

Date: 25 January 2021

Application by Aquind Limited for a Development Consent Order for the 'Aquind Interconnector' electricity line between Great Britain and France (PINS reference: EN020022)

Statement in relation to the Carpenters' Proposal for Alternative Accesses and Protective Provisions in relation to Little Denmead Farm

On behalf of

Mr. Geoffrey Carpenter & Mr. Peter Carpenter

Registration Identification Number: 20025030

Submitted in relation to Deadline 7 of the Examination Timetable

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1. INTRODUCTION

- 1.1. Mr Geoffrey Carpenter and Mr Peter Carpenter (the "**Owners**") own the freehold interest to Little Denmead Farm, which covers plots 1-32, 1-32a, 1-38, 1-51, 1-57, 1-69, 1-70, 1-71, and 1-72, and they also benefit from a right of way granted by deed of easement over plots 1-60, 1-63, and 1-65, such plot numbers as shown on the latest revised Land Plans (document reference **[REP6-007]**) (the "**Owners' Property**").
- 1.2. The Applicant is seeking compulsory acquisition powers over the Owners' Property.
- 1.3. The Applicant is in particular seeking to permanently compulsorily acquire the freehold interest to plot 1-32 because it proposes to construct a permanent access road (amongst other things) on and through plot 1-32.
- 1.4. The Owners have submitted throughout the Examination, and most recently at Deadlines 5 and 6, its detailed reasons as to why there is no need for the Applicant to seek permanent compulsory acquisition powers due to this proposed permanent access road, because there is in fact no need for such permanent access after construction of the proposed application works. There are alternative accesses that can be used by the Applicant during the operation of the proposed application development. The Owners cannot accept the maintenance of a temporary construction road on their land.
- 1.5. Without wishing to repeat the Owners' detailed arguments in relation to this issue, we refer the Examining Authority (ExA) to the following submissions by the Owners in relation to the need for a permanent access road to the proposed converter station over the Owners' Property and the alternative accesses and related protective provisions submitted by the Owner for the ExA to consider:
 - 1.5.1. Written submission in relation to the Issue Specific Hearing 1 (document reference **[REP5-107]**);
 - 1.5.2. Owners' transcript of oral submissions to be made at Compulsory Acquisition Hearing 2 (document reference **[REP5-108]**);
 - 1.5.3. Owners' draft protective provisions and draft heads of terms for a proposed DCO Obligation (document reference **[REP5-109]**); and
 - 1.5.4. Owners' post hearing note on Scope of Proposed Authorised Development (document reference **[REP6-135]**), Section K.

2. DISCUSSION AT CAH2 RELATING TO ALTERNATIVE ACCESS OVER PLOT 1-32

- 2.1. The Owners' practical alternatives were articulated further by Counsel acting for the Owners (Mr Zwart) during Compulsory Acquisition Hearing 2 (CAH2).
- 2.2. In summary, the Owners advanced:
 - 2.2.1. The Owners recognise that a temporary haul road or construction access road within the scope of Parameter Zone 1: Access Road (as shown in Appendix NSPAD 10, Sheets 1 and 2, document reference **[REP6-115]**), is and remains required, exclusively for the purposes of the erection of the Converter Station building due to the Applicant's (perhaps surprising choice of) siting of the building in a landlocked situation. However, once erected and with its equipment in situ, there remains no requirement nor need for permanent presence nor maintenance of a temporary haul or construction access road in perpetuity (and at least 40 years) to be situated on the Owners' Land because the Converter Station will by then have

been already built. The purpose of a permanent continuous presence of an access road, 7.3m wide and 1.2km long designed for Heavy Goods Vehicles and Abnormal Loads, across the Owner's Property after the conclusion of the erection of the Converter Station, will have then gone with its continuing purpose or requirement remaining objectively unjustified. Currently, there is some justification for periodic and occasional use being 3-4 days of actual use per year by light inspection vehicles; or, hypothetically, by vehicles concerning theoretical happenstance rare equipment failure in relation to a Converter Station designed for a 40 year minimum period and a desire to upgrade electronic equipment. However, the Owners note that the Applicant evidences that it would maintain an equipment store on the Station footprint site, and its plans show space for a number of backup transformers were failure to occur. Furthermore, and regrettably, draft Article 30(4) does not require *removal* of new road surface, access road or related attenuation ponds and so there remains no mechanism requiring removal of the haul road by the Applicant as at Deadline 7. The Owners request that the ExA draw the DCO accordingly and to require restoration of the Affected Land immediately following practical completion of the Station to the status shown in Appendix NSPAD 3: Grade 3a (good quality) and Grade 3b, that would otherwise be rendered inaccessible and also sterilized from agricultural use from the ongoing presence of an access road upon that same land.

2.2.2. The Owners' proposed draft protective provisions and draft heads of terms for a DCO obligation at that time proposed that the Applicant retains the power to access the Owner's Property and lay a temporary access road over the same in order to construct the converter station. However, after construction, the temporary access road should be physically removed, the relevant land restored, and the Applicant instead could use an alternative access that runs along the eastern edge of the Owners' Property for the purposes of its periodic accessing the converter station for maintenance and inspection by light vehicle. At the time, the Owners' were prepared to agree to a temporary emergency access road being laid over the Owners' Property during the operation of the converter station, to deal with any emergencies in accordance with the Applicant's emergency recovery plan. However, on further consideration of the Station plans showing on site room for transformers and any crane (if needs be), there is no need.

3. THE APPLICANT'S RESPONSE TO THE OWNERS' PROPOSALS RELATING TO ALTERNATIVE ACCESS DURING OPERATIONAL USE OF CONVERTER STATION

3.1. During CAH2, the Applicant resisted the Owners' proposals in relation to alternative access arrangements relating to the operational use of the converter station.

3.2. A summary of the Applicant's position is contained in the Applicant's response at Deadline 6 at paragraph 4 on page 24 of the 'Applicant's Response to action points raised at ISH1, 2 and 3, and CAH 1 and 2' (document reference **[REP6-063]**) to the ExA's question "*Question 6.1 – Request for post hearing notes to explain discussions with the Carpenters...*" and appear to misunderstand the Owners' position. The Owners did not suggest that the proposed accessway around its perimeter be used for abnormal road vehicle use but that, following construction, the perimeter access be used by light vehicles (as it is presently and has been also so used by the Applicant) following construction of the Station. This may be where confusion crept in regarding overhead lines. The Owners are not suggesting use of a perimeter access other than *after* construction of the Station (itself having utilised a temporary haul road west of the Stoneacre Copse) and so concerns over the height of overhead cables relating to the perimeter access would be irrelevant and misleading.

3.3. For convenience, relevant extracts from the Applicant's response from **[REP6-063]** include:

"4.1.3 The most significant requirement in terms of vehicle/load size is for the Applicant to be able to bring transformers to the Converter Station site by road, using Abnormal Indivisible Loads (AILs). Both the initial installation of the transformers and any subsequent replacement would also require adequately sized cranes which, given the weight of the transformers (300-350 tonnes), are also substantially sized vehicles."

4.1.4 The turning radius in the area proposed by the landowner's representative would not be sufficient to get through this area without removing ancient woodland and would run under the existing overhead line configuration, which is at a lower level than the overhead line configuration further west where the access road is proposed to be located.

4.1.5 A note titled 'Summary of Ancient Woodland Protection' was sent to the landowner's agent on 30 November 2018, following a meeting which took place on 15 November 2018 between the Applicant's and landowner's respective agents in which the matter was discussed. The note sets out the protections afforded to Ancient Woodland and the relevant guidance and how this would rule out the potential for an access road along the farm track proposed by the landowner's representative given it would result in the removal of Ancient Woodland. As such the Applicant is surprised this matter is being raised again at this stage of the Examination process.

4.1.6 A summary of the relevant following policies and guidance which protect ancient woodland is provided below. (A) National Policy Statement for Energy: EN-1 provides guidance regarding Ancient Woodland, noting that once lost it cannot be recreated and advising that "the Infrastructure Planning Commission should not grant development consent for any development that would result in its loss or deterioration unless the benefits (including need) of the development, in that location outweigh the loss of the woodland habitat." (B) National Planning Policy Framework: Paragraph 175 of the NPPF notes that "development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists". (C) Natural England and Forestry Commission Guidance - Ancient Woodland, ancient trees and veteran trees: protecting them from development (November 2018): Combined Natural England and Forestry Commission guidance refers to that set out in the NPPF with regard to planning permission. The guidance also advises on the use of buffer zones to protect Ancient Woodland. A buffer zone of at least 15m should be implemented around Ancient Woodland to avoid root damage. A buffer zone around a single ancient or veteran tree should be at least 15 times larger than the diameter of the tree and the buffer zone should be 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter. (D) Woodland Trust Practical Guidance – Planning for Ancient Woodland Planner's Manual for Ancient Woodland and Veteran Trees (October 2017): This guidance contains guiding principles to support good practice and regarding Ancient Woodland and veteran trees and includes the provision of adequate buffers in relation to ancient Woodlands and veteran trees.

4.1.7 With regards to the clearances from the overhead lines in the area running parallel to the northern edge of Stoneacre Copse, the overhead lines in this area are lower than the in area further west where the access road is proposed as a result of the OHL terminating in the south-west corner of the National Grid substation, immediately east of the area suggested for the alternative access road.

4.1.8 The Applicant can advise that assessments of clearance in relation to the area where the access road is proposed were carried out and all clearances are followed in line with ENATS 43-8 technical specification which is a recognised technical specification followed by National Grid.

4.1.9 Given the presence of the Stoneacre Copse and Crabden's Copse, the Applicant has not specifically assessed the clearances from the OHLs in this area as the removal of the ancient woodland was deemed unacceptable taking into account the overriding protection provided to ancient woodland as set out in the relevant policies and guidance referred to above."

4. OWNERS' COMMENTS ON APPLICANT'S ARGUMENTS IN REP6-063

- 4.1. The Applicant's response above is based on its unevidenced and misplaced premise that the permanent access road is required on plot 1-32 to install and replace transformers, and that the alternative perimeter access proposed is not suitable for that asserted replacement due to the large vehicles and cranes required for both.
- 4.2. In relation to the installation of transformers, the Applicant appears to have misconceived and misunderstood the Owners proposed alternative. The Owners made clear at the CAH 2 to the ExA that that the Owners' Property can, through acquisition powers in the absence of an

agreement (but see the Owners' submissions in relation to the failure by the Applicant to explore "all reasonable alternatives") be used during construction to install the transformers.

- 4.3. In relation to the asserted need to transport spare transformers, as the Applicant may be taken to already know, the terms of the Applicant's own evidence in the Description of the Development provides that *one spare transformer will already be stored inside the converter station*. Plate 3.6 [sic] of paragraph 6.1.3 of Chapter 3 to the Applicant's Environmental Statement - Volume 1 - (document reference [APP-118]) shows a 3-dimensional illustration of the potential disposition within that Volume and a helpful Key shows the relevant parts. See Appendices NSPAD 10 (document reference [REP6-115]) and NSPAD 11 (document reference [REP6-116]) that were attached to the Owners' Post Hearing Note relating to CAH 2 (document reference [REP6-063]) for convenience. Key items 3, 4 and 17 of Appendix NSPAD 12 (document reference [REP6-117]) show 6 transformers *and a spare transformer* already within the Parameter Volume of the proposed converter station. Therefore, if one spare transformer would already be located within the converter station, there can be no requirement nor need for a permanent access road through plot 1-32 for the same. At most, the Applicant desires to replace a spare. The Owner has made representations about this in Deadline 6.
- 4.4. The disposition of the transformers, entrance, fence, and lightning mast, are shown on scale CAD drawing Sheet 1 of Appendix NSPAD 11 (document reference [REP6-116]) and in some detail. Six transformers are shown and a "spare transformer" is expressly already identified. It is evident that there is actual space immediately south of the three transformers on the North side of the Volume and that that available area is mirrored on the South side of that Volume. The Owners reasonably conclude, and the ExA is entitled to similarly (rationally) also conclude, **that a further spare transformer could be situated adjacent to the existing spare envisaged, and at least a further two spare transformers could be situated in the mirror location so as to enable 4 spare transformers to be stored in the Volume for at least 40 years.**
- 4.5. Mr Sullivan gave oral evidence in CAH 2 that it was not "standard" practice to retain more than one spare on site but, consistent with the disposition shown in Appendix NSPAD 11 (document reference [REP6-116]), and **he did not dissent** from the rational basis that it was *possible* in this particular situation to keep spare transformers on site.
- 4.6. Mr O'Sullivan's oral evidence during CAH 2 on this issue and the written response in the Applicant's response at paragraph 4 on page 24 of the 'Applicant's Response to action points raised at ISH1, 2 and 3, and CAH 1 and 2' (document reference [REP6-063]) **did not** reject the principle that light vehicles CAN access the alternative access the Owners are proposing, for maintenance and inspection purposes.
- 4.7. In practical terms, with regard to the efficient equipment layouts indicated on NSPAD 11 (document reference [REP6-116]), it cannot be rationally said that a failed transformer could not (in some way) be unwired and the wires be re-wired to a close by spare (operational) transformer whilst leaving the then redundant transformer in situ. This would obviate any craneage visit to the site need to relocate a transformer as a transformer could remain in situ until decommissioning) after rewiring to the Station cables; or that the Volume contains no space where a crane (in whole or unassembled parts), could not be stored were the sole theoretical possibility to be that a transformer had to be unwired, removed off-site, a spare transformer moved to that location and then wired into the then existing cabling in that precise location.
- 4.8. The Station would include a "Spare Parts Building". See [REP6-026] Deadline 6 Submission - 5.5 Design and Access Statement - Tracked - Rev003, paragraph 5.2.6. The Owners also note the theoretical fears expressed by the Applicant's about further spares being theoretically necessary during the 40 year design life of the Converter Station but notes that the ExA can properly resolve those fears by the imposition of a Requirement upon Works No. 2(f) to ensure that at least 4 spare transformers be situated within the Volume to address such feared need (if any).
- 4.9. Therefore, the Applicant's contentions about how the alternative access being proposed by the Owners along the track that is on the eastern fringe of the Owners' Property is unsuitable, fall away as there it is possible to avoid the need to transport transformers, cranes and large vehicles

along the track. All the Applicant's arguments about needing to remove part of Stoneacre Copse are therefore irrelevant.

- 4.10. The Owners have also since noted through its analysis of that the Converter Station is to be designed so that it would be self-extinguishing in the event of a fire. See **[APP-359]**, 6.3.3.5 Environmental Statement - Volume 3 - Appendix 3.5 Additional Supporting Information for Onshore Works, paragraphs 1.2.3.1-1.2.3.3; and **[REP6-026]** Deadline 6 Submission - 5.5 Design and Access Statement - Tracked - Rev003, paragraphs 5.2.3.39, 5.2.4.28, 5.2.6.3, 5.2.8.1 (on-site fire hydrant and deluge system), 5.3.2.1. Due to this, the Applicant will only need to maintain and inspect the proposed Converter Station during its operation for the Applicant's estimated 3 or 4 times a year, in relation to which only light vehicles would be needed. Such light vehicles can easily use the existing track being proposed by the Owner as an alternative access. As a consequence, the Owners consider that emergency vehicles could use the perimeter access also and so there remains no need for separate emergency access through the Owners' Property in its Deadline 5 proposed draft Protective Provisions and draft heads of terms for a DCO Obligation (document reference **[REP5-108]**).
- 4.11. On the basis that the proposed permanent access road is removed from the Owners' Property and that instead the Applicant is given a right of way over the alternative access as per the Owners' proposed terms as submitted, revised draft Protective Provisions are attached at **Appendix 1 to this note** for the ExA's consideration. A full first draft of the corresponding draft DCO Obligation is attached at **Appendix 2 to this note** for the ExA's consideration. The Owners submit these for the ExA's further consideration, comments and approval of the Provisions.

APPENDIX ONE

REVISED DRAFT PROTECTIVE PROVISIONS

- 1.1 These updated draft protective provisions reflect the protections the Carpenters submit should be inserted into the draft development consent order (the version submitted at Deadline 6 of the Examination given examination library document reference REP6-015, which we understand is the latest version submitted by the Applicant) ("**draft DCO**") in relation to the Application Development.
- 1.2 Article 3 of the draft DCO would authorise a development consent for the Application Development to be carried out within the Order Limits but subject to the provisions of that Order and to the requirements.
- 1.3 The Application Development is specified in Part 1 of Schedule 1 of the draft DCO.
- 1.4 As currently drafted by the Applicant, the current draft DCO at Deadline 6 fails to make provision for the successful co-existence of the Project with the Carpenters' interests and makes no provision for the protection permanently of the Affected Property during or following execution of the envisaged development under the Section 35 Direction of the Secretary of State.
- 1.5 With the draft proposed provisions included in the draft DCO, successful co-existence can occur and, thereby, enable the Examining Authority to itself formulate appropriate terms and to recommend that consent be granted for the Section 35 Direction development including on the terms of the protective provisions herein.
- 1.6 We therefore submit the following draft protective provisions for the Examining Authority to consider.

REVISED DRAFT PROTECTIVE PROVISIONS (SUBMITTED AT DEADLINE 7)

SCHEDULE 13

Part 8

**FOR THE PROTECTION OF
LITTLE DENMEAD FARM**

Application

1. For the protection of the Little Denmead Farm the following provisions shall, ~~unless otherwise agreed in writing between the undertaker and the Landowner as herein defined,~~ have effect for and take precedence over any other conflicting provision(s) in this Order.

Interpretation

2. In this Part of this Schedule –

"**Affected Property**" means that part of Little Denmead Farm and within any of plot numbers 1-32, 1-38, 1-51, 1-57, 1-69, 1-70, 1-71, and 1-72 as shown on the land plans, and Footpath 16 as shown on plan EN020022-2.5-AROW-SHEET1-REV02 (Document reference REP1-016).

"**Construction Period**" the period of time from the commencement of construction of Works No. 2 (prior notice of which must be given in writing by the undertaker to the Landowner) to the issue of the certification for the practical completion of Works No. 2

"**Converter Station**" means the converter station built for the purpose of transmission of electricity within the Parameter Zone 2-4 of Buildings Parameter Plans, Plan Reference EN020022-2.6-PARA-Sheet2, Document Ref: 2.6 on the Affected Property.

"**Decommissioning Period**" means the conclusion of the period during which the area of the Affected Property occupied by the Converter Station is removed and the land reinstated for agricultural purposes.

"Fibre Optic Cables" means 3 bundles of fibre optic cables within each of two cables situated below the ground surface of the Affected Property and terminating in the Converter Station and such bundles being exclusively for the purposes of: communications related to electricity purposes between the Converter Station and the equivalent Station in France in connection with the control and protection systems; data transmission for a Distributed Temperature Sensing ('DTS') system; operational monitoring of the Marine Cables;

"**Landowner**" means Mr Geoffrey Carpenter and Mr Peter Carpenter (and their successors in title respectively), who are the joint freehold owners of Little Denmead Farm.

"**Landscaping Area of the Affected Property**" means the area shown on the Plan immediately adjacent to the Converter Station and not extending farther southwards therefrom than the southernmost limit of the adjacent bund as shown on the Plan [—] being Plan being the line north of points X and Y marked on the Plan-;

"**Little Denmead Farm**" means the land known as Little Denmead Farm, Broadway Lane, Denmead, Waterlooville, PO8 0SL, as shown on the title plan registered at HM Land Registry under title number HP763097

"**Little Denmead Farm Unilateral Development Consent Planning Obligation**" means the unilateral development consent planning obligation ~~[SEE DRAFT HEADS OF TERMS BELOW]~~

"**Operational Access Way**" means such part of the access way identified by black arrows showing the access way on ~~the Plan~~ ~~plan~~ ~~[—]~~, as is within the Order Limits (and such part as is adjacent to those Limits) within which access from the highway to and egress from the built Converter Station within Works No. 2 may be taken by the undertaker, for the purposes of the periodic inspection and maintenance of, and during the operation of that Converter Station.

"**Operational Period**" means the period from certified practical completion of the Converter Station on the Affected Property until the conclusion of the Decommissioning Period.

"**Parameter Zone 1 Access Road**" means the zone of access within which the undertaker may construct a temporary haul road for the purpose of constructing the Converter Station within for Works No. 2, as shown on plan identified as "Buildings Parameter Plans", Document Reference 2.6, plan reference EN020022-2.6-PARA-Sheet 2 or 3 ("the Temporary Access Road Zone").

~~"The Plan" means the plan appended to the proposed DCO Obligation (document reference [REP5-109]) [—] labelled 'Accessway Plan – Plan 1 of 2' and showing a broken green line running about West to East between points XA and YB on the plan reference [INSERT].~~

Temporary construction period

3. (1) Notwithstanding the temporary prohibition or restriction under the powers of article 13 (temporary stopping up of streets and public rights of way), during the Construction Period the Landowner may for the purpose of execution of the Converter Station and related cables at all times take all necessary access across any such street, public right of way, footpath (including Footpath 16 and Footpath 4 which covers plot numbers 1-60, 1-63, and 1-65) or permissive path, as may be reasonably necessary or desirable to enable it to access the Affected Property during the Construction Period, which at the time of the prohibition or restriction was in that street, public right of way or permissive path.
- (2) Notwithstanding the extinguishment of private rights of way over land subject to compulsory acquisition under the powers of article 24 (private rights of way), during the Construction Period the Landowner may for the purpose of execution of the Converter Station and related cables at all times to take all necessary access across any such land within the Affected Property as may be reasonably necessary or desirable to enable it to access the Affected Property during the Construction Period , including Footpath 16 and Footpath 4 which covers plot numbers 1-60, 1-63, and 1-65.
- (3) Save that a temporary access road shall not than otherwise be within the Parameter Zone 1 Access Road, notwithstanding any other provision to the contrary in this Order or anything shown on the land plans or contained in the book of reference to the Order, and subject to the provisions of the Little Denmead Farm Unilateral Development Consent Planning Obligation, during the Construction Period the undertaker may, but not otherwise than for the purpose of execution of the Converter Station and related cables, temporarily possess any of the Affected Property for the Construction Period.
- (4) No electricity bearing cable or ~~related Fibre Optic Cables or equipment~~ otherwise shall be finally ~~installed within the Property~~ located above a notional depth of 1.05m below its ground surface level ~~upon the making of this Order within the Affected Property~~ and any ~~such electricity bearing cables and related equipment~~ shall only be finally ~~situated placed~~ within the parameter route shown on drawing Figure 24.2, Illustrative cable route, Sheet 1 of 15, Drawing Ref: EN020022-ES-24.2-Sheet 2 together with ~~the~~ related ~~individual~~ fibre optic

cables for the purpose exclusively monitoring of supporting the electricity cables purposes and related equipment in the Converter Station thereto.

Compulsory acquisition and temporary use

4. (1) Notwithstanding any other provision to the contrary in this Order or anything shown on any plan certified by this Order and subject to the Little Denmead Farm Unilateral Development Consent Planning Obligation, within 6 months of the end of the Construction Period, the Affected Property (otherwise than the built Converter Station and below ground electricity bearing cables) must be reinstated by the undertaker to agricultural land of at least grade 3b category, and otherwise during the Operational Period for the avoidance of doubt the undertaker has no rights of any kind in relation to the Affected Property save as referred to herein below.

(2) Notwithstanding any other provision(s) to the contrary in this Order or anything shown on any plan certified by this Order and subject to the Little Denmead Farm Unilateral Development Consent Planning Obligation, during the Operational Period the undertaker may have rights to maintain the landscape within the Landscaping Area of the Affected Property.

(3) The undertaker may during the Operational Period of the Converter Station:

(i) for the purposes of periodic inspection and maintenance of the same, access and egress the Converter Station alongside the Operational Access Way in accordance with the Unilateral Development Consent Planning Obligation; and

~~(ii) In accordance with such emergency recovery plan as the undertaker may have in place relating to the operation of the Converter Station, within the Parameter Zone 1 Access Road the undertaker may on [48 hours prior written notice] lay an emergency temporary access road for the purposes of restoration of the operation of the Converter Station, such emergency temporary access haul road for the purposes of situating a new spare in at that Station in exchange for such transformer as may have ceased operation in that Station to be removed upon verified continuance of the operation of the Converter Station and the land affected by that temporary access road restored to its former condition (as at the date the Order was made) for the purposes of agriculture. In accordance with such emergency recovery plan as the undertaker may have in place relating to the operation of the Converter Station;~~

~~(iii) In accordance with such emergency recovery plan as the undertaker may have in place relating to the operation of the Converter Station in line with any emergency recovery plan the undertaker may have in place relating to the operation of the Converter Station, the undertaker may in an emergency as defined therein have temporary access to the Affected Property and for the purposes of necessary works to the electricity bearing cables located within the Affected Property, and shall vacate the Affected Property within 48 hours of the verified conclusion of such emergency; and~~

~~(iv) Upon acquiring the volume of land required for the same, maintain two electricity bearing cable circuits not above a notional depth of 1.05m below ground surface level within the Affected Property and within the parameter route shown on drawing Figure 24.2, Illustrative cable route, Sheet 1 of 15, Drawing Ref: EN020022-ES-24.2-Sheet 2 together with the Fibre Optic Cables related individual fibre optic cables for exclusively supporting purposes thereto.~~

Telecommunications buildings and telecommunications cables for commercial telecommunications

[We have assumed:

a) -telecommunications cables and buildings will not be included as Associated Development because it cannot be, nor as development that “is or forms part of the” particular project in the field of energy. See [REP6-063], paragraph 2.9; and the Affected Party’s Deadline 7 Submissions responding to ExA Question DCO2.5.1;
a)b)The Applicant’s drafting refinements in its [REP6-063], paragraph 2.9.2 (A) – (J)]

5. (1) The undertaker may not construct, place or operate any structure, building, cable, or related equipment or apparatus for commercial telecommunications on, in or under the Affected Property ~~otherwise than with the agreement by deed of the Landowner.~~

Decommissioning

6. (1) The undertaker shall, in preparing a decommissioning plan to submit to the relevant planning authority pursuant to requirement 26 of Schedule 2 to this Order, consult the Landowner and take into account such representations as may be made by the Landowners before submitting the decommissioning plan, together with such said representations, to the relevant public authority or Secretary of State for its or his approval (as the case may be).

DRAFT

The following provisions are included as a matter of drafting protocol for completeness, but these may be unnecessary:

[Power to alter layout etc. of streets]

- [7. (1) Regardless of the powers under article 10 (power to alter layout etc. of streets), the undertaker may not exercise the powers available under article 10 in relation to the Affected Property, subject to the extent that similar rights are granted to the undertaker by the Landowner in an agreement entered into pursuant to paragraph 4(2) of this Part 8.]

[Street works]

- [8. (1) Regardless of the powers under article 11 (street works), the undertaker may not exercise the powers available under article 11 in relation to the Affected Property, subject to the extent that similar rights are granted to the undertaker by the Landowner in an agreement entered into pursuant to paragraph 4(2) of this Part 8.]

[Access to works]

- [9. (1) Regardless of the powers in article 14 (access to works), the undertaker may not create during the Operational Period any accesses to works over the Affected Property otherwise than by agreement with the Landowner.]

[Rights under and over streets]

- [10. (1) Regardless of the powers in article 29 (rights under and over streets), the undertaker may not, in relation to the Affected Property, exercise the powers in article 29 otherwise than by agreement with the Landowner.]

[Discharge of water]

- [11. (1) Regardless of the powers in article 17 (discharge of water), the undertaker may not, in relation to the Affected Property, use any watercourse or any public sewer or drain for the drainage of water in connection with the carrying out, operation or maintenance of the authorised development or inspect, lay down, take up and alter pipes, make openings into, and connections with, the watercourse, public sewer or drain on the Affected Property otherwise than by agreement with the Landowner.]

[Authority to survey and investigate the land]

- [12. (1) Regardless of the powers in article 19 (authority to survey and investigate land), the undertaker must not, in relation to the Affected Property, exercise the powers in article 19 otherwise than by agreement with the Landowner.]

[Felling or lopping of trees and removal of hedgerows]

- [13. (1) Regardless of the powers in article 41 (felling or lopping of trees and removal of hedgerows), the undertaker may not, in relation to the Affected Property, exercise the powers in article 41 otherwise than by agreement with the Landowner.]

[Trees subject to tree preservation orders]

- [14. 1) Regardless of the powers in article 42 (trees subject to tree preservation orders), the undertaker may not, in relation to the Affected Property, exercise the powers in article 41 otherwise than by agreement with the Landowner.]

DRAFT

PRELIMINARY DRAFT HEAD OF TERMS

RELATING TO THE

LITTLE DENMEAD FARM UNILATERAL DEVELOPMENT CONSENT PLANNING OBLIGATION

The owners of Little Denmead Farm anticipate proposing landscaping and access rights over the Affected Property during the construction and operation of the authorised development to be the subject of a unilateral development consent planning obligation, which is to include the following provisions:-

1. ~~**Landscaping during construction**~~ — an ability to landscape only within the Landscaping Area of the Affected Property.
2. ~~**Access during operation (inspection and maintenance)**~~ — Upon having laid suitable granular material to the surface of the Operational Access Way, an ability to use the Operational Access Way for the purposes of inspection and maintenance of the Converter Station for the Operational Period by light vehicles [See attached draft plan].
3. ~~**Access during operation (emergencies)**~~ — an ability to use the Parameter Zone 1 Access Road during the operation of the Converter Station to enable the undertaker to meet such requirements as they may have under an emergency recovery plan that may be in place in relation to the Converter Station. In preparing an emergency recovery plan, the undertaker must consult the Landowner and take into account such representations as may be made by the Landowners, together with such said representations.
4. ~~**Landscaping during operation**~~ — an ability to inspect and maintain perimeter landscaping outside of the footprint of the Converter Station compound but limited to within the Landscaping Area of the Affected Property;

APPENDIX 2

DRAFT ONE – PROPOSED UNILATERAL DEVELOPMENT CONSENT OBLIGATION

DRAFT

DATED

2021

BY

GEOFFREY CARPENTER AND PETER CARPENTER

UNILATERAL DEVELOPMENT CONSENT OBLIGATION

DRAFT

THIS UNILATERAL DEVELOPMENT CONSENT OBLIGATION is made by **DEED** on the day of 2021

BY:-

- (1) **GEOFFREY CARPENTER** of The Cottage, Little Denmead Farm, Broadway Lane, Denmead, Waterlooville, PO8 0SL; and
- (2) **PETER CARPENTER** of The Caravan, Little Denmead Farm, Broadway Lane, Denmead, Waterlooville, PO8 0SL

(together the "**Owner**");

RECITALS:

- (A) The Land is located in the administrative area of both Winchester City Council and East Hampshire District Council who are the local planning authorities for part of the area within which the National Infrastructure Project is to be located;
- (B) The Owner is the registered proprietor of the Land which is registered at the Land Registry with freehold Title Number HP763097;
- (C) Pursuant to section 106(1)(a) and section 106(1A) of the Town and Country Planning Act, the Owner may restrict the use of its Land in any specified way. Pursuant to section 106(9)(aa) of the Town and Country Planning Act this unilateral obligation is a development consent obligation for the purposes of section 106 of the Town and Country Planning Act;
- (D) The Developer has submitted the Application to the Secretary of State for the Development.
- (E) The Developer proposes to undertake part of the Development on the Affected Land.
- (F) Upon completion of the construction of the Development, the Owner desires during the operation of the Development to afford access to the Developer between the highway known as Broadway Lane and the proposed converter station (that is proposed to be erected on the Affected Land as part of the Application) for the purposes of the periodic inspection and maintenance of that converter station and equipment in it;
- (G) Further, the Developer had, in November 2020, identified presence in Stoneacre Copse (located within the Land but outside of the Order Limits) of ash die back affecting some trees. Stoneacre Copse has particular and special association for the Owner because it is the final resting place of Mr Carpenter senior. The Owner desires to facilitate woodland management of the Land and ensure its ongoing sustainability is maintained, having regard to its particular association;
- (H) The Owner therefore wishes to bind certain parts of the Affected Land as shown on the Plan, so as to facilitate access for the Developer through the Land to the converter station along a prescribed route around the perimeter of the Land. The Owner also wishes to facilitate the management of Stoneacre Copse in relation to ash die-back;

- (l) The Owner is satisfied that the requirements of section 106 of the Town and Country Planning Act and of Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended), both of which require that the obligations herein directly relate to the land of the Development and that of the Owner, are necessary to avoid the need for a permanent access across the central part of the Affected Land and to enable alternative maintenance access in line with light vehicle use in paragraphs 5.3.6.3 and 5.3.6.5 of [REP6-026] the Deadline 6 Submission - 5.5 Design and Access Statement - Tracked - Rev003 Design and Access Statement forming part of the Application documents, and is fair and reasonable in scale and kind because otherwise the Land would cease to be a viable concern if the other permanent access envisaged in the central part of the Land were constructed and retained.

NOW THIS DEED WITNESSES as follows:-

1 Definitions

- 1.1 The following words and phrases shall unless the context otherwise admits or requires have the following meanings:-

"Accessway" means the existing access between the points marked A and B on Plan 2 and C, D, E and F on Plan 1. Those parts of the Accessway shown coloured yellow comprise the part of the Affected Land subject to a site access licence entered into between (1) the Owner and (2) the Developer dated 13th November 2020;

"Affected Land" means the part of the Land within the Order Limits of the Application and that is bound by this Deed, the extent of which is shown outlined in blue on the Plan;

"Application" means the application for a development consent order, reference EN020022, made by Aquind Limited in relation to the Aquind Interconnector, under the Planning Act 2008 to the Secretary of State on 14 November 2019 for the elements of development described in paragraph 3.5(A)-(D) in the Statement requesting a direction dated 19 June 2018;

"Begins" means the earliest date on which a material operation as defined in Section 155 of the Planning Act 2008 and "Begin", and "Begun" shall be construed accordingly;

"DCO" means the development consent order that is the subject of the Application but on the terms ultimately made by the Secretary of State;

"Developer" Aquind Limited (company reference number 06681477)

"Development" means the development described in paragraph 3.5 (A)-(D) of the Statement requesting a direction under Section 35 of the Planning Act 2008 (dated 19 June 2018) proposed to be situated on part of the Land to which this unilateral development consent obligation relates;

"Land"	means the freehold property owned by the Owner, known as Little Denmead Farm, Broadway Lane, Denmead, Waterlooville PO8 0SL located within the geographical area of both Winchester City Council and East Hampshire District Council, HM Land Registry Title HP763097 and shown for the purpose of identification edged red on the Plan and which is not wholly within the Order Limits of the Application;
"Nationally Significant Infrastructure Project"	means development treated as requiring development consent under the Planning Act 2008;
"Order Limits"	means that extent of land covered by the Application and as defined in Article 2(1) of the DCO that covers the Land;
"Owner's Protective Provisions"	means the draft protective provisions submitted by the Owner during the Examination (and as revised during the Examination);
"Plan 1"	means the plan attached to this Deed labelled Accessway Plan – Plan 1 of 2;
"Plan 2"	means the plan attached to this Deed labelled Accessway Plan – Plan 2 of 2;
"Purposes"	means for the purposes of inspection, maintenance and dealing with emergencies;
"Savings"	means the savings set out in Schedule 2;
"Secretary of State"	means the Secretary of State for Business, Energy and Industrial Strategy who is determining the Application;
"Stoneacre Copse"	means that part of the Land outside the Order Limits as shown edged red and hatched green on Plan 1 and is identified as ancient woodland and as a broadleaved woodland on the National Forestry Inventory and which includes ash trees;

"Stoneacre Copse Management Plan"

means a written management plan relating to Stoneacre Copse formulated pursuant to forestry principles published by the Forestry Commission produced and maintained by the Owners with the following objectives:

(i) managing the extent of ash dieback identified by the Developer and confirmed by DEFRA in the area around Horndean since 2014,

(ii) establishing and undertaking regular monitoring and maintenance,

(iii) obtaining all necessary licences to ensure the objectives of the management plan are satisfied,

(iv) establishing a scheme of re-planting to ensure a continued and sustainable treescape within the Copse; and

(v) to provide opportunity for regular review by the Developer.

"Town and Country Planning Act"

means the Town and Country Planning Act 1990, as amended;

"Unilateral Undertaking"

means this development consent planning obligation by the Owner under section 106 and 106(9)(aa) of the Town and Country Planning Act.

2 INTERPRETATION

2.1 In this Deed:-

2.1.1 the headings are for ease of reference and shall not affect interpretation;

2.1.2 words importing the singular include where the context so admits the plural and vice versa and the masculine includes the feminine and vice versa;

2.1.3 references to Clauses, paragraphs, plans, drawings and Schedules are references to clauses, paragraphs, plans, drawings and schedules to this Deed;

2.1.4 references to the Owner shall include its successors in title;

2.1.5 references to Developer shall include its successors in title within the Order Limits;

2.1.6 any covenant not to do any act or thing includes an obligation not to knowingly allow, permit or suffer that act or thing to be done by another person and any covenant to do any act or thing includes an obligation to procure the doing of that act or thing by another person;

2.1.7 any references to any statutes or statutory instruments shall include and refer to any statute or statutory instrument amending, consolidating or replacing them respectively from time to time and for the time being in force; and

2.1.8 where two or more persons are bound by any of the covenants in this Deed their liability shall be joint and several.

3 STATUTORY AUTHORITY

3.1 This Deed of Planning Obligation is made pursuant to:-

3.1.1 Section 106, and 106(9)(aa) of the Town and Country Planning Act and is a development consent planning obligation for those purposes;

3.1.2 Section 111 of the Local Government Act 1972;

3.1.3 Section 2 of the Local Government Act 2000;

3.1.4 Section 1 of the Localism Act 2011; and

3.1.5 all other powers enabling in that behalf,

with the intent that the terms hereof will be planning obligations so as to bind the Land as hereinafter provided and shall be enforceable.

3.2 This Deed is made under section 106 of the Town and Country Planning Act and the planning obligations are entered into with the intent that, they shall be enforceable without limit of time against the Owner in accordance with the provisions of this Deed including its successors in title and assigns and any person corporate or otherwise that acquires an interest or estate created in the Land (or any part or parts thereof) as if that person had also been an original covenanting party in respect of the planning obligations which relate to the interest or estate for the time being held by that person.

3.3 If the DCO is not Begun or shall at any time be quashed, revoked or otherwise changed or withdrawn, then this Deed shall immediately cease to have effect from the earliest date of the said event.

4 CONDITIONAL ENTRY INTO FORCE

4.1 The obligations in this Deed shall not bind the Owner unless:

4.1.1 The DCO is confirmed by the Secretary of State; and

4.1.2 The DCO confirmed by the Secretary of State includes the Owner's Protective Provisions, which have the effect (amongst other things) of dis-applying permanent compulsory acquisition powers otherwise than over the part of the Land north of the line of the north side of the track shown with a broken green line between points X and Y on Plan 1 and reinstating the land temporarily developed for constructional purposes to its prior agricultural state; and

4.1.3 The DCO confirmed by the Secretary of State does not authorise a permanent access road to remain within the Land after the construction of the proposed converter station nor to be used after the construction of the Development; and

4.1.4 The Order Limits do not include encompass Stoneacre Copse; and

4.1.5 The Development Begins.

5 OWNER'S OBLIGATIONS

5.1 The Owner undertakes:

5.1.1 Subject to the Savings in Schedule 2, to carry out the undertakings as set out in Schedule 1 of this Deed; and

5.1.2 Fulfil the obligations set out in Schedule 3 to this Deed in relation to Stoneacre Copse.

6 SUCCESSORS IN TITLE

This Deed is intended to be enforceable against any person deriving title from the Owner.

7 LOCAL LAND CHARGE

The Owner shall register this Deed in the register of local land charges against the Land.

8 RELEASE UPON PARTING WITH INTEREST AND DISCHARGE

The Owner shall upon parting with its interest in the Land or in any part thereof be released from all obligations, rights and duties in respect of the whole or part of the Land as the case may be except in respect of any prior or subsisting breach of obligation under the terms of this Deed.

9 NOTICES

9.1 Any notice, consent or approval required to be given under this Deed shall be in writing and shall be delivered personally or sent by pre-paid first class recorded delivery post.

9.2 The address for service of any such notice, consent or approval as aforesaid shall be in the case of service upon the Owner the registered office or such other address as shall have been previously notified.

9.3 A notice, consent or approval required or authorised to be given under this Deed shall be deemed to be served as follows:-

9.3.1 if personally delivered at the time of delivery and if posted at the time when it would be received in the ordinary course of business; and

9.3.2 to prove such service it shall be sufficient to prove that personal delivery was made or that the envelope containing such notice, consent or approval was properly addressed and delivered into the custody of the postal authority in a pre-paid first class recorded delivery envelope.

9.4 Owner will take into account such representations made by the Developer as the Owner considers reasonable.

10 THIRD PARTIES

It is not intended that this Deed should give rights hereunder to a third party arising solely by virtue of the Contracts (Rights of Third Parties) Act 1999.

11 JURISDICTION

- 11.1 This Deed shall be governed by, and construed and interpreted in accordance with the laws of England and Wales.
- 11.2 If any provision of this Deed is found (for whatever reason) to be invalid, illegal or unenforceable, that invalidity, illegality or unenforceability will not affect the validity or enforceability of the remaining provisions of this Deed.

12 DELIVERY

The provisions of this Deed shall be of no effect until this Deed has been dated.

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Schedule 1
The Undertakings

- 1 The Owner will not impede the periodic use of the Accessway for the Purposes by the Developer, subject to the Savings in Schedule 2 of this Deed; and
- 2 The Owner will commission the Stoneacre Copse Management Plan for the sustainable management of Stoneacre Copse, and in compliance with the further details as set out in Schedule 3 of this Deed.

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Schedule 2

Savings

The Owner may (subject to paragraph 4 of this Schedule 2):

1 Use to carry out landownership obligations

- 1.1 The Owner may carry out its land ownership obligations along the Accessway, but the Owner shall cause as little interference as is reasonably practicable to the exercise of its Undertaking in paragraph 1 of Schedule 1 to this Deed.

2 Repair of the Accessway

- 2.1 The Owner may repair the Accessway, but shall cause as little interference as is reasonably practicable to the exercise of its Undertaking in paragraph 1 of Schedule 1 to this Deed.

3 Works on the Affected Land by the Owner

- 3.1 The Owner may develop the Accessway but must provide an equivalent route of access to the Developer if the Owner cannot exercise its Undertaking in paragraph 1 of Schedule 1 to this Deed.

- 4 The Owner may interfere with, temporarily interrupt, impede access by the Developer along the Accessway, and carry out any necessary works along the Accessway if it becomes necessary where the Developer causes damage to the Accessway, or obstructs the Accessway, or uses the Accessway in a manner that requires the Owner to carry out repairs or maintenance to the Accessway.

Schedule 3

Stoneacre Copse

The Owner undertakes to:

1. Commission the Stoneacre Copse Management Plan within [•] and, taking reasonable steps to seek to secure its approval, submit it to the Forestry Commission for approval thereafter with the aim that Stoneacre Copse shall be managed and maintained and continue to form an effective part of the visual mitigation for the Development; and
2. In the event that the Stoneacre Copse Management Plan is approved by the Forestry Commission, exercise the Stoneacre Copse Management Plan for the lifetime of the Development until the decommissioning of the converter station that is to be constructed on the Land.

DRAFT

IN WITNESS whereof the Owner hereto has executed this Deed the day and year first before written

EXECUTED and DELIVERED as a DEED)
by **GEOFFREY CARPENTER**)
in the presence of:)

.....

Witness Signature

Witness Name:

Witness Address:

.....

.....

Witness Occupation:

EXECUTED and DELIVERED as a DEED)
by **PETER CARPENTER**)
in the presence of:)

.....

Witness Signature

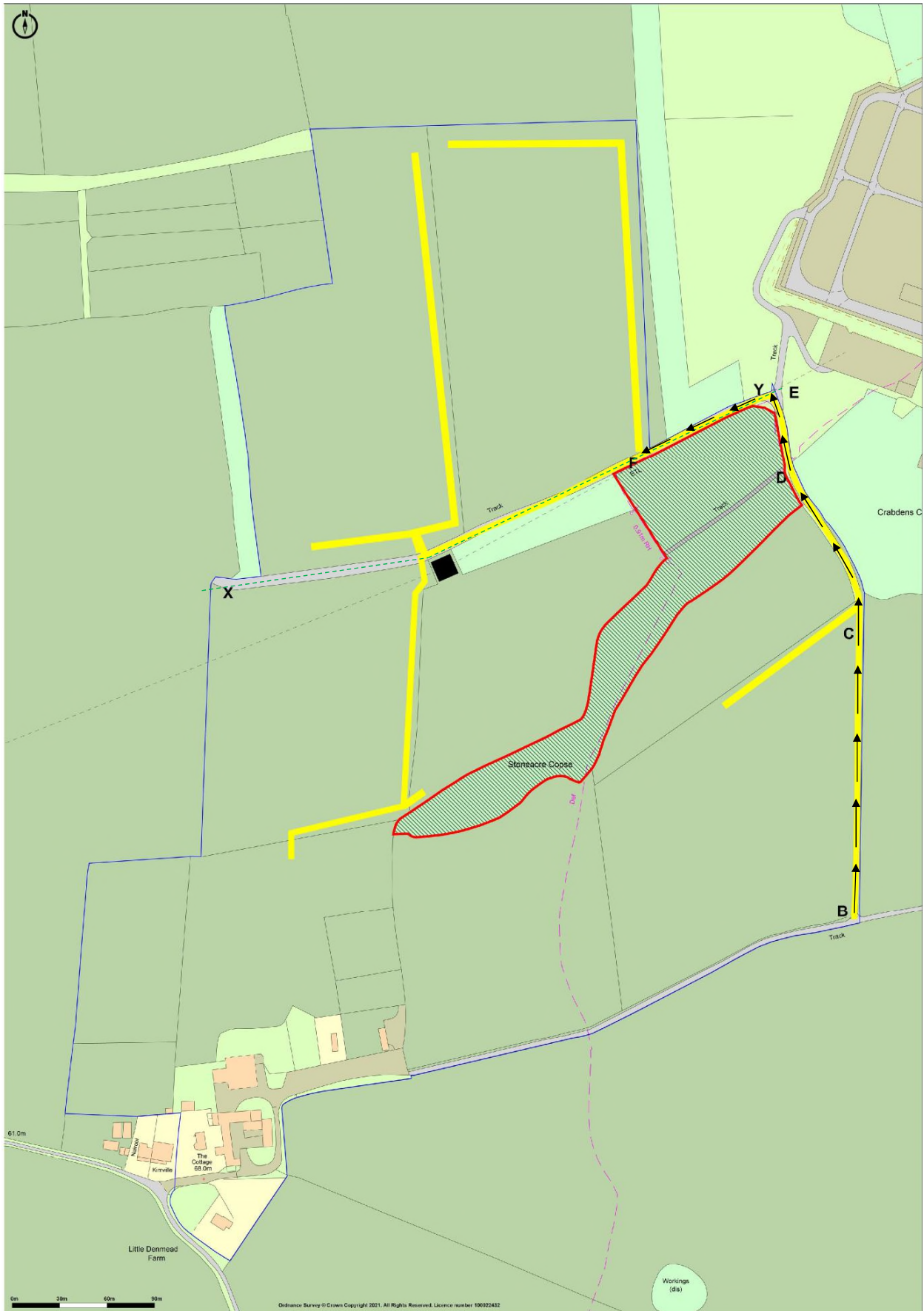
Witness Name:

Witness Address:

.....

.....

Witness Occupation:





Promapv2
 LANDMARK INFORMATION

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Accessway Plan – Plan 2 of 2