State will need to be satisfied that the development could only be landscaped to a satisfactory standard if the land in*

¹ DCLG, April 2013

² Section 115(1) and (2)(a) of the Planning Act 2008

³ DCLG, September 2013

question were to be compulsorily acquired, and that the land to be taken is no more than is reasonably necessary for that purpose, and that is proportionate.”

- 8.2 At paragraph 106 the Note states that it remains evident the permanent acquisition of a large area of the AP's land so as to execute a mere change of vegetation from farm plants to unfarmed plants is not necessary, not proportionate, is unreasonable, and, regrettably, irrational.
- 8.3 The above statement is not agreed with by the Applicant for the following reasons:
- 8.3.1 the design of the landscaping screening within Plot 1-32 was considered holistically by the Applicant, and whilst driven by the need to address specific adverse visual and landscape character effects and ecological mitigations and enhancements, it also considered overall site aesthetics and the potential for wider public benefit;
- 8.3.2 the proposed planting and seeding on Plot 1-32 provides:
- (A) essential visual mitigation both for immediate visual receptors and more distant receptors in the wider area to the south;
 - (B) a wider public benefit by improving landscape and biodiversity connectivity (for example links to Stoneacre Copse – a nationally important habitat);
 - (C) a wider public benefit by responding to Local Planning Authority management strategy and landscape strategy objectives (as set out in landscape character assessments as referred to in the Applicant's responses to Deadline 4 Submission Table 1.1 (REP6-067)); and
 - (D) a wider public benefit by through the provision of a net gain for priority habitats.
- 8.3.3 to meet these objectives over the long-term, the Applicant must take responsibility for the maintenance and management of these works for the operational lifetime of the development;
- 8.3.4 as referred to in the Applicant's response to action points raised at ISH1, 2 and 3, and CAH 1 and 2 (REP6-063) planting within Plot 1-32 includes:
- (A) new planting adjacent to Ancient woodland. In addition to essential visual mitigation, this seeks to address concerns over the need to improve connections to nationally important habitats as referred to at the Applicant's Response to Written Representations (4.23) (REP2-014) and it responds to LPA management / landscape strategy objectives in terms of landscape character, referred to in Appendix 15.4 of the ES (Landscape Character) (APP-402);
 - (B) the introduction of new woodland planting where feasible (having regard to electrical safety offsets) to strengthen landscape features, improve biodiversity by increasing the area of this important habitat and provide visual mitigation by breaking up the apparent mass of the building in views from the south and south west;
 - (C) the introduction of scrub planting where electrical safety constraints preclude woodland planting to provide low level visual screening and strengthen landscape character, improving landscape and ecological connectivity. This type of habitat functions as a foraging area, refuge and safe breeding space for a protected and notable species. Management of scrub planting will take place to restrict growth for reasons of electrical safety;
 - (D) new hedges along the Access Road to strengthen landscape character, improve landscape and ecological connectivity and, where hedgerow trees can be introduced, provide necessary visual mitigation; and

- (E) the introduction of calcareous grassland to improve ecological diversity where planting is not feasible. This will provide a biodiversity net gain compared to the current species poor agriculturally improved grassland. Management by the Applicant will ensure the long-term biodiversity value of these areas,
- 8.3.5 the landscaping proposed is a result of the landscape and visual assessment process and extensive discussions with, and feedback from, Statutory Consultees including Winchester City Council and South Downs National Park Authority. This has covered the need for landscape and ecological connectivity, strengthening and reinforcing landscape features, improvements in biodiversity and visual screening to mitigate adverse effects on long distance views from the south, as explained in the Applicant’s Response to Written Representations (CA3) (REP2-014); and
- 8.3.6 the design has taken into account both specific landscape, visual and ecological mitigation and the feedback from and requirements of the Statutory Consultees, and it has been designed to integrate these in a manner reflecting the scale of the development as a whole. The Applicant has committed to the management of the landscape for the operational lifetime of the development to ensure delivery of the mitigation and wider public benefit in the long term.
- 8.4 The land to be used for landscaping is therefore necessary and appropriate, and it is proportionate to the scale of the Proposed Development in this location.
- 8.5 At paragraph 109 the AP seeks to gain support for its position that the Landscaping to be provided is not reasonably necessary for the purpose of landscaping the Converter Station to a satisfactory standard by referring to pre-application discussions between the Applicant and the South Downs National Park from October 2018. The reliance on this pre-application consultation discussion by the AP to support its position is misconceived for the following reasons:
- 8.5.1 **Tighter footprint**
- (A) The actual text from the South Downs advisor states that compared to Option A, “*Option B is more in-line with and closer to the existing Substation and therefore will be seen in this context. Essentially keeping a tighter footprint*”.
 - (B) The Applicant highlights that Option B was the preferred option submitted as part of the ES (with two variations depending on micro-siting referred to as Option B(i) and Option B(ii)). Option A, whilst considered in the Refined Converter Station Options in Chapter 2 Consideration of Alternatives (APP-117) was not carried forward as the preferred option.
 - (C) The Applicant has aimed to keep a tight footprint for both Option B(i) and B(ii) and notes the point the advisor made that Option B is more in line with and closer to the existing Substation. Going further, where Option B(ii) is chosen this will have a stronger relationship with Lovedean Substation than Option B(i). The access track does extend to the south and west and the reasons for its routing along with alternative access routes are outlined in Chapter 2 Consideration of Alternatives (APP-117).
- 8.5.2 **Setting of both farmsteads /sensitivities**
- (A) The actual text from the South Downs advisor reads “*A affects the setting of both farmsteads – are these historic? What are their sensitivities?*” As outlined above, “A” refers to Option A, which was not carried forward as the preferred option for the location of the Converter Station.

8.5.3 Platform

- (A) The level platform set for Option B has been influenced by known constraints associated with the principal aquifer beneath the Converter Station Area as described in paragraph 5.2.4.3 of the updated DAS (REP6-025).

8.5.4 The need for the Access Road

- (A) The actual text from the South Downs advisor states “*B generates the need for a huge access track which I do not support. I would be inclined to reconsider my view (in terms of supporting Option B) if this was not resolvable.*” SDNPA go on to state in the email that the access track impacts the landscape in the following negative ways:
 - (1) cutting across historic field boundaries;
 - (2) negatively affecting the character of Broadway Lane – becoming more industrial and less rural/agricultural and reducing the Green Infrastructure ability of the hedgerows along it;
 - (3) preventing the re-connection/improvement of nationally important habitats (Ancient Woodland); and
 - (4) running through the centre of fields, contrary to character and dissecting the inherited field pattern and being more obvious in views compared to following existing hedgelines/field boundaries.
- (B) The Applicant responded to the points made by SDNPA in the Applicant’s Response to Written Representations (REP2-014).
- (C) Regarding points 1, 2 and 4, the Applicant refers to the Applicant’s Response to Relevant Representations of South Downs National Park Authority (RR-049) and East Hampshire District Council (RR-162) (REP1-160) submitted for Deadline 1 and how measures have been sought to reduce the visual prominence of the Access Road through planting and a specific design principle. The location and alignment of the Access Road is substantially determined by the engineering requirements of bringing large abnormal indivisible loads into the site, whilst avoiding the belt of ancient woodland directly south of the Converter Station, set back from PRoW along the south of the site and set back from Broadway Cottages. As noted in the Applicant’s Comments to Responses to ExA Questions (LV1.9.5) (REP2-008) this has provided the opportunity to introduce new hedgerows to improve ecological connectivity and smaller fields were created which replicated those to the west of Stoneacre Copse.
- (D) The nature of the permanent surfacing of the road and landscape will be subject to detailed design approval as referred to in the dDCO (REP6 - 015).
- (E) Regarding point 3, the Applicant’s Response to Written Questions, LV1.9.39 (REP1-091) submitted for Deadline 1 explains that the proposed landscape mitigation measures seek to tie the adjacent woodland into its surroundings (as far as reasonably practicable) given the location of the overhead lines, Access Road and associated easements. Revisions to the indicative landscape mitigation plans Option B(i) north and south (REP6-027 and REP6-028) and Deadline 6 Submission – 7.7.8 Indicative Landscape Mitigation Plan Option B(ii) (REP6-054) seek to improve connectivity further with the Ancient Woodland and these updated plans also reflect changes to the Order limits (AS-054). Further details of actions to address this are outlined in the Applicant’s Statement of Common Ground with Winchester City Council submitted at Deadline 7.

8.6 Accordingly, the pre-application discussions between the Applicant and the South Downs National Park from October 2018 provide no support for the AP's submission that the Landscaping to be provided is not reasonably necessary for the purpose of landscaping the Converter Station to a satisfactory standard. When considering how those matters have been responded to this only serves to evidence that the landscaping to be provided has been carefully designed to mitigate visual impacts, as well as to provide ecological mitigations and enhancements, all of which are necessary in connection with the Proposed Development.

9. **COMPELLING CASE IN THE PUBLIC INTEREST**

9.1 Paragraph 117, which is a paragraph in relation to the legal framework applicable to compulsory acquisition, seeks to put forward that the Applicant's position is that because land is required for the development to which the development consent will relate (i.e. satisfied Section 122(2)(a) of the Planning Act 2008), there is a compelling case in the public interest for that development in satisfaction of Section 122(3). The Applicant confirms this is not a position it has advanced.

9.2 Further, whilst this paragraph is somewhat confusing, the thrust of it appears to be that the AP is asserting there is not a compelling case in the public interest for the Proposed Development, and instead there is only a private interest veiled as a public interest. In this regard, the Applicant highlights that there is clear and compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired, with the need for and benefits of the Proposed Development being fully explained in the Needs and Benefits Report (APP-115), the Needs and Benefits Report Addendum (REP1-136), and the further Needs and Benefits Report Addendum submitted at Deadline 7. The need for and benefits of the Proposed Development are a matter which is unchallenged by the AP.

Herbert Smith Freehills LLP and WSP UK

23 January 2021

18857/30985781

Appendix B – Response to Carpenters Submissions on Funding

**APPLICANT'S RESPONSE TO THE DEADLINE 6 SUBMISSION ON BEHALF OF [REDACTED]
[REDACTED] – POST HEARING NOTE ON FUNDING (REP6-138)**

1. INTRODUCTION

- 1.1 This note sets out the Applicant's responses to the Deadline 6 Submission on behalf of [REDACTED] the "Affected Party" or "AP") – Post Hearing Note on Funding (REP6-138) (the "Note").
- 1.2 In providing responses to the Note, the Applicant has sought to proportionately respond to matters raised where it is considered it will be of assistance to the Examining Authority ("ExA"). As such, this response does not seek to address all points raised, noting many of the points raised have already been addressed, either in the written submissions of the Applicant, or on behalf of the Applicant at the hearings into the application for the AQUIND Interconnector Order (the "Application") held on the weeks commencing 7 and 14 December 2020.

2. THE TESTS TO BE APPLIED TO THE LAND TO BE ACQUIRED

- 2.1 Paragraph 8 of Section B of the Note seeks to identify, in bold, that it will be the Undertaker alone who determines the position in respect of the land to be acquired, and that this will be subject to no further test of legal scrutiny following the Order being granted. This position is further advanced at paragraph 15 of the Note, where it is stated that the exercise of the compulsory acquisition powers would be exercised by the exclusive subjective judgement of the Undertaker. In so doing the thrust of the underlying point is that Article 20 and 30 of the dDCO (REP6-015) are drafted too widely.
- 2.2 Article 20 would authorise the acquisition of the 'pink land', and all of that land is required for the development to which the development consent relates. What is required will reflect the approved detailed design of the development which itself will be the subject of scrutiny and approval by the relevant planning authorities. Further, the made DCO as a statutory instrument, would be law. As such, the implementation of the powers provided within the DCO would be subject to all necessary levels of legal scrutiny, including if appropriate by the Courts. To contend that the exercise of the powers within the Order is for Applicant alone to exclusively determine and that there is no other scrutiny able to be applied in relation to the exercise of those powers wholly mischaracterises the position. Article 20, as was explained at ISH1, provides a legal test which needs to be satisfied for it to authorise the acquisition of the land to which it relates, and one which as necessary will be subject to legal and other scrutiny.
- 2.3 In any event, taking into account that in relation to the land of the AP to which Article 20 applies, principally being the land which would be authorised for permanent acquisition, and disregarding the 'yellow land' which is discussed further below, all of that land has been evidenced by the Applicant to be land which is required for the development to which the development consent will relate. As such, comments regarding the breadth of the powers do not in any way assist the AP.
- 2.4 The power as drafted is wholly appropriate, both in relation to its application to the AP's land, and more generally. It is also noted that the form of Article 20 accords with many made DCO's, and is therefore patently an appropriate form to be included in the dDCO (REP6-015).

3. POWERS OF COMPULSORY ACQUISITION IN RELATION TO THE YELLOW LAND

- 3.1 At paragraph 9 of Section B of the Note, the AP identifies that the 'yellow land' is subject to Article 30(9), which would permit the acquisition of any part of the subsoil in the 'yellow land' pursuant to Article 27. The Applicant notes the comments made and confirms it was not the intention of the Applicant that Article 27 would apply to the 'yellow land', and that it is not necessary for it to do so. Accordingly, Article 30(9) of the dDCO (REP6-015) is revised in the draft submitted at Deadline 7 so as to remove that power.

3.2 Whilst the AP makes many further points in relation to the appropriateness of the application of what was Article 30(9)(a), taking into account the above it is not considered that there is a need for this to be addressed further in this response.

4. **STATUTORY PERIOD FOR THE EXERCISE OF COMPULSORY ACQUISITION POWERS FOLLOWING THE ORDER BEING MADE**

4.1 At paragraph 13 of Section B of the Note, the AP seeks to suggest that as a consequence of Article 31 of the dDCO (Time limit for exercise of authority to temporarily use land for the construction of the authorised development), the statutory period for the purposes of the Secretary of State ('SoS') determining whether there is a reasonable prospect of funding becoming available to enable compulsory acquisition within the statutory period following the DCO being made, is infinite.

4.2 The Applicant only responds to identify that it is Article 22 of the dDCO (REP6-015) (Time limit for exercise of authority to acquire land compulsorily) which sets out the statutory period within which the powers of compulsory acquisition may be exercised, and which therefore sets the statutory period at 5 years (in accordance with the dDCO (REP6-015) submitted at Deadline 5). The ExA, and the SoS in due course, will understand this to be the case.

5. **SCRUTINY OF THE COMPULSORY ACQUISITION ORDER POWERS AND THE EXTENT OF THE LAND TO WHICH THEY APPLY**

5.1 At paragraphs 15 and 19 of Section B of the Note, the AP contends that the careful scrutiny of the extent of and justification for the land which the powers of compulsory acquisition are to apply to, and the drafting of the powers themselves, is effectively deferred. This is on the basis that the powers will be exercised in the future by the Undertaker, and that the Order limits are drawn taking into account a 'Rochdale Envelope' approach. The AP then requests the ExA to carefully scrutinise the powers of compulsory acquisition and the land to which they relate.

5.2 The purpose of the hearings held into the Application on weeks commencing 7 and 14 December 2020 was to provide for proper scrutiny of the powers being sought, and the ExA is of course considering all such matters and applying all necessary scrutiny in their examination of the Application. Its findings will in due course, be reported to the SoS, and the SoS will also properly take such matters into account. Should the SoS be of the view that land within the Order limits does not satisfy the tests provided at Section 122 of the Planning Act 2008, powers of compulsory acquisition will not be authorised in relation to it in the DCO, if made.

5.3 Further, as has been set out by the Applicant on a number of occasions, Articles of the dDCO which provide powers of compulsory acquisition are drafted to provide a test of necessity. Being law and therefore subject to all necessary legal scrutiny and as necessary enforcement, this ensures that the powers are exercised to minimise the extent of the land which is to be acquired or in respect of which temporary possession is to be taken, to that which is necessary for the purposes for which the land/rights are acquired/temporary possession is taken only.

6. **TEST TO BE APPLIED IN RELATION TO FUNDING**

6.1 At paragraph 20 of Section B of the Note, the AP submits that in the event the estimated cost of the exercise of the powers of compulsory acquisition exceeds the current available assets of the Applicant, the orthodox position is to not include powers of compulsory acquisition in relation to the land of the AP.

6.2 In making this submission the AP seeks to rely on paragraph 16 of the Guidance¹ in support for this claimed test, on the basis that it identifies the SoS may decide against including in an order provisions authorising compulsory acquisition of land, or may consider

¹ Guidance related to procedures for the compulsory acquisition of land, DCLG, September 2013.

the scheme should be modified in a way that affects the requirement for land which would be subject to compulsory acquisition.

- 6.3 In response the Applicant identifies that it is not necessary for an applicant for a development consent order to evidence that they have secured all funds for the compulsory acquisition of land for compulsory acquisition powers to be included within a DCO. The test which is to be applied is provided for a paragraph 9 of the Guidance, which is that the an applicant “*should also be able to demonstrate that there is a reasonable prospect of the requisite funds for acquisition becoming available*”. The AP therefore misunderstands the proper test to be applied, in addition to seeking to gain support from paragraphs of the Guidance that bear no relevance to the point they are seeking to advance.

7. DOES THE ESTIMATE COVER THE RIGHT LAND

- 7.1 At paragraph 3 of Section D of the Note, the AP advances that [REDACTED], on behalf of the Applicant, orally confirmed during CAH2 that the Applicant had only financially evaluated the “pink land” within the Order limits. This assertion is strongly rejected by [REDACTED]. As the ExA will recall, Counsel on behalf of the AP sought to contend that only the cable route within the land shown on the plan held up by him had been costed, and [REDACTED] confirmed that all of the “pink land” shown on the plan had been included in the cost estimate. [REDACTED] confirms that this confirmation was not to state that *only* the “pink land” has been included in the cost estimate.
- 7.2 As is evident from paragraph 5.6 of the Funding Statement (now REP6-021), the amount of £1,973,775.21 is identified for the acquisition of rights and restrictions. This element of the cost estimate applies, in the main, to the acquisition of the rights and restrictions necessary in connection with the Onshore Cables. The part of the cost estimate which relates to the “pink land”, being the land in relation to which acquisition of all freehold and leasehold interests is sought, is the part titled “Land Acquisition”, and in relation to which an estimate of £1,277,000.00 is provided.
- 7.3 Further at paragraph 3 of Section C of the Note, the AP suggests that cost estimate should account for the acquisition of all freehold and leasehold interests of all land within the Order limits (above ground, not coloured yellow). The Applicant notes that the Land Plans (REP6-004) and the Book of Reference (REP6-022) identify what may be acquired in respect of the land within the Order limits, which in relation to all land excluding the “pink land” and the “yellow land”, is various rights and restrictions. As such, it is not necessary to include in the cost estimate the cost of acquiring all freehold and leasehold interests in all land within the Order limits when that is not what consent is sought for, and in fact would be an incorrect approach to take.
- 7.4 The Applicant confirms that the estimated overall land acquisition costs, a breakdown of which is provided at the table beneath paragraph 5.6 of the Funding Statement (REP6-021), is an accurate estimate of the costs of exercising the powers of compulsory acquisition pursuant to the DCO to the extent that would be lawfully authorised pursuant to it.
- ## 8. AVAILABILITY OF FUNDS TO MEET THE ESTIMATED COMPULSORY ACQUISITION COSTS
- 8.1 Section E of the Note raises various questions in relation to the availability of funding to meet the estimated compulsory acquisition costs, with the AP in paragraph 7 identifying that no funding guarantee is provided. It is confirmed that such a guarantee is now included in the dDCO submitted at Deadline 7 at Requirement 26 within Schedule 2.
- 8.2 At paragraph 8 the AP claims that because the source of funding is not a matter which is settled now, it is not possible for the Applicant to show conclusively that the compulsory acquisition of land in the Order limits is justified in the public interest.
- 8.3 Again the AP appears to be misapplying the Guidance. Paragraph 12 of the Guidance identifies that the SoS must be satisfied that there is a compelling case in the public

interest for the land to be acquired. Paragraph 13 of the Guidance identifies the SoS will need to be satisfied that there is compelling evidence that the public benefits that would be derived from the compulsory acquisition will outweigh the private loss that would be suffered by those whose land is to be acquired.

- 8.4 The test as to whether the granting of powers of compulsory acquisition is in the public interest is one which involves balancing the public interest against the private loss, which involves the consideration of the needs for and benefits of the proposed scheme, in addition to taking into account other relevant factors. Whether there is a compelling case in the public interest is not a matter where the lead determinant of that question is whether funding has *already* been secured (itself an incorrect test to be applied in relation to the availability of funding as explained at paragraph 6 above). Hence the guidance advises that there should be a reasonable prospect of the requisite funding for acquisition *becoming* available.

9. **WHETHER FUNDING FOR COMPULSORY ACQUISITION COSTS IS ALREADY SECURED**

- 9.1 Paragraphs 12 to 22 Section E of the Note discuss publicly available information in relation the accounts of AQUIND Limited, with a view to determining whether the monies held in those accounts are sufficient to cover the cost of exercising the compulsory acquisition powers in the dDCO, and with the conclusion of the exercise at paragraph 22 being "*Based on this, we can only conclude that the Applicant limited company must be looking to secure funding to cover the costs of its estimated compulsory acquisition costs from future financing*".

- 9.2 The Applicant has already confirmed in response to agenda item 5.2 of CAH1 that the monies secured to date from its current investors do not include the costs associated with compulsory acquisition, specifically at paragraph 5.8 of the Applicant's Transcript of Oral Submissions for Compulsory Acquisition Hearing 1 (REP5-034) which confirms "*Financing for the Project secured following any grant of the DCO will be used to fund the capital costs of the construction stage, which includes the costs associated with compulsory acquisition*". These paragraphs of the Note are therefore considered to be of no relevance to the examination of the Application.

10. **PROVISION OF THE KPMG REPORT**

- 10.1 The Applicant notes that at paragraph 24 of Section E of the Note, the AP raises the invitation by the ExA for the Applicant to consider whether it was able to submit a copy of the KPMG Report referred to on a confidential basis. Following CAH1, the Applicant did discuss this matter further with the case team at PINS, however it was determined that there is no procedure for submitting a document of this nature to the ExA on a confidential, strictly non-disclosure basis. The KPMG Report has therefore not been and will not be submitted to the ExA.

- 10.2 At paragraph 25 the AP seeks to suggest that because its land is proposed to be subject to compulsory acquisition, the AP should be provided with a full unredacted copy of the KPMG Report, and that to not do so would breach the AP's right to a fair hearing under Article 6 of the ECHR. It further suggests that this is the basis on which viability reports are required to be provided on an open basis in relation to the determination of planning applications pursuant to the Town and Country Planning Act 1990. Lastly, the AP suggests that the Data Protection 2018 may be relied on to require the release of the information in the context of court proceedings, and that the examination is itself the same as an administrative court hearing, and therefore the information could be compelled to be submitted into it.

- 10.3 The Applicant only notes the above to identify that there is no merit or foundation in law for any of the points made. They have cast the net wide in an endeavour to argue a point of prejudice where confidential commercial information is not provided to them personally or into the examination more generally, but none of the points made have any substance.

11. THE REASONABLE PROSPECT OF FUNDS BECOMING AVAILABLE

- 11.1 At paragraph 29 of Section E of the Note the AP invites the ExA to ask the Applicant what rational basis there is to conclude that there is a reasonable prospect of funds becoming available for land acquisition within the statutory period. In this regard the Applicant would direct the AP to the updated Funding Statement submitted at Deadline 6 (REP6-021) which sets out the basis on which it is anticipated regulatory status will be obtained and project financing secured, and also the response of the Applicant to the further written question of the ExA with reference CA2.3.2, submitted at Deadline 7.
- 11.2 Taking the above into account, it is submitted by the Applicant that they have very clearly evidenced the rational basis on which there is a reasonable prospect of funds becoming available within the statutory period, and that in light of the statement of the Government in the Energy White Paper² that they “*will work with Ofgem, developers and our European Partners to realise at least 18GW of interconnector capacity by 2030*”, it would be irrational to conclude there is anything but a reasonable prospect of the funding being secured for the Project, including for the land acquisition costs, within the statutory period.

12. WHO WOULD A CLAIM FOR COMPULSORY ACQUISITION BE ENFORCED AGAINST

- 12.1 At paragraph 38 of Section E of the Note the AP raises the question of who a claim for compulsory acquisition compensation would be enforced against. The Applicant confirms that any claims for compulsory acquisition would be enforced against the Undertaker, AQUIND Limited, as defined within the DCO.
- 12.2 In this regard it is also relevant that, as is confirmed above at paragraph 8, a guarantee is now included in the dDCO submitted at Deadline 7 at Requirement 26 within Schedule 2, which it is considered should provide any assurance required for the SoS that the powers of compulsory acquisition will not be capable of exercise until it has been evidenced that the funds required for compensation are satisfactorily secured.
- 12.3 Of further relevance in this regard, at paragraph 2 of Section F of the Note, the AP submits that because it is the undertaker (as defined in the DCO) against whom claims for compulsory acquisition compensation would be enforced, and that because the Applicant has confirmed that AQUIND Limited would be that undertaker, it is not necessary for Article 7 (Consent to transfer the benefit of Order) to be included in the dDCO. This point made on behalf of the AP lacks any logical basis.
- 12.4 Article 7 is included so as to allow a transfer of the Order powers to another entity, and is subject to relevant tests before this occurs, for example the need for the SoS to consent to a transfer of the benefit of the DCO to another person prior to the time limits for claims for compensation in respect of the acquisition of land or effects upon land under the DCO elapsing (see Art. 7(1) and (6)(e) of the dDCO). It is wholly appropriate and necessary for Article 7 to be included in the dDCO.

² Energy White Paper: Powering our net zero future, HM Government, December 2020.

Appendix C – Construction Vehicle Management on Anmore Road and Mill Road

INTRODUCTION

This Technical Note sets out further details regarding the acceptability of Mill Road and Anmore Road to accommodate construction traffic and the proposed strategy for the management of these vehicles during the construction works at Kings Pond Meadows. The information contained in this Technical Note builds upon that which is included in Section 6.2.3. of the Framework Construction Traffic Management Plan (FCTMP) (REP6-032). This Technical Note has been produced following additional discussions between the Applicant and Hampshire County Council (HCC) on this topic which have been held in response to post hearing comment 3.5. of HCC's deadline 6 submission 'Written Summary of Oral Submission' (REP6-078). The post hearing comment from HCC is replicated below for reference:

"HCC note that additional information on matters relating to HDD sites is to be provided by the applicant. HCC raised concerns within its written representations relating to access to the HDD site at Kings Pond Meadow at Denmead. Mill Road and Anmore Lane are very narrow in nature. Given the dimensions of the abnormal loads HCC are yet to be provided with evidence that the required movements by HHVs and abnormal loads can be undertaken. The applicant is aware of this matter and HCC are waiting further information to be submitted."

Additional detail regarding HGV movements and access proposals on Anmore Road have also been provided by the Applicant in response to HCC's Deadline 5 submission entitled 'Submission with updates from the Highway Authority and Lead Local Flood Authority' (REP5-080). In their Deadline 5 submission, HCC requested additional details of the lorry movements travelling to and from the proposed construction access point on Anmore Road, as well as appropriate drawings including swept path analysis for HGV routes to and from said access points. Swept path analysis drawings were included within the updated FCTMP which was submitted at deadline 6 (REP6-032).

SUITABILITY OF MILL ROAD AND ANMORE ROAD TO ACCOMMODATE CONSTRUCTION TRAFFIC

Further assessments of the suitability of Mill Road and Anmore Road to accommodate construction vehicles have been undertaken by the Applicant through a site visit, and a supplementary desktop study.

Mill Road

Mill Road is primarily residential road, two-way road in Denmead, Waterlooville. There is intermittent on-street parking along this link, with the majority of homes also having private driveway parking. The majority of the carriageway is approximately 5-6m in width and there is a continuous footway adjacent to the eastern side of the carriageway for the entirety of the road as demonstrated by on-site photos and Google Street view observations as shown below. Ordnance

Survey (OS) mapping of this road shows road widths which did not reflect those which have been observed on site. Therefore usage of Ordnance Survey mapping has been excluded from any further analysis. Due to the issues with available Ordnance Survey mapping for this site, swept path analysis has not been undertaken.

A site visit was undertaken in 2018 to assess the suitability of Mill Road to accommodate construction traffic. The findings of the site visit found that this road would be suitable to carry construction traffic, and a photo from the site visit has been included in Figure 1 to demonstrate the existing conditions on Mill Road. Additional photos from Google Street View have also been included to further demonstrate the suitability of the link to carry construction traffic.

Figure 1: Junction of Mill Road / Anmore Road



Figure 2: HGV on Mill Road



Image source: Google Street View. Accessed January 2021

Figure 3: On street parking on Mill Road



Image source: Google Street View. Accessed January 2021

The screenshot included in Figure 2 depicts a parked HGV on Mill Road, just south of the junction with Anmore Road. This image shows that there is ample room on this link for a car to pass this HGV.

The screenshot included in Figure 3 depicts on-street parking on Mill Road and demonstrates the availability of carriageway space on this link.

Anmore Road

Anmore Road is a broadly rural road which features some residential properties served from the section which forms part of Denmead. Anmore Road is an all-purpose two-way road which has a continuous footway adjacent to the south side of the carriageway. Anmore Road varies in width this being between 5-6m. A site visit was also undertaken on Anmore Road in 2018 to determine its existing condition and its suitability to carry construction traffic. Photographs from the site visit have been included below for reference.

Figure 4: Anmore Road at the access to Hillcrest Children's Services Residential Care Home



Figure 5: Anmore Road looking west at the junction with Mill Road / Edney's Lane



The drawing requested by HCC at Deadline 5 (REP5-080) containing swept path analysis for Anmore Road (0616-ATR-022) were submitted into the examination within Appendix 7 of the FCTMP (REP6-032). This drawing has also been attached to this Technical Note for ease of reference.

The swept path analysis was undertaken for both a large tipper vehicle (the HGV most commonly associated with the proposed construction activities) and an Abnormal Indivisible Load, which would be associated with cable drum delivery.

The swept path analysis for the large tipper demonstrates that this vehicle is able to navigate the section of Anmore Road directly to the east of the junction of Mill Road where car parking is permitted, without conflicting with parked cars. As such, no temporary traffic regulation orders (TTRO's) are required on this link to enable such movements.

The swept path analysis undertaken for AIL movements show that that these are not able to be completed without conflicting with parked cars on Anmore Road. As such, a TTRO will be required for this link during cable drum delivery. The need to this TTRO has been included in Section 5.8 of the "Onshore Cable Route Construction Impacts on Access to Properties and Car Parking and Communication Strategy" which is included in Appendix 1 of the updated Framework Traffic Management Strategy (FTMS) which is to be submitted at Deadline 8.

TRAFFIC FLOW ANALYSIS

Existing Traffic Flows

Automatic Traffic Count (ATC) surveys were undertaken on both Anmore Road and Mill Road in 2018 in order to gain an understanding of existing traffic flows on these links, and thus the impact that any increase in flows may have. The observed traffic flows are set out in Table 1.

Table 1: 2018 Observed traffic flows

	Total two-way traffic flow 5-day average (09:00 – 17:00)	
	Total Flow	HGV
Mill Road	802	69
Anmore Road	965	74

As can be seen in Table 1, in the interpeak period both Anmore Road and Mill Road were observed to already cater for a relatively high number of HGV's with an weekday average of 69 HGVs (8.6% of the observed traffic flows) recorded on Mill Road (8-9 per hour) and 74 HGVs (7.7% of the observed flows) on Anmore Road (9-10 per hour) between the hours of 09:00 and 17:00. The increases in HGV flows arising from the Proposed Development are considered in the next section of this Technical Note.

CONSTRUCTION TRAFFIC ESTIMATES

Access to the fields to the south of Anmore Road is required for the completion of the following construction activities in relation to the installation of the Onshore Cable Route:

- Trenching of 180m of the Onshore Cable Route (at a progression rate of approximately 50m a day);
- Joint Bay construction and cable pulling activities (Joint Bay 2/3); and
- Completion of Horizontal Directional Drilling (HDD) site 5.

The anticipated construction traffic associated with these construction activities is set out in Table 2 below:

Table 2: Anticipated construction traffic vehicle movements on Anmore Road

Construction Activity		Source of traffic movement estimate	Type of Vehicle	Approximate number of movements in construction period	Anticipated duration of construction activity
				Daily	
Trenching of 180m of the Onshore Cable Route (at a progression rate of approximately 50m a day)		Paragraph 22.4.7.7. ES Chapter 22 (APP-137)	HGV	4 two-way (8 in total)	4 days
			LGV	2 two-way (4 in total)	
Joint Bay construction and cable pulling activities		Section 3.8.2. STA (REP1-142)	HGV	2-3 two-way (4-6 in total)*	15 days
			LGV	2-4 two-way (4-8 in total)*	
		Section 3.9.2. STA (REP1-142)	AIL	1-2 two-way (2-4 in total)	Approximately 1 week
HDD 5 completion	Typical day outside of mobilisation / demobilisation	Paragraph 3.8.3.3. STA (REP1-142)	HGV	1 – 2 two-way (2-4 in total)	13 weeks

**Variation based on stage of construction*

All of the construction activities set out in Table 2 will be completed independently of one another, with no two construction activities taking place at the same time.

As is set out in paragraph 3.3.5.4. of the Framework Construction Traffic Management Plan (FCTMP) (REP6-032), a delivery plan will be formulated for each HDD location which will provide a management strategy for the offloading of materials arriving on-site. The delivery plans formulated for each HDD location will also include details of the anticipated frequency of deliveries and time restrictions as set-out in this FCTMP (REP6-030).

The typical sustained peak construction traffic for Anmore Road is therefore anticipated to include four two-way HGV movements per day (eight in total).

As is set out in paragraph 15.5.2.7. of the ES Addendum (REP1-137), all movements of Abnormal Indivisible Load (AIL) will be accompanied by escort vehicles, and thus will not be subject to the same management as typical HGVS.

As can be seen in Table 1, in the interpeak period both Anmore Road and Mill Road were observed to already cater for approximately 8-10 HGV's per hour, in comparison with the estimated 8 HGV movements per day associated with Proposed Development. Taking account of these existing traffic flows, it is the Applicants view that these routes are suitable to accommodate HGV traffic associated with construction activities at Kings Pond meadows, this as the increase in HGV's will not have an adverse impact upon the link and would not see an increase in hGV movements in comparison to the existing situation in terms of daily movements.

TEMPORARY CONSTRUCTION ACCESS JUNCTION

As it set out in the Access and Rights of Way Plans (Rev 03), which was submitted at Deadline 6 (REP6-012), a temporary access point (AC/2/a) is proposed on the south side of the carriageway on Anmore Road. The temporary access (AC/2/a) is proposed in order to enable construction vehicles to gain access to the fields to the south of Anmore Road, as is required to facilitate the installation of the Onshore Cable Route in this area. The proposed temporary access point (AC/2/a) is to be located in the vicinity of an existing farm access gate on the south side of the carriageway on Anmore Road, which is currently in place directly opposite the entrance to Hillcrest. This temporary access point (AC/2/a) will align with typical layout set out in drawing AQ-UK-DCO-TR-LAY-001 which is included in Appendix 7 of the Framework Construction Traffic Management Plan (FCTMP) (REP6-032).

Construction traffic travelling to the proposed access point on the south side of the carriageway on Anmore Road (AC/2/a) will travel via B2150 Hambledon Road, Mill Road and Anmore Road. This construction traffic routing is set out in Section 3.4.4.

of the FCTMP (REP6-032) and secured via Requirement 17 of the draft Development Consent Order (dDCO) (REP3-003).

Further consideration has been given by the Applicant of the provision of a temporary construction access junction on the northern side of Anmore Road to link with the haul road that will be used to construct the Onshore Cable Route between Anmore Road and Converter Station. However, an access via the haul road to the fields to the north of Anmore Road is not feasible due to the following constraints:

- The Order Limits in this section do not contain adequate space to construct an access junction alongside construction of the Onshore Cable Corridor in this location;
- The programming of works has yet to be finalised and thus it cannot be guaranteed that the haul road in the fields to the north of Anmore Road would be in place at the same time as construction is taking place in Kings Pond Meadows; and
- The implementation construction access junction and haul road would route HGVs directly west of the Hillcrest Children's Services Residential Care Home.

Due to the factors listed above, routing of HGVs across Anmore Road via the haul road to the north and an additional access point to the north of the carriageway is not deemed feasible.

CONSTRUCTION VEHICLE MANAGEMENT

The construction vehicle management strategy for Anmore Road is set out in Section 6.2.3. of the FCTMP (REP6-032) and is further detailed below.

Conflict between HGV traffic

As is set out above, it is anticipated that the peak HGV flow on Anmore Road will comprise of four HGV movements in each direction on any one day. These HGV movements will be coordinated as so they do not coincide with one another and would be secured by the FCTMP and therefore the DCO.

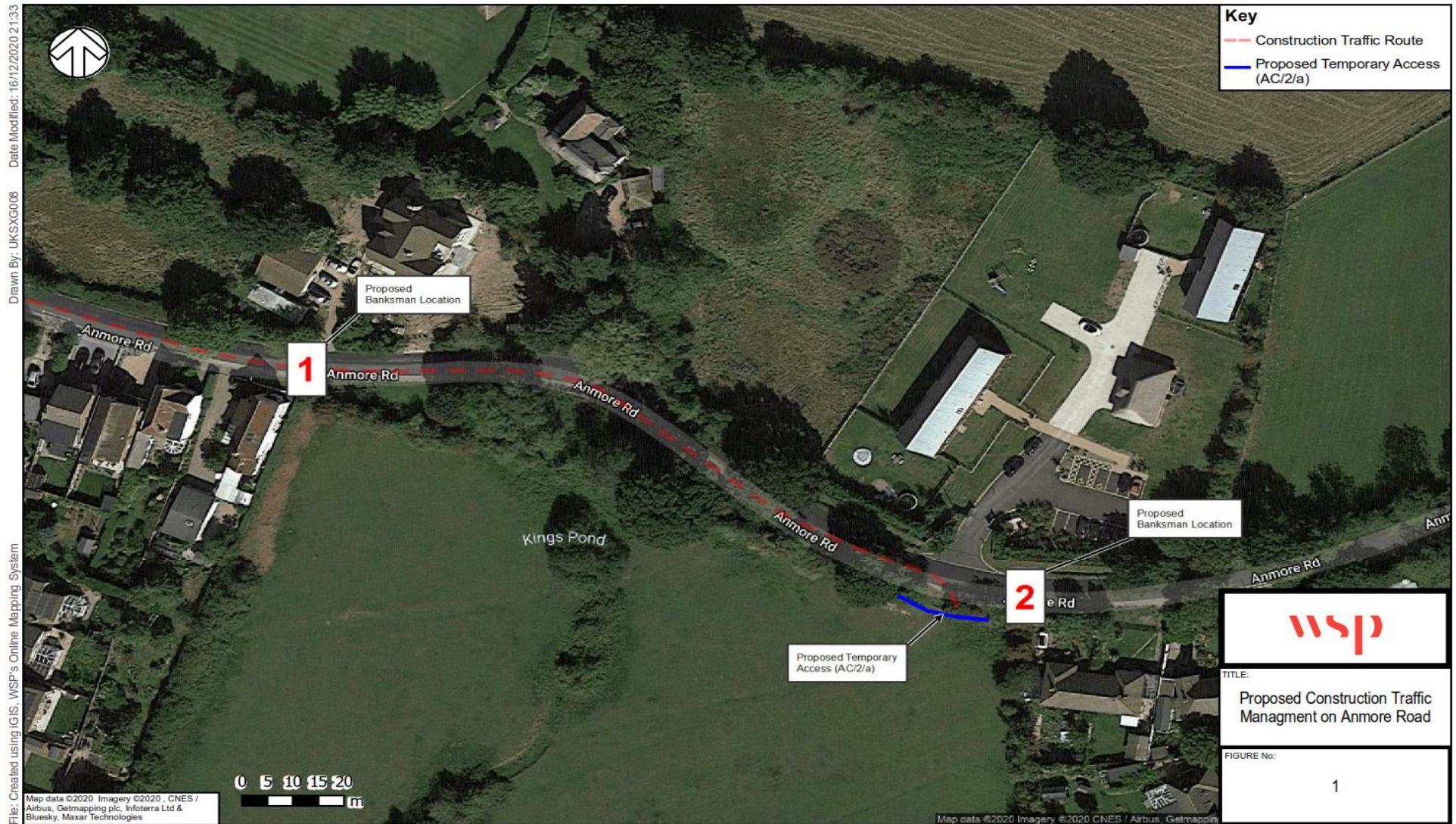
Conflict between HGV and general traffic

It is proposed that two traffic marshals be used to manage possible conflict between HGV construction traffic travelling to and from the Anmore Road access (AC/2/a) and general traffic on Anmore Road. The proposed marshals locations are as follows:

1. Outside of 126 Anmore Road, prior to the bend in Anmore Road; and
2. To the immediate east of the proposed access junction (AC/2/a).

The proposed siting on banksmen is also set out in Figure 6 below.

Figure 6: Proposed construction traffic management on Anmore Road



It is proposed that the traffic marshal at location (1) will stop eastbound traffic whilst HGV's are exiting the access point on Anmore Road (AC/2/a), and that traffic marshal location (2) will stop westbound traffic when HGV's are approaching the access (AC/2/a).

The two traffic marshal locations are approximately 150m apart, and thus accounting for the time in which it would take for an HGV to clear this distance and complete the turn into / out of the access, general traffic being held by banksmen are unlikely to be delayed for more than 1-2 minutes.

CONCLUSIONS

In conclusion, it is the view of the Applicant that the proposed routing of construction vehicles via Anmore Road and Mill Road is appropriate, both routes are suitable to carry HGV's, and have been observed as carrying traffic of this classification under current conditions. The proposed increase in HGV traffic is minor in comparison to the existing HGV flows on these links.

As has been requested by HCC, a construction management strategy has been proposed for Anmore Road, which provides additional mitigation for the movement of HGVs on this link.

Finally, it should be noted that all impacts on Anmore Road and Mill Lane are short term in nature and will not permanently alter the nature of either route.

Appendix D – Technical Note – A3 London Road – Night-Time Working

INTRODUCTION

This technical note is provided in response to the post hearing note provided by Hampshire County Council (HCC) under Item 6k (point 4) of Issue Specific Hearing 3, which is replicated as follows:

- Since the hearing, meetings held between the LPAs in Hampshire and Hampshire County Council have confirmed the principle of providing for flexibility within the DCO to enable the County Council to direct extended working hours (or night working) where it is considered desirable to minimise traffic congestion.
- It has been agreed that, for the purposes of some sites where significant traffic congestion could be avoided, HCC could replicate its existing arrangement whereby HCC consult with the LPA before directing 'out of hours' working. This would retain the protection for residents. It is also HCC's understanding that the EHOs at WCC/HBC/EHDC have also advised that making adjustments to the DCO to reflect this flexibility would not, in their view, invalidate the existing environmental assessments.
- Accordingly, revised drafting of the DCO (and associated documentation in the CEMP/FTMS) is sought to enable the County Council, after consultation with the LPA, to direct out of hours working where this would be essential to minimise significant traffic disruption. HCC consider that such powers would be used sparingly and only where essential.

It is understood that HCC's concerns relate principally to the proposed construction works on the A3 London Road.

The Applicant has considered HCC's proposal, and has concluded that it would not be appropriate to include flexibility in the DCO for further areas of night-time working because further night-time works would result in additional significant environmental effects. The Applicant considers that these additional significant environmental effects created would outweigh any mitigation of transport effects that might be afforded by reducing the duration of works, and would undermine the conclusions of the Environmental Statement.

The implications of additional night-working on the A3 London Road for each of the key disciplines are explained below. This is supported by two examples of the effects that would occur if 24 hour working were completed on the A3 London Road:

1. Sub-Section 4.34 - A3 London Road Between Post Office Road and Rocking Horse Nursery (REP6-030).
2. Sub-Section 4.35 - A3 London Road Between Rocking Horse Nursery and Ladybridge Roundabout (REP6-030).

The existing proposal for sub-section 4.34 is weekend daytime working between 08:00 and 18:00 for a period of four weekends per circuit to facilitate a road closure. The existing proposal for sub-section 4.35 is working during core hours (Weekdays between 07:00 and 17:00 and Saturdays 08:00-13:00) The Applicant considers that these proposals are the appropriate balance between managing transport and other environmental effects.

ENGINEERING

As discussed in Section 3.3.1.13 and 17.3.2.47 of Environmental Statement Addendum (REP1-139) in relation to A2030 Eastern Road, the assumed rate of installation where 24 hour working is adopted is 1.5x the assumed rate where 10 hour construction working hours are adopted. The same principles and assumptions apply on A3 London Road and the rate of installation where 24 hour working is adopted will be approximately 1.5 x day rate. If only night time working were to be adopted, the assumed installation rate would reduce to 50%.

For A3 London road the core working day rate, based on a 10 hour construction working hours day, is 12m per day. The 24 hour rate, being 1.5 x the core working day rate, would equate to 18m per 24 hours. Where night working only is adopted, the rate of installation would be 6m per day. The addition of the 6m night working rate would therefore provide a limited reduction to programme duration, and therefore the duration of the transport impacts.

TRANSPORT AND TRAFFIC

Section 4.34 of the A3 London Road between Post Office Road and Rocking Horse Nursery is 90m in length with construction of the Onshore Cable Route needing to be facilitated by a full road closure due to the narrow existing carriageway width, as defined in Table 10 of the FTMS (REP6-030). In order to mitigate weekday peak hour traffic delay impacts and avoid significant effects associated with such a road closure, it is proposed that construction works on this section are undertaken over the course of four weekends per circuit. During these road closures a signed diversion route will be in place between Ladybridge Forest End roundabout and Ladybridge Roundabout to encourage traffic to use Ladybridge Road, Stakes Road and Rocksville Drive.

Should night working be employed alongside construction during core hours on this section (24hr working), the estimated construction period would be reduced to three weekends per circuit if construction works were still limited to weekends only. This however would not provide mitigation of traffic delay effects reported in Chapter 22 of the ES or ES Addendum as the assessments of such were based upon weekday peak periods as a worst-case assessment of impacts associated with construction on the Onshore Cable Route.

Alternatively, if 24hr construction working was used on weekdays the installation of each circuit would take approximately one week, but this would generate Significant adverse effects on traffic delay as reported in Paragraph 15.5.6.16 of the ES Addendum (REP1-138) for Section 4.35.

Construction on Section 4.35 between Rocking Horse Nursery and Ladybridge Roundabout (170m) will be facilitated by shuttle working traffic signals for approximately three weeks per circuit, assuming an average installation rate of 12m per day during core working hours. The installation of such shuttle working traffic signals will lead to a Significant adverse effect on traffic delay. Should night working be employed on this section in addition to work during core hours the period of construction would reduce to two weeks per circuit, but the Significant adverse effects related to traffic delay would still apply due to the impact of construction works on peak hour traffic conditions.

Noting the above engineering factors, 24 hour working would not deliver mitigation of the identified Significant adverse effects on the A3 London Road.

NOISE

Implications of 24 Hour Working on A3 London Road

Table 24.3 of Chapter 24 of the ES (APP-139) identifies that the night-time magnitude of noise level criteria are 20 dB $L_{Aeq,T}$ stricter than those adopted for the daytime. This reflects the guidance in British Standard 5228¹ that residential receptors are more sensitive to noise at night than during the day.

All night-time works on the A3 London Road, if completed, would be subject to the mitigation measure of not undertaking road cutting/breaking and resurfacing activities at night (22:00-07:00) due to the close proximity of residential receptors which are highly sensitive to noise at night, and the need to reduce noise levels as far as reasonably practicable at these properties.

This mitigation measure would prevent the use of equipment which has the greatest potential to result in sleep disturbance through its impulsive characteristics, and, in terms of noise level, would result in a reduction in construction noise of approximately 6 dB $L_{Aeq,T}$ at surrounding sensitive receptors.

Whilst this mitigation is very important in reducing noise levels as far as reasonably practicable in the circumstances where night-time works are undertaken, it does not entirely account for the 20dB stricter noise criteria that are appropriate for the night-time period.

A sensitivity test which follows the assessment methodology in the ES has concluded the following:

- To ensure that significant noise effects from night-time cable and duct installation works were avoided, no residential receptors should be located within 140m of

construction activities (this calculation includes the night-time road cutting/breaking and resurfacing restriction discussed above).

- Sensitive receptors located within 70m of the cable route would be subject to significant adverse noise effects based on the noise level anticipated at these receptors (including where the night-time road cutting/breaking and resurfacing restriction is implemented).
- The potential for significant adverse noise effects at residential receptors located between 70-140m from construction works would be dependent on the duration of exposure to adverse noise levels. Based on the anticipated cable installation rates (REP1-151) on much of the A3 London Road, it is anticipated that there would be significant noise effects at receptors 70-140m from construction works.

The section of the Onshore Cable Corridor along the A3 London Road is a relatively highly populated area, with residential properties fronting the majority of the length of the road. As the proposed cable route on the A3 London Road (with the exception of a 10-15m section south of Ladybridge roundabout near the allotments) is located within 70m of sensitive residential receptors, it follows that additional significant adverse noise effects, not currently reported in the Environmental Statement (APP-139) or ES Addendum (REP1-139), would be identified if night-time cable and duct installation working was proposed on any section of the A3 London Road.

Example – Sub-Section 4.34 - A3 London Road between Post Office Road and Rocking Horse Nursery

This example provides an assessment of the noise impacts and effects that would occur if 24 hour working were completed on sub-section 4.34 on the A3 London Road between Post Office Road and Rocking Horse Nursery.

The receptors considered to be most affected have been combined into eight groups, based on their relative locations, as shown in Table 1.1.

Table 1.1 - Receptor groups for 24 hour working assessment of sub-section 4.34

Group	Receptors
Group 1	24-34 (Evens) London Road, Purbrook, PO7 5LJ
Group 2	McCarthy and Stone Retirement Living, 38-44 London Road, Purbrook, PO7 5LJ
Group 3	48 & 50 London Road and 1 Stakes Road, Purbrook, PO7 5LN
Group 4	Flats 1-12 Rudolph Court, 52-54 London Road, Purbrook, PO7 5RA

¹ BS 5228-1:2009+A1:2014 *Code of practice for noise and vibration control on construction and open sites – Part 1: Noise*

Group	Receptors
Group 5	56-68 (Evens) London Road, Purbrook, PO7 5LN
Group 6	17-29 (Odds) London Road, Purbrook, PO7 5LG
Group 7	9-11 London Road, Purbrook, PO7 5LG
Group 8	St John the Baptist Church, Church Hall and Rocking Horse Nursery.

Table 1.2 – Predicted noise levels from 24 hour working assessment of sub-section 4.34

Receptor group	Noise level from construction activities, dB L _{Aeq,T}	
	Night-time (22:00-07:00) (road cutting/breaking and re-surfacing excluded)	Daytime and evening (07:00-22:00) (road cutting/breaking and re-surfacing included)
1	61	67
2	68	74
3	74	80
4	62	68
5	68	74
6	74	80
7	66	73
8	70	76

Noise levels exceeding 55 dB L_{Aeq,T} during night-time works are classified as large adverse. As shown in Table 1.2, at all receptors, a noise level of large adverse magnitude would be expected during night-time works, with the noise levels exceeding the 55 dB L_{Aeq,T} criterion by 6-19 dB depending on the receptor. The noise levels during the daytime (core working hours) would be categorised as small (receptor groups 1 and 4), medium (receptor groups 2, 5 and 7) or large (receptor groups 3, 6 and 8) adverse magnitudes of level. The same activities, when occurring during evenings or weekend daytimes outside of core working hours, would result in a large adverse magnitude of level.

Based on an assumed installation rate of 18 m per 24 hour period (based upon multiplying the rate of 12 m per day by 1.5 to obtain a 24 hour rate (REP1-151)), the large adverse noise levels at night would be expected to occur at any individual receptor for a period of up to five nights per circuit. This duration of exposure, combined with the works occurring during the daytime and evenings, would result in a high magnitude of impact, which would result in a direct, temporary, short-term, **major adverse effect (significant)**.

If section 4.34 is completed at weekends between 08:00 and 18:00, as presented in Paragraphs 17.3.2.38 to 17.3.2.42 of the ES Addendum (REP1-139), a large adverse magnitude of level would be expected to occur at any individual receptor for 2-3 weekends. This would result in a **moderate adverse effect (not significant)** if works occurred over non-consecutive weekends, or a **major adverse effect (significant)** if works were completed over consecutive weekends. A major adverse effect occurring during the daytime would be more acceptable than a major adverse effect occurring at night, due to the increased sensitivity of residential receptors at night.

On this basis, the Applicant has concluded that night-time works should be avoided at this location because an alternative solution (i.e. non-consecutive weekend daytime working) is available that avoids significant traffic delay effects whilst avoiding the most sensitive period in terms of noise and therefore not giving rise to major adverse noise effects.

EXAMPLE – SUB-SECTION 4.35 - A3 London Road Between Rocking Horse Nursery and Ladybridge Roundabout

This example provides an assessment of the noise impacts and effects that would occur if 24 hour working were completed on sub-section 4.35 on the A3 London Road between Rocking Horse Nursery and Ladybridge Roundabout.

The receptors considered to be most affected have been combined into six groups, based on their relative locations, as shown in Table 1.3. The noise levels from 24 hour working are shown in Table 1.3

Table 1.3 - Receptor Groups for 24 hour working assessment of sub-section 4.35

Group	Receptors
Group 1	Rocking Horse Nursery and McCarthy and Stone Retirement Living
Group 2	20 – 34 (Evens) London Road, Purbrook, PO7 5LJ
Group 3	Flat above Woodman Public House, 18 London Road, Purbrook, PO7 5LJ
Group 4	2-10 (Evens) London Road, Purbrook, PO7 5LJ
Group 5	Joseph House, Ladybridge Road, Purbrook, PO7 5RR
Group 6	Marrels Wood Gardens, Purbrook, PO7 5RS

Table 1.4 - Predicted noise levels from 24 hour working assessment of sub-section 4.35

Receptor group	Noise level from construction activities, dB L _{Aeq,T}	
	Night-time (22:00-07:00) (road cutting/breaking and re-surfacing excluded)	Daytime and evening (07:00-22:00) (road cutting/breaking and re-surfacing included)
1	68	74
2	68	74
3	56	62
4	65	71
5	53	59
6	55	62

As shown in Table 1.4, at receptor groups 1 to 4, a noise level of large adverse magnitude would be expected during night-time works, with the noise levels exceeding the 55 dB L_{Aeq,T} criterion by 0-13 dB depending on the receptor. At receptor groups 5 and 6, a noise level of medium adverse magnitude would be expected during the night-time works.

The noise levels during the daytime (core working hours) would be categorised as negligible (receptor groups 3, 5 and 6) and medium adverse (receptor groups 1, 2 and 4) magnitudes of level.

The same activities, when occurring during evenings or weekend daytimes outside of core working hours, would result in small adverse (receptor group 5), medium adverse (receptor groups 3 and 6) and large adverse (receptor groups 1, 2 and 4) noise level magnitudes. The assumed installation rate for this section is 18m per 24 hour period (based upon multiplying the rate of 12 m per day by 1.5 to obtain a 24 hour rate (REP1-151)). Therefore, at receptors groups 1 to 4 the large adverse noise levels at night would be expected to occur for a period of up to 5 nights per circuit. At receptor groups 5 and 6, the medium adverse noise levels at night would be expected to occur for a period of up to 7 nights per circuit. This duration of exposure, combined with the works occurring during the daytime and evenings, would result in a high magnitude of impact, which would result in a direct, temporary, short-term, **major adverse effect (significant)**.

If section 4.35, alongside all other sub-sections in section 4 (except sub-section 4.34 where weekend daytime working is proposed), are completed during core working hours, as presented in paragraphs 17.3.2.12 to 17.3.2.15 of the ES Addendum (REP1-139), noise levels of large adverse magnitude are expected for a

period of up to 2.5 days per circuit at the worst affected receptors, and the overall noise effects are, at worst, direct, temporary, short-term, **moderate adverse (not significant)**.

On this basis, the Applicant has concluded that night-time works are not appropriate because of the significant noise effects that would result if undertaken, and the conclusions of assessment which show that significant traffic delay effects will not be avoided if 24 hour working is undertaken.

Conclusion in Relation to Noise Impacts

Taking the above into account, it is reasonably concluded that it is not appropriate for night-time working to be undertaken on London Road because of its highly populated characteristics which, as evidenced, would lead to additional significant effects occurring. The Applicant does not consider those effects to be acceptable, and it is for this reason night works have not previously been, and are not now, proposed on the A3 London Road.

Furthermore, based on previous consultation with the relevant Environmental Health Officer at Havant Borough Council (HBC) regarding section 4.34 as part of the preparation of the ES, it is the Applicant's understanding that night-time working at this location would not be appropriate on the basis of the predicted impacts and effects presented.

CONCLUSION

The Applicant has concluded that any advantages of undertaking cable route works 24 hours per day on the A3 London Road are not sufficient to outweigh the disadvantages of additional significant adverse environmental effects.

Undertaking works 24 hours per day would not mitigate significant adverse effects related to traffic delay as construction works and associated traffic management would still impact upon the AM and PM weekday peak periods, and the increase in installation rate from 24 hour working is not high enough to meaningfully reduce the duration of these effects.

The implications for noise if 24 hour per day working were completed would be substantial, with a large number of receptors subject to significant major adverse effects due to the highly populated nature of the route along the A3 London Road. Completing cable route works on the A3 London Road during core working hours avoids significant adverse noise effects.

Following consideration of all the relevant factors, night-time working on the A3 London Road is not considered a justifiable approach and the Applicant therefore does not agree to the request by HCC in this regard.

