



Planning Act 2008 – section 91

Application by AQUIND Limited for an Order granting Development Consent for the AQUIND Interconnector Project

Agenda for Issue Specific Hearing 4 dealing with matters relating to the draft Development Consent Order (DCO) (ISH4)

In its letter dated 11 January 2021, the Examining Authority notified Interested Parties of its decision to hold an Issue Specific Hearing on the following date:

Hearing	Date and time	Location
Issue Specific Hearing 4 The draft DCO	17 February 2021 10.00 am Arrangements conference starts at 09.30 am	Online via Microsoft Teams invitation ¹

About the Draft DCO Issue Specific Hearing

This Issue Specific Hearing is being held because the Examining Authority wishes to question the Applicant and hear from Interested Parties about the draft DCO submitted with the application documents, together with any updates.

Strict Government restrictions relating to Coronavirus (COVID-19) are currently in force, requiring people to work from home if possible. The Examining Authority will therefore conduct this Hearing using digital and telephone technology. Invited participants can join using a computer, laptop, tablet, mobile phone or landline telephone. It is the Applicant's intention to livestream the Hearing, and a recording will be made available on the project page of the Planning Inspectorate's National Infrastructure website.

Invitees will receive a joining link or telephone number in a separate email, shortly before the Hearing. You can use these to join the Arrangements Conference. This is solely for your use. Please join the Arrangements Conference at the appointed time shown above and wait until the Case Manager registers you, and then admits you to the Hearing. The Arrangements Conference allows procedures to be explained and enables the Hearing to start promptly.

The main purpose of the Hearing is to undertake an examination of the draft DCO Articles and Schedules, and in particular to:

¹ Further information is available in Advice Note 8.6, available at:

<https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-8-6-virtual-examination-events/>

- Identify the changes made to the draft DCO by the Applicant in updated versions of the draft DCO submitted since the December Hearings;
- Identify any fundamental disputes between the parties in respect of Articles, Requirements and Protective Provisions within the draft DCO; and
- Establish or confirm the views of other Interested Parties as to the appropriateness, proportionality or efficacy of proposals.

The Hearing will concentrate on the specific issue of the draft DCO and any agreements needed to secure mitigation. The Hearing is likely to be of a technical nature and will be based on the specific wording of the most up-to-date version of the draft Order. The Schedule of Changes to the draft DCO document, which tracks the changes made through the various draft versions of the document and the reasons for these changes, is also relevant.

Discussion at this Hearing is 'without prejudice'; this means that parties may make contributions to improve the quality of the draft DCO without invalidating their own positions of support or opposition to the Proposed Development as a whole.

Irrespective of its recommendation, the Examining Authority is required to present a recommended DCO to the Secretary of State. The Examining Authority's participation in a discussion about the specifics of the draft DCO does not indicate that it has made up its mind about the application.

Participation, conduct and management of Hearing

The Agenda has a very specific focus that is likely to be of interest mainly to those organisations or bodies that have a direct involvement in drafting the Order and in its subsequent implementation should it be granted.

The Examining Authority invites and would particularly like to hear from the following Interested Parties during this Hearing:

- The Applicant;
- Portsmouth City Council;
- Winchester City Council;
- South Downs National Park Authority;
- Hampshire County Council;
- Havant Borough Council;
- East Hampshire District Council;
- The Parish Council of Denmead;
- Highways England;
- Marine Management Organisation;
- Historic England;
- University of Portsmouth;
- Geoffrey and Peter Carpenter (or their representatives);
- National Grid Electricity System Operator.

The named parties have been invited because they are:

- public bodies or other parties that are named in the draft provisions in the draft DCO;

- public bodies with policy and regulatory responsibilities associated with the subject matter;
- national and local authorities for the affected area; or
- persons or organisations with another related and relevant special interest.

Participation in the Hearing is subject to the Examining Authority's power to control the Hearing. Interested Parties may be invited to make oral representations at the Hearing² (subject to the Examining Authority's power to control the Hearing). Oral representations should be based principally on the Relevant Representations and Written Representations made by the person by whom (or on whose behalf) the oral representations are made.

However, representations made at the Hearing should not simply repeat matters previously covered in a written submission. Rather, they should draw attention to those submissions in summary form and provide further detail, explanation and evidential corroboration to help inform the Examining Authority.

The Examining Authority may ask questions about representations or ask the Applicant or other parties to comment or respond. The Examining Authority will probe, test and assess the evidence through direct questioning of persons making oral representations. Questioning at the Hearing will therefore be led by a member of the Panel, supported by other Panel members.

This agenda is for guidance only. It is not designed to be exclusive or exhaustive. The Examining Authority may add other issues for consideration, may alter the order in which issues are considered and will seek to allocate sufficient time to each issue to allow proper consideration. In particular, it is noted that this agenda was largely compiled in advance of written submissions for Deadlines 7, 7a and 7c. As such, matters may have progressed in the interim and information or updates provided at those Deadlines may not have been taken into account. The detail of the agenda may change once all of these documents have been fully considered.

Any lack of discussion of a particular issue at a Hearing does not preclude further examination of that issue, including through questions that might subsequently be raised by the Examining Authority's in any Rule 17 request.

Should the consideration of the issues take less time than anticipated, the Examining Authority may conclude the Hearing as soon as all relevant contributions have been made and all questions asked and responded to.

If there are additional matters to be dealt with or there are submissions that take a considerable amount of time, there may be a need to continue the session for longer on the day or at a subsequent sitting.

Breaks will be taken during the Hearing as directed by the Examining Authority. All parties should note that the agenda given below is to provide a framework for this Hearing and offer discussion points; it does not constrain the Examining Authority to specific topics. The Examining Authority may wish to raise other matters arising from submissions and pursue lines of inquiry in the course of the discussions which are not included in this agenda.

² s91 Planning Act 2008

References in square brackets [] are to the unique document identification number in the Examination Library. This is regularly updated and can be found on the Planning Inspectorate's National Infrastructure website at:

<https://infrastructure.planninginspectorate.gov.uk/wp-content/uploads/projects/EN020022/EN020022-000996-Exam%20Library%20%E2%80%93%20Published%20Version.pdf>

The Hearing will have regard to submissions already set out in the following documents. You may find it useful to have copies available on your screen or printed beforehand:

- Lands Plans [REP7-003];
- Crown Land Plans [REP7-004];
- Works Plans [REP7-005];
- Draft Development Consent Order [REP7-013];
- Explanatory Memorandum [REP7-015];
- Other Consents and Licences [REP6-024];
- Onshore Outline CEMP [REP7-032];
- Outline Landscape and Biodiversity Strategy [REP7-023];
- Framework Traffic Management Strategy [REP6-030];
- Framework Construction Traffic Management Plan [REP6-032];
- Framework Management Plan for Recreational Impacts [REP4-026];
- Winchester City Council: Copy dDCO rev005 edited to include WCC comments [REP7-093];
- The Examining Authority's schedule of changes to the draft Development Consent Order, published 3 February 2021 and available from the project page of the Planning Inspectorate's national Infrastructure website (link above).

All references to Examination documents in the agenda are to those above, unless otherwise specified.

Our letter dated 11 January 2021 withdrew the request on the original Examination Timetable for a transcript to be provided in advance of this Hearing, thus you do not need to provide one. A written summary of your oral submission is requested for Deadline 8, Monday 1 March 2021.

Please contact the case team if you have any questions:
aquind@planninginspectorate.gov.uk



Agenda

Title of meeting	AQUIND Interconnector Issue Specific Hearing on the draft DCO
Date	Wednesday 17 February 2021
Time	10.00 am
Venue	Online via Microsoft Teams invitation
Attendees	Invitees

1. Examining Authority's opening remarks

2. Purpose of the Hearing and speakers' introductions

3. Draft DCO Preamble and Articles

3.1 The Examining Authority's schedule of changes to the draft Development Consent Order in relation to the Preamble.

Part 1 General provisions

3.2 Article 1, definitions, states: "the permit schemes" means the following schemes made under part 3 of the Traffic Management Act 2004(a) as in force at the date on which this Order is made- (a) The Traffic Management (Hampshire County Council) Permit Scheme Order; and (b) The Portsmouth City Council Permit Scheme Order 2020.' Should the phrase 'at the date' be removed or modified as to allow for any revisions or future iterations of these permit scheme Orders?

3.3 Article 2 provides the definition of 'commence', which excludes any works falling within the definition of 'onshore site preparation works.' Do any local authorities have any outstanding concerns with either the definition of commence as currently in the dDCO or the scope of works excluded from that definition, principally contained in the definition of onshore site preparation works (a) – (i) inclusive?

Is Hampshire County Council content that (j) Work No.2 (bb) is within the list of onshore site preparation works given it is being pursued under a separate s278 agreement?

3.4 Winchester City Council to explain proposed changes in Part 1.

3.5 Any other matters that parties wish to raise.

Part 2 Principal powers

3.6 The Examining Authority's schedule of changes to the draft Development Consent Order in relation to Article 7(4).

3.7 Winchester City Council to explain proposed changes in Part 2.

3.8 Any other matters that parties wish to raise.

Part 3 Streets

3.9 In relation to Article 9A, and with reference to paragraphs 4.2.7 to 4.2.14 of Portsmouth City Council's submission at Deadline 6 [REP6-079], can the Applicant explain the scope and extent of the application of the highway permit schemes as they relate to the Framework Traffic Management Strategy. The roles of the FTMS, the permit schemes and the relevant (retained) parts of the New Roads and Street Works Act (NRSWA) in the Proposed Development should be explained, as well as how each one would be applied and secured through any DCO.

3.10 The Examining Authority's schedule of changes to the draft Development Consent Order in relation to Article 10(2).

3.11 Article 13 (3) uses the phrase 'reasonable access' twice in its wording. Who determines what is meant by reasonable access and how would this be objectively assessed? Should the phrases be reworded for clarity?

3.12 Any other matters that parties wish to raise.

Part 4 Supplemental powers

3.13 The Examining Authority's schedule of changes to the draft Development Consent Order in relation to Article 19(5).

3.14 Any other matters that parties wish to raise.

Part 5 Powers of Acquisition

3.15 The Examining Authority's schedule of changes to the draft Development Consent Order in relation to Articles 24(2), 26(3), 30(7) and 30(8).

3.16 The Applicant to explain the actions that it and others have taken which have resulted in additions made during the Examination to the entries in the Book of Reference referred to in Article 20 for Plots 10-12 to 10-14b.

3.17 The Applicant to explain why an article similar to Article 22(4) of the Hornsea Three Offshore Wind Farm Order 2020 has not been included in its dDCO.

3.18 The Applicant to explain whether any changes would need to be made to the dDCO if Crown consent is not received prior to the end of the Examination.

3.19 The Applicant to explain whether any changes would need to be made to the dDCO if Ministry of Defence consent is not received prior to the end of the Examination.

3.20 The Applicant to explain whether, if Ministry of Defence consent is not received prior to the end of the Examination, the exclusion of the Ministry of Defence land would be necessary in various Articles, as was the case with Ministry of Justice land in the made Southampton to London Pipeline Order?

3.21 Any other matters that parties wish to raise.

Part 6 Operations

3.22 Any matters that parties wish to raise.

Part 7 Miscellaneous and general

3.23 The Examining Authority's schedule of changes to the draft Development Consent Order in relation to Articles 43, 45, 46 and 47(2).

3.24 Winchester City Council to explain proposed changes in Part 7.

3.25 Any other matters that parties wish to raise.

4. Schedule 1, the Authorised Development

4.1 Any matters that parties wish to raise.

5. Schedule 2, Requirements

- 5.1 In relation to the updated Design and Access Statement at Deadline 7 [REP7-021] and draft Requirement 6(1)(f), it would appear that each of the relevant local planning authorities and the South Downs National Park Authority has now had the chance to input its views into the design process for the Converter Station. What certainty does each of the local authorities have that its views will be incorporated into the final design, and what would the process be if there were differences between the authorities on any aspects of the building designs?
- 5.2 Winchester City Council to explain proposed changes to, or commentary on Requirements 2, 3, 4, 6, 7, 8, 9, 10, 15, 16, 22, 24 and 27 (numbering as in the Applicant's Deadline 6 dDCO).
- 5.3 The Examining Authority's schedule of changes to the draft Development Consent Order in relation to Requirement 26.
- 5.4 Winchester City Council to provide an update on the commentary provided at Deadline 7 [REP7-102] in relation to a new Requirement for an Employment and Skills Plan in the light of the Applicant's new proposed Requirement 27 in its Deadline 7 dDCO [REP7-013].
- 5.5 Portsmouth City Council to set out its issues with the use of language within the Onshore Outline Construction Environmental Management Plan in respect of 'must' and 'will' (paragraphs 1.53 to 1.56 in [REP7-088]).
Applicant to respond.
- 5.6 How does the Applicant respond to Portsmouth City Council's suggestion [REP7-088] that a Requirement should be written into the DCO to ensure that *'there should not be any stored materials or joint bays within FZ3b, and if there are that these be detailed and mitigated'*?
- 5.7 With regards to the total numbers of HGV movements on Day Lane, the Applicant is presumed to have a very high level of confidence that these numbers are reliable and would not need to be increased in practice following their assessments. As such, and to provide confidence to all parties affected by the HGV movements, the Examining Authority and the Secretary of State, could the Applicant propose a suitable Requirement to introduce a cap on the numbers such that the real effects could not exceed the worst-case parameters assumed in the assessment?
- 5.8 Any other matters that parties wish to raise.

6. Schedule 3, Procedure for approvals, consents and appeals

- 6.1 The Examining Authority's schedule of changes to the draft Development Consent Order in relation to Schedule 3.
- 6.2 Any other matters that parties wish to raise.

7. Schedule 4, Land plans

7.1. Any matters that parties wish to raise.

8. Schedule 5, Works plans

8.1. Any matters that parties wish to raise.

9. Schedule 6, Access and rights of way plans

9.1. Any matters that parties wish to raise.

10. Schedule 7, Parameter plans

10.1. Any matters that parties wish to raise.

11. Schedule 8, Streets, public rights of way and permissive paths to be temporarily closed, altered, diverted or restricted

11.1. Any matters that parties wish to raise.

12. Schedule 9, Modification of compensation and compulsory purchase enactments for the creation of new rights and restrictive covenants

12.1. The Examining Authority's schedule of changes to the draft Development Consent Order in relation to Schedule 9 paragraph 2(1).

12.2. Any other matters that parties wish to raise.

13. Schedule 10, Land of which temporary possession may be taken

13.1. Any matters that parties wish to raise.

14. Schedule 11, Trees subject to tree preservation orders

14.1. Any matters that parties wish to raise.

15. Schedule 12, Removal of important hedgerows

15.1. Any matters that parties wish to raise.

16. Schedule 13, Protective provisions

16.1. At Deadline 7, Mr Geoffrey and Mr Peter Carpenter submitted a '*Statement in relation to the Carpenters' Proposal for Alternative Accesses and Protective Provisions in relation to Little Denmead Farm*', dated 25 January 2021 [REP7-119]. This includes a suggested '*Protective Provision for the Protection of Little Denmead Farm*' (numbered therein as

Schedule 13 Part 8). Could the Carpenters' representatives briefly explain any precedent in a similar made Order that suggests that the Secretary of State might find it, or a variant, acceptable for inclusion in any DCO.

- 16.2. Could the Applicant summarise the positions reached with all respective parties subject to Protective Provisions proposed in the dDCO. In each case, conclude with whether there is 'agreement' or 'dispute' and, if there are disputes, what they are.
- 16.3. The Applicant to explain whether, if agreement is not reached with the parties listed in its response to ExQ2 CA2.3.1 [REP7-038], any changes would need to be made to be dDCO to satisfy the requirements of the PA2008.
- 16.4. The Applicant to briefly explain how each of its Deadline 7 dDCO Protective Provisions '*align with the form included in many made DCOs*' as reported in ExQ2 CA2.3.1 [REP7-038] using some recent examples of relevant made Orders.
- 16.5. The Applicant to confirm whether it is aware of any requests for protective provisions from the Environment Agency [REP7-018 Appendix B].
- 16.6. The Applicant to confirm whether it is aware of any British Gas Limited, Leep Networks (Water) Limited or Arqiva Services Ltd utilities or assets within the Order limits ([REP7-018] Appendices B and C).
- 16.7. The Applicant to explain '*All measures set out within the Framework Traffic Management Strategy (REP6-030) are secured via part 5 of the protective provisions set out in the draft Development Consent Order*' in respect of the relationship between the strategy, part 5 of the provisions and the Sainsbury's car park ([REP7-074] page 3-27).
- 16.8. Any other matters that parties wish to raise.

17. Schedule 14, Certified documents

- 17.1 Any matters that parties wish to raise.

18. Schedule 15, Deemed Marine Licence under the 2009 Act

- 18.1 Are Historic England, the Marine Management Organisation and Natural England content with the addition of the crossing of the proposed 'CrossChannel Fibre' fibre optic cable to the Deemed Marine Licence and the additional environmental assessment work set out in ES Addendum 2 [REP7-067]?
- 18.2 Any other matters that parties wish to raise.

19. Schedule 16, Deemed Marine Licence procedure for appeals

- 19.1. The Examining Authority's schedule of changes to the draft Development Consent Order in relation to Schedule 16.
- 19.2. Any other matters that parties wish to raise.

20. Schedule 17, Arbitration rules

- 20.1 The Examining Authority's schedule of changes to the draft Development Consent Order in relation to the proposed new Schedule 17.

21. Planning Obligations and any other agreements and consents

- 21.1 Can the Applicant report on positions regarding any open, live or finalised planning obligations that the ExA should be aware of?
- 21.2 Can the Applicant report on the position with regard all 'Other Consents' since publication of [REP6-024]?
- 21.3 Any other matters that parties wish to raise.

22. Any other issues relating to the draft DCO

- 22.1 Has progress been made towards formalising Heads of Terms with NGET with regards to Converter Station siting options? Given the stated preference for option B(ii) from various parties, will there be a commitment before the end of the Examination to seeing that option implemented? If B(ii) is pursued, will there be any consequential changes to the scope of compulsory acquisition or access and landscape management rights in the locality?
- 22.2 Information has been requested and submissions put forward in relation to the consideration of the statutory purposes for which the South Downs National Park was designated during the selection of the Lovedean substation as the grid connection for the Proposed Development. Which party had the statutory responsibility for considering this? In the event, which party, if any, undertook this consideration? What weight was given to it, and where can the Examining Authority and Secretary of State see evidence of it?
- 22.3 Have Hampshire County Council and Portsmouth City Council come to an agreement with the Applicant on securing CAVAT payment methods in the dDCO or through a separate legal obligation? If obligations are to be used, will signed copies be available by the end of the Examination?
- 22.4 The letter from Blake Morgan submitted for Deadline 7 on behalf of the Carpenters and dated 25 January 2021 [REP7-115] notes that, *'the Applicant has not yet formally requested an amendment to the Application to include the extension of the existing Lovedean Substation. Ordinarily, such a significant change to the nature of the proposed authorised development that increases the Rochdale Envelope would necessitate formal additional consultation.'* Please could the Carpenters or their agent explain what is meant by this, and what actions they would expect the Applicant to have undertaken.
- 22.5 Could the Applicant explain the purpose of the '[' used at various parts of the draft Order including, for example, Schedule 9(3) and several parts of Schedule 13 (e.g. Part 5)?
- 22.6 Any final comments from any parties relating to the dDCO?

23. Close of Hearing