

PCC has provide comments on some responses provided to ExQ2 at Deadline 7 in the below table.

Reference	Respondent	Question	RESPONSE	PCC COMMENTS FOR DEADLINE 7C
1 - Miscellaneous and General				
CA2.3.2	Applicant	<p>Beyond what is written in Revision 2 of the Funding Statement [REP6-021] and section 3.2 of the 'Applicant's Response to action points raised at ISH1, 2 and 3, and CAH 1 and 2' [REP6-063], please can the Applicant supply any information, redacted or not, to the ExA to demonstrate that there is a 'reasonable prospect' of funds being available for this project.</p> <p>If no further information can be provided, how should the ExA approach the matter of funding in its recommendation?</p>	<p>RESPONSE FROM APPLICANT: "The Applicant does not hold any further information which is not of a commercially sensitive nature and which its provision into the public domain would not potentially prejudice the Applicant's future commercial position. Whilst the Applicant fully appreciates the basis on the request made by the ExA, the Applicant is not in a position to provide the information requested. It has been considered whether information could be provided on a redacted basis, however the nature of the redactions that would be required to be made would mean any such submissions would be of little value.</p> <p>However, it is not considered that it is necessary to provide any further information to satisfactorily evidence that there is a reasonable prospect of funds becoming available for the Project within the statutory period. The updates made to the Funding Statement at Deadline 6 (REP6-021) set out the basis on which it is anticipated regulatory status will be obtained and project financing secured. The information provided by the Applicant in this regard sets out the clear and rational basis on which it is anticipated funding will be secured for the Project, subject to the grant of the DCO and the settlement of regulatory status.</p> <p>With further regard to regulatory status, all future interconnector projects in the UK will need to obtain regulatory status before they can be operated, and as has already been submitted by the Applicant there is nothing unusual about the sequence of approach of the Applicant in seeking to obtain all consents and regulatory approvals in parallel with one another. To contrary, it is an entirely logical approach to take, which gives confidence to all decision makers that the Project is progressing appropriately for the approvals required from them to be provided.</p> <p>Furthermore, the statements of the Government in the Energy White Paper (December 2020) that they "will work with Ofgem, developers and our European Partners to realise at least 18GW of interconnector capacity by 2030", provide</p>	<p>PCC notes the submission by the Applicant of the Aquind Energy 2019 accounts [REP7-047] and also the suggestion of a Requirement on the DCO that some form of security including the option of a bond be entered into. PCC remains concerned that the Applicant still cannot provide any full evidence of the <u>availability</u> of funds required prior to the DCO and any CA powers being considered. The scheme is wholly speculative. PCC maintains therefore that the tests under S.122 of the PA 2008 cannot be satisfied and the powers should not be granted.</p> <p>It is noted that the Applicant maintains the position that the evidence it has put forward in relation to the need for and benefit of the project has been "largely unchallenged". This is seemingly counter to the recent Drax decision of the Court of Appeal [2021] EWCA Civ 43 and the approach to need for energy related DCOs as part of an examination. To that end however, if Aquind is correct then it would mean that PCC and other interested parties were expected to produce detailed evidence to ensure the issue of need and benefit is properly tested. To that extent this is an issue, as firstly, PCC does not have the resources to test these matters and secondly, PCC is entitled, as are all interested parties, to rely upon the ExA as inquirers under the 2008 Act to test the Applicant's case for the DCO.</p> <p>It is nevertheless for the Applicant to show the need for and benefits of this interconnector in light of the very generalised support in EN-1 for interconnectors. There is of course no NPS which addresses telecommunications projects either as part of an energy DCO project or on their own.</p> <p>There remain significant uncertainties about demonstrating funding now. The future projected profits from the scheme are seriously in doubt as a</p>

			<p>further support for the Applicant's position and provide the ExA further assurance should that be required that the regulatory framework to facilitate the delivery of increased interconnection by 2030 in accordance with and to meet the targets set will be put into place, so as to facilitate the Project and other planned projects as necessary which are to be funded on a Project Finance Model.</p> <p>Noting the above, the Applicant considers the ExA should approach the matter of funding, and particularly the question of whether it is considered there is a reasonable prospect of the Project being funded, by considering whether anything has been raised which seriously questions the Applicant's evidence that there is a reasonable prospect of funding becoming available. In considering this question, the ExA should give very significant weight to the evidence of the Applicant of the fundability of the Proposed Development, which is reinforced by the clear Government intent to deliver increased interconnection and to put in place the necessary regulatory framework to do so, and the largely unchallenged evidence of the need for this and the compelling benefits which increased interconnection will provide in the public interest. The needs and benefits of the Proposed Development, and moreover the Project, are clearly explained in the Needs and Benefits Report (APP-115), the Addendum to the Needs and Benefits Report (REP1- 136), and the second Addendum to the Needs and Benefits Report submitted at Deadline 7.</p> <p>The Applicant submits that when having regard to all relevant information, the only rational conclusion that can be reached on this question is that there is a reasonable prospect of the Project being funded."</p>	<p>consequence of its inability to obtain exemptions in Europe as explained below and in the covering letter.</p> <p>To that end the SofS cannot conclude that the Applicant can show a reasonable prospect currently of requisite funds for CA being available as it is all dependent upon its speculative position.</p> <p>To be clear, CA powers cannot be granted though a DCO under the PA 08 (or any similar CPO powers for other projects) on a contractual or conditional basis. In other words the Applicant must demonstrate its case now not after the DCO has been granted and prior to CA powers being exercised. This is why, whilst Requirement 26 may be welcomed in that the Applicant is now willing to enter a bond or security, the Applicant needs to enter into that bond or security now or at least prior to the DCO being made.</p>
CA2.3.6	Applicant	<p>During CAH1, the ExA asked the Applicant '<i>what more can you give me on this</i>' when referring to funding availability and security for its estimated Compulsory Acquisition costs. The Applicant is now requested to list the additional information provided during the Examination and explain, against each item, why further information on this item cannot be provided to the Examination.</p>	<p>RESPONSE FROM APPLICANT: "During discussions on agenda item 5.2 at CAH1, -</p> <p>on behalf of the Applicant agreed to look into whether any reports (or extracts) could be provided which would give the ExA confidence in the Applicant's ability to fund the proposed development.</p> <p>Following the hearings, in the post hearing notes (REP6-063), the Applicant confirmed that it is not in a position to disclose extracts from the confidential reports referred to at the hearings.</p> <p>The Applicant has continued to consider this request and</p>	<p>PCC notes the suggestion the Applicant makes about the TCA and that it has somehow " established [sic] a new regulatory framework for energy infrastructure linking the member states of the European Union and the United Kingdom, including an exemption regime similar to that in Regulation 2019/943".</p> <p>The Applicant needs to explain this further by reference to the relevant articles of the TCA and any legislative support it has for this contention.</p> <p>What this response fails to acknowledge in any event is that the exemption applications made to ACER and Ofgem/CRE can no longer proceed under the EU Regulations which AQUIND submitted the ongoing Exemption Request (s).</p>

			<p>its position in respect of the documents referred to at the hearings is set out below:</p> <p>The documents referred to in CAH1 session 3 transcript are listed below:</p> <ul style="list-style-type: none"> • 2019 KPMG Report - this report, produced for the purpose of and including information which is as a result of confidential commercial discussions, cannot be submitted into the Examination because of the commercially sensitive nature of the material contained in it and the agreed conditions of the engagement with finance providers, being the basis on which they agreed to provide feedback. It is not considered the provision of this on a redacted basis would be of any genuine assistance, as it would be necessary to remove most of the information and therefore not provide evidence which genuinely benefits the decision-making process for the Application • Any reports produced in that work – all information produced by KPMG is subject to non- disclosure requirements in favour of KPMG. It is therefore not the sole decision of the Applicant as to whether such information can be released into a public forum. The non-disclosure requirements are legitimately provided for so as to protect the commercial position of KPMG and the finance providers engaged with. In any event, for the reasons set out above it is not considered the submission of the reports would be of any genuine assistance to the decision making process in light of the redactions that would need to be made to the information so as to protect the commercial confidentiality of all relevant persons • Regulatory submissions to both CRE and ofgem – CRE and Ofgem started on 18 December 2020 a Joint Consultation on AQUIND’s Exemption Request¹. Exhibit 1 to the Exemption Request was published as part of the consultation materials. In Exhibit 1 AQUIND provided the national regulatory authorities with the detailed analysis of the Project’s benefits, including monetised and non-monetised benefits, also summarised in the Need and Benefits Report (APP-115), Needs and Benefits Addendum (REP1-136) and the second Needs and Benefits Addendum submitted for Deadline 7. Section 1.4.2 also explains the assumptions behind AQUIND’s revenues from the use of its capacity by third parties to transmit power 	<p>PCC is unaware of any decision to date as to how the TCA impacts on the ongoing Exemption requests will be addressed and that there is in fact an operative regime similar to the Electricity Regulation 2019/943 as a consequence of the TCA.</p> <p>The fundamental issue the Applicant has is with the French regulatory regime compared with the UK and which impact the viability of Aquind’s projected business. These issues would appear to remain even on the most generous of readings of the TCA.</p>
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CA2.3.7	Applicant	<p>Has any evidence to support the Applicant's financial standing been provided to any relevant regulatory authorities? If so, what? What was the response, if any, from those authorities?</p>	<p>RESPONSE FROM APPLICANT: "Please see the information in the above responses regarding the Joint Consultation on AQUIND's Exemption Request and information relevant to the financing of the Project contained therein. The information provided to the regulatory authorities, which where appropriate in maintaining confidence is not disclosed into the public domain, is the information sufficient for the purposes of those regulatory authorities performing their regulatory function in accordance with their assigned responsibilities.</p>	<p>PCC would ask the ExA to note the "exemption regime" referred to no longer applies to this project.</p>

			The financial standing of AQUIND Limited is not a parameter in the assessment under the exemption regime."	
CA2.3.8	Applicant	In view of the Deadline 6 submission by Mr G and Mr P Carpenter ([REP6-138], Section E paragraph 29), please clarify the rational basis upon which the Applicant thinks there is a genuine reasonable prospect of the requisite funds becoming available to enable Compulsory Acquisition within the statutory period following the DCO being made.	<p>The financial standing of AQUIND Limited is not a parameter in the assessment under the exemption regime."</p> <p>RESPONSE FROM APPLICANT:</p> <p>"The Applicant has been engaging with a number of potential investors since the start of the Project, including British and international investment funds and international energy companies, all of whom consider electricity interconnectors to be an attractive type of future investment.</p> <p>The Applicant has invested approximately £35m in the development of the Project as of 30 June 2020 and the residual cost of completing the pre-construction stage of the Project is forecasted at £15m. The Applicant has secured financing from its current investors sufficient to support the Project until the Completion of the development stage, which includes obtaining all necessary permissions and authorisations in the UK and France, including the DCO.</p> <p>As is standard practice for many major infrastructure Projects, post the development stage, the Project is intended to be funded through project finance secured against the operational profits (revenues) of the Project.</p> <p>Following publication of the Planning White Paper in December 2020, appetite for investment in interconnectors is only likely to further increase. The White Paper specifically recognises that <i>"Interconnection increases the ability of the GB electricity market to trade with other markets, enhances the flexibility of our energy system and has been shown to have clear benefits for decarbonisation"</i>. This White Paper provides a clear indication of future policy and approach to meeting the UK energy demands, and that Interconnectors will form a key part of this this. It is therefore anticipated a regulatory environment will be created in the UK to ensure investment in this energy infrastructure is able to be forthcoming, for instance through a further cap and floor regime. In this regard it is noted the Energy White Paper includes a commitment by the Government to <i>"work with Ofgem, developers and our European partners to realise at least 18GW of interconnector capacity by 2030"</i>. Further information in respect of the Energy White Paper in relation to the Proposed Development is provided within the second Addendum to the Needs and Benefits Report (document reference 7.7.19).</p> <p>The Applicant therefore remains entirely confident that the Project is bankable and that funds will be forthcoming to enable compulsory acquisition within the statutory period following the DCO being made and is of the view there is no</p>	<p>PCC notes the Applicant's reliance upon the Energy White Paper (EWP) (not the 'Planning' White Paper it is assumed). The EWP does not contain or represent Government policy as yet.</p> <p>In addition, references to the project being 'bankable' and that the hope of an "appetite for investment in interconnectors" is very far from actual evidence that the Applicant is required to provide that this project and this Applicant can show that the relevant level of finances available to warrant the granting of CA powers to the Applicant.</p> <p>Once again, PCC would emphasise that this is a wholly private speculative venture which sits uncomfortably in the PA 08 regime most especially in respect of the grant of CA powers.</p>

			<p>rational basis on which to conclude otherwise.</p> <p>Taking into account the fact that (i) the Applicant has had no problems securing financing for the Project to date, (ii) the expected appetite for future investment in interconnectors as part of the green transition is likely to increase, particularly in light of the Energy White Paper; and (iii) it is not unusual for the securing of funding in connection with the delivery of a project to be dependent on the securing of a development consent order, it is considered the Applicant has satisfactorily demonstrated that there is a reasonable prospect of the requisite funds becoming available to enable Compulsory Acquisition within the statutory period following the DCO being made."</p>	
CA2.3.11	Applicant	<p>Who would a claim for Compulsory Acquisition compensation be enforced against should the envisaged funding arrangements for AQUIND not materialise, and is there anything in the dDCO to prevent Compulsory Acquisition or Temporary Possession powers being exercised where funding is not available to the undertaker? (Refer to [REP6-138], Section E paragraph 38.)</p>	<p>RESPONSE FROM APPLICANT: "The Undertaker is the person authorised to exercise the CPO Powers, and it would be the Undertaker who a claim for Compulsory Acquisition compensation would be enforced against.</p> <p>Please see the response below to CA 2.3.13 which is relevant to provisions in the DCO to prevent the exercise of Compulsory Acquisition of Temporary Possession powers where funding is not available, and which confirms acceptance of an article requiring a guarantee for the CPO costs is confirmed before those powers are exercised."</p>	<p>Please note PCC's observations above and the comments it has made in respect of the dDCO prior to ISH 4 in respect of the draft DCO.</p>
CA2.3.13	Applicant	<p>Should the ExA decide to include any of the following provisions in its recommended DCO along the lines suggested in the Deadline 6 submission by Mr G and Mr P Carpenter relating to the security of Compulsory Acquisition funding ([REP6-138], Schedule 1), what would be the Applicant's position on each of these provisions, and why?</p> <p>(i) Rookery South (Resource Recovery Facility) DCO - enforceable bonded funds located in Jersey ([REP6-138], Section G paragraph 4a).</p> <p>(ii) Able Marine Energy Park DCO - appropriate guarantees to the relevant planning authorities for the payment of compensation under the DCO Compulsory Acquisition provisions before their implementation with any compensation to be met from the Applicant's parent company's existing funds ([REP6-138], Section G paragraph 4e).</p> <p>(iii) Swansea Bay Tidal Generating Station DCO - a mechanism for the provision of security in respect of the payment of compensation under the DCO ([REP6-138], Schedule 1).</p>	<p>RESPONSE FROM APPLICANT: "The Applicant has included a guarantee Requirement at Requirement 26, and the Applicant's view is that the Order should be made including this Requirement. The Applicant identifies that the guarantee Requirement included is most closely aligned to that which is contained in the Manston Airport DCO"</p>	<p>It is PCC's position that CA powers should only be granted if a form of security/bond is in place as a pre-condition of the DCO being made. The land was statutorily blighted (under the provisions of the Town and Country Planning Act 1990) on the application being made and as such the compensation liability is 'alive' now, and the appropriate funds need to be secured to reflect the powers sought by the Applicant.</p>

		<p>(iv) Thorpe Marsh Gas Pipeline DCO - a guarantee agreement, Escrow arrangement, bond or other suitable alternative security to cover estimated Compulsory Acquisition costs ([REP6-138], Section B paragraph 21 and Section G paragraph 4b).</p> <p>(v) Manston Airport DCO – a section 120(3) PA 2008 provision that construction cannot commence, and Compulsory Acquisition powers cannot be exercised until a guarantee to pay compensation under the DCO or an alternative form of security is provided to the satisfaction of the Secretary of State ([REP6-138], Section G paragraph 4c).</p> <p>(vi) Wylfa Newydd (Nuclear Generating Station) dDCO - dDCO articles restricting the exercise of Compulsory Acquisition powers until certain compensation funding security requirements are met ([REP6-138], Section G paragraph 4d).</p>		
CH2.4.1	Historic England Hampshire County Council Applicant	<p>With reference to paragraph 5.6.12 of NPS EN-1, what elements of cultural, historical and functional significance for Fort Cumberland’s setting are derived from the ‘fields of fire’? How do these elements:</p> <p>a) apply to the land where the ORS facility is proposed to be located; and</p> <p>b) apply to the land where proposed landscape mitigation is to be planted?</p> <p>How would the Proposed Development affect such significance and the future value and understanding of the asset? Would mitigation planting itself affect the significance of the asset’s setting?</p>	<p><i>With reference to paragraph [5.8.12] of NPS EN-1, what elements of cultural, historical and functional significance for Fort Cumberland’s setting are derived from the ‘fields of fire’?</i></p> <p>RESPONSE FROM APPLICANT:</p> <p>"With regard to Overarching National Policy Statement for Energy (EN-1), the Applicant assumes that the correct paragraph reference is 5.8.12, rather than 5.6.12 which relates to dust, odour, artificial light, smoke, steam and insect infestation (Section 5.6) rather than Cultural Heritage.</p> <p>Elements of the ‘fields of fire’ which contribute to the significance of Fort Cumberland are the sightlines and connectivity with land and sea-based approaches along with historic relationships with other fortifications and approaches. The position of the fort is important to understanding how it would have defended Langstone Harbour in the event of an attack. It had direct lines of sight out to sea and was also protected by a ravelin on its western side which defended the landward approaches (ES Chapter 21, para 21.5.11.8). The existing coastal plain which forms part of the fields of fire to the west of the asset makes a contribution to the significance of the fort and so do the sightlines from positions to the north, east and south of the monument (landward/seaward), of which the combined contribution increases understanding of the Fort’s functional significance.</p> <p>This in turn allows the public to understand and appreciate the heritage significance of the fort. These sight lines are</p>	<p>PCC maintains concerns, raised in previous submission that the impact on Fort Cumberland's setting and the local heritage and open landscape will be unacceptably harmed by the proposed unjustified and disproportionate ORS compound.</p>

			<p>still evident and contribute to its significance but to varying degrees.</p> <p><i>How do these elements: a) apply to the land where the ORS facility is proposed to be located; and b) apply to the land where proposed landscape mitigation is to be planted?</i></p> <p>a) The contribution of the land where the ORS facility is proposed to be located is diminished by its present use as a car park, with its associated height restriction barriers and constant movement of traffic, in addition to the visually intrusive surrounding urban fabric, which has been substantially altered through the construction of a 1960s housing estate (located 15m north of the Proposed Development) and 20th century motor shed adjacent to the north. Due to the surrounding modern development, the existing contribution of the landfall car park on the significance of Fort Cumberland is considered low. As a result, the historic 'fields of fire' is at present poorly understood.</p> <p>b) The proposed landscape mitigation planting is contained within the Order Limits at the Landfall. As shown on the Indicative Landscape Mitigation Plan (Landfall) Figure 15.50 (APP-283), planting is proposed around the boundary of the ORS facility in the form of a native hedgerow with hedgerow trees; existing grassland/scrub to the north-east would be reinstated. The contribution of the current land to the historic 'fields of fire' is low, given the present use as a gravelled carpark."</p> <p><i>How would the Proposed Development affect such significance and the future value and understanding of the asset?</i></p> <p>RESPONSE FROM APPLICANT: "The Applicant's position with regard to the impact assessment is outlined in the latest revision of the Statement of Common Ground (SoCG) with Historic England submitted at Deadline 7 (REP6- 047, Rev 005). The Applicant considers the impact to the significance of Fort Cumberland is negligible in respect of views from the western ravelin, based on the distance from the asset and the presence of the car park and the visual impacts from the modern residential housing estate located 15m to the north-west of the proposed ORS</p>	
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			<p>compound. The Applicant considers that the landward view from the western ravelin has been substantially altered.</p> <p>The location of the proposed ORS compound would introduce a new built form in long views out from the western ravelin towards Fort Cumberland Road. However, the proposed ORS would be lower in height than the current housing estate, and when seen against the background of the surrounding residential development would not be visually intrusive. Taken overall, the ORS would not have a significant impact on how the asset is appreciated and understood. The overall environmental effect is therefore considered negligible.</p> <p>It has been agreed between the Applicant and Historic England that the proposed ORS would not result in substantial harm to the Fort Cumberland Scheduled Monument and Grade II*listed building (REP6-047, Rev 005). Historic England maintain that the level of harm is less than substantial, whilst the applicant considers the overall effect to Fort Cumberland scheduled monument is negligible. Irrespective of this differing professional opinion, the proposed change would not constitute a 'significant' environmental effect warranting substantial design amendments to the Proposed Development."</p> <p><i>Would mitigation planting itself affect the significance of the asset's setting?</i></p> <p>RESPONSE FROM APPLICANT: "The settings assessment has considered the potential for impact in relation to the embedded landscape mitigation. The predicted impact is considered negligible in respect to Fort Cumberland (see above). The embedded landscape mitigation planting would not form any additional impact to the significance of the asset as the proposed changes would not alter the baseline urban setting in which the ORS would sit, which at present includes modern 1960s development and a line of mature trees, bounding a caravan park to the west of the landfall car park. As with the ORS buildings themselves, the overall change to the fort and its wider construction is negligible."</p>	
DCO2.5.1	Applicant All Local Authorities Representatives of Mr Geoffrey Carpenter and Mr Peter Carpenter	<p>In relation to the proposed commercial use of the surplus capacity of the fibre optic cable, the Examining Authority notes that there are a number of opinions as to whether any associated works can be authorised by any DCO, and also which works would constitute the development and which would be Associated Development.</p> <p>The Applicant, the local planning authorities, and Mr Geoffrey and Mr Peter Carpenter are requested to comment on the following interpretation.</p>	<p>RESPONSE FROM APPLICANT: "The Applicant responds as follows:</p> <p>Section 35 of the Planning Act 2008 affords the Secretary of State with power to give a direction for development to be treated as development for which development consent is required provided the criteria in subsection (2)(a)-(c) are satisfied.</p>	<p>PCC note the Applicant's response and note in particular that it does in fact differ from the ExA's own interpretation as put forward ie that the s35 direction should be read as treating the commercial FOC identified by the applicant as associated development (AD) as part of the development.</p> <p>PCC maintains its position that the separate commercial FOC development put forward within this DCO application is not AD within the meaning of s115</p>

	<p>For any project that was <u>not</u> the subject of a s35 direction, the development requiring consent would be listed in s14 of the Planning Act 2008 (PA2008) and described in one or more of the relevant subsequent sections (for example, s16 for an electric line), together with any Associated Development that falls within the definition set out in s115(2) of PA2008.</p> <p>This project does not fall within one of the s14 categories, but instead it is to be treated as a Nationally Significant Infrastructure Project by virtue of the Secretary of State's s35 Direction. Therefore, in this case, it is the s35 Direction that defines the Nationally Significant Infrastructure Project, the development requiring consent.</p> <p>Looking at the <u>Direction</u>, the wording is that '<i>THE SECRETARY OF STATE DIRECTS that the proposed Development, together with any development associated with it, is to be treated as development for which development consent is required.</i>' (Our emphasis.)</p> <p>The 'proposed development' is defined as '<i>the proposed UK elements of the AQUIND Interconnector ("the proposed Development"), as set out in the Direction request</i>'.</p> <p>The Direction request is <u>this document</u>. Therefore, the project would appear to consist of the elements described in that document, including the offshore data cables (paragraph 3.5.2(A)), the onshore data cables (paragraph 3.5.1(D)) and the '<i>construction of a converter station comprising a mix of buildings and outdoor electrical equipment</i>' (para 3.5.1(C)). The project description also states that '<i>Signal enhancing and management equipment may also be required along the land cable route in connection with the fibre optic cables</i>' (3.5.1(D)).</p> <p>Paragraph 3.12 refers to the use of '<i>the spare fibre optic cable capacity for the provision of commercial telecommunications services</i>' as Associated Development. However, the s35 direction states that '<i>any development associated with</i>' the Proposed Development is to be treated as development for which consent is required. Therefore, the Examining Authority is minded to consider that this use, although described as 'Associated Development', would actually be part of the proposed project, and not Associated Development for the purposes of s115 of PA2008.</p> <p>The Examining Authority also notes the effect of s157(2) of PA 2008, which means that consent is taken to '<i>authorise the use of the building for the</i></p>	<ul style="list-style-type: none"> • The Section 35 Direction confirms that the criteria in section 35(2) are satisfied if the development is, <u>or forms part of</u>: <ul style="list-style-type: none"> ○ "<i>a project (or proposed project) is in the field of energy</i>" (subsection (2)(a)(i)); and ○ "<i>will be wholly within England, waters adjacent to England out to the seaward limits of the territorial sea</i>" (subsection 2(b)); and ○ "<i>the Secretary of State is of the view that the project (or proposed project) is of national significance, either by itself or when considered with ... one or more other projects in the same field</i>" (subsection 2(c)). • The Section 35 process plays an important role in supporting the delivery of new infrastructure and it was entirely open to the Secretary of state to direct that the Proposed Development (including any development associated with it) is to be treated as development for which development consent is required. <p>The Statement in support of the application for a Direction pursuant to Section 35 of the Planning Act 2008 (AS-040) clearly sets out what the Development for the purposes of that application is, being the elements of AQUIND Interconnector within England and the waters adjacent to England up to the seaward limits of the territorial sea, and that this includes the onshore and offshore fibre optic cables, and "<i>signal enhancing and management equipment ... required along the land cable route in connection with the fibre optic cables</i>". Accordingly, all such infrastructure properly forms part of the development for which development consent is required in accordance with the direction.</p> <p>It is correct that the Section 35 Direction provides that "<i>any development associated with</i>" the Proposed Development is to be treated as development for which consent is required, and as such where any development is development associated with the "<i>proposed Development</i>", development consent will be required for it. This position is consistent with the position previously put forward by the Applicant at paragraph 3.5 of the Statement in relation to FOC (REP1-027).</p> <p>Whilst the Applicant does consider that it is open to the Secretary of State to determine that all elements of the authorised development for which development consent is sought are development for which development consent is required in light of the Section 35 Direction (i.e. no part of it is associated development), taking a precautionary approach the Applicant submits that those buildings which are required solely in connection with the commercial use of the fibre optic</p>	<p>of the PA 08 (as set out in its response to ExQ2 2.5.1). That test under s115 is the only test that the SofS should consider in respect his powers in relation to the commercial FOC use and any operational development that is required for it (ie the ORS and telecommunications buildings PCC).</p> <p>To be clear none of the buildings required for the Commercial FOC use can be characterised as 'the project' nor can they be characterised as AD without first concluding somehow that the, clearly separate Commercial Use of the 'spare' FOCs, can be AD.</p> <p>As PCC has made clear in earlier submissions, the consequence of concluding that the Commercial FOC development is not AD means that it cannot be granted consent under this DCO. In addition clearly no CA powers sought in respect of any interests in land required for such development can lawfully be granted either</p> <p>PCC recognises that this must lead to material amendments being made to the current DCO in order for the project to proceed by way of a DCO.</p> <p>Should Aquind wish to pursue any commercial FOC development it would therefore have to revert to seeking planning permission in the usual way under the 1990 Act regime Compulsory purchase powers could of course be sought through the 1990 Act as well</p>
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		<p><i>purpose for which it is designed'</i> where no purpose is specified.</p>	<p>cables (the Telecommunications Buildings) and those parts of others which are associated with the commercial use only (so the parts of the ORS not provided solely in connection with the operation of the interconnector) are associated development. This is because an argument could be formulated those buildings are not a development, or part of a development, in the field of energy. Whilst the Applicant would not agree with this interpretation and considers such buildings are part of a development in the field of energy, other views on this interpretation may differ.</p> <p>As such, whilst it is the Section 35 Direction which confirms that development consent will be required for associated development and would authorise this instead of Section 115 of the Planning Act 2008, the ExA and the Secretary of State may in making their recommendation and decision on this matter turn their mind to whether they are, in any event, satisfied such buildings can properly be construed to be associated development. For this purpose, it would be expected that the ExA considers the definition of associated development provided in Section 115 of the Planning Act 2008, as well as having regard to the Guidance on associated development applications for major infrastructure projects (DCLG, April 2013) (which it is noted of course does not bind the Secretary of State, save for the need for him to act rationally having taken into account its contents).</p> <p>With particular regard to the question of use and whether it is associated development, the Applicant considers that the dDCO is clear with regard to use, including that the fibre optic cables are to be used for commercial telecommunications purposes. However, it is noted in this regard that section 55(1) of the Town and Country Planning Act 1990 which defines what constitutes development (and which in accordance with Section 32 of the Planning Act 2008 defines "development" for the purposes of that Act) provides that "<i>development, means the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.</i>" In accordance with this definition, use of new operational development alone is not development, and therefore the question is not whether the use is associated development, but rather whether the "development", being the building and engineering operations, are associated development.</p> <p>Noting the above, if the Secretary of State accepts that the correct question is whether the buildings aforementioned are associated development and concludes that they are, then the use authorised for those buildings will be the use for the</p>	
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			purposes for which they are designed, in accordance with Section 157(2) of the Planning Act 2008."	
DCO2.5.10	Applicant	<p>The Framework Management Plan for Recreational Impacts (FMPRI) [REP1-144] is soon to be accompanied by a Reinstatement Method Statement as suggested in paragraph 6.5.1 of the <i>Applicant's Response to Action Points Raised at ISH1, 2 and 3, and CAH 1 and 2</i> [REP6-063]. Given the mitigation measures already in the FMPRI and the additional reinstatement method statement, should the FMPRI become a certified document?</p> <p>If not, why not?</p> <p>If not, can the Applicant explain how the mitigation measures and recommendations in the FMPRI at paragraphs 4.1.2.4 and 4.2.1 to 4.2.7 are to be secured in any DCO?</p> <p>In respect of all playing fields and open spaces, does the Applicant consider that planning obligations may be appropriate with respect to enabling playing pitches to be realigned and relocated (even on a temporary basis during construction) outside the Order limits?</p>	<p>RESPONSE FROM APPLICANT: "The Applicant has been considering this further and is now proposing to secure the measures in the FMPRI through a Section 106 Planning Obligation with PCC.</p> <p>The Applicant has submitted a draft section 106 Agreement with PCC at Deadline 7 which contains: (i) a requirement for the undertaker to submit a detailed Recreational Management Plan in relation to each of the Playing Fields prior to commencement; and (ii) a restriction on commencement until the Council has approved the Recreational Management Plan for that Playing Field.</p> <p>The detailed Recreational Management Plan submitted for approval must be in accordance with the FMPRI and contain details relating to the delivery of pitch reinstatement and realignment works, including:</p> <ul style="list-style-type: none"> (a) estimated programming and costs for the Pre-Construction Pitch Realignment Works and the Post-Construction Pitch Realignment Works; (b) estimated programming for the Pitch Reinstatement Works; (c) technical specifications for the Pitch Reinstatement Works; (d) scaled drawings; and (e) details of any drainage potentially affected by the construction of the Proposed Development. <p>The draft Section 106 Agreement contains an ongoing obligation on the undertaker to carry out any works to realign and reinstate the sports pitches in accordance with the relevant approved Recreational Management Plan.</p> <p>As some of the sports pitches fall outside the redline boundary, the Applicant has proposed that PCC enter into a Deed of Undertaking (akin to a licence) with the Applicant to enable the Applicant to carry out the realignment works on PCC's Land in accordance with the plans approved by PCC. The Applicant sees no reason why PCC should not be amenable to these measures being taken to avoid impacts on residents within Portsmouth.</p> <p>In respect of the playing fields on the University of Portsmouth Land, the OOCEMP has also been updated at Deadline 7 (REP-036, Rev 006) to include the following paragraph at 6.2.9.11:</p>	<p><i>PCC Response D17:</i> <i>PCC is concerned that the FMPRI is still incomplete at this late stage despite providing information regarding the nature of the sites at the earliest opportunity within the Examination. Once the applicant has considered the actual impacts on playing pitches, recreation, open space and habitat in Portsmouth PCC will need adequate time to consider and comment on any proposed avoidance or mitigation both in respect of their adequacy and the mechanisms proposed for their delivery within the DCO.</i></p> <p>Further PCC response: PCC and the Applicant have been in discussion as to how the issue of entering into a DCO obligation under s106 of the 1990 Act can be approached lawfully when the Applicant cannot show it is interested in land – a prerequisite for being able to enter into such obligations.</p> <p>PCC notes that the dDCO now contains Art 8(4) which deems the Applicant to have such an interest once the DCO is made.</p> <p>This is a matter that will be discussed in ISH 4. As the Applicant has no interest in the Order land prior to the DCO being made this will have no effect until that point. PCC have advocated the approach adopted in the Thames Tideway Tunnel (TTT) DCO to resolve matters whereby the Applicant enters into an undertaking to enter into DCO obligations (as appended in draft) and that this be reflected on the face of the DCO as well. To be clear the TTT DCO did contain a provision in the same terms as draft Art 8(4) in Sch 19 to the DCO which addressed statutory modifications however in the main body of the TTT DCO was an article which addressed adherence to the undertaking approach.</p> <p>PCC notes that any proposed planning obligation should be submitted to the ExA by way of Unilateral Undertaking before the Examination closes.</p> <p>PCC also note that applicant has proposed a separate Deed of Undertaking to PCC in order deliver aspects of their offered mitigation outside the Order Limits. PCC further notes that the Applicant 'sees no reason why PCC should not be amenable to these measures...'. Due to the Applicant's delay in</p>

			<p><i>For works through the University of Portsmouth land the contractor will keep the works as far to the eastern extent as practical to minimise impacts on sports facilities. This will take into account other environmental and engineering restrictions and considerations. A detailed method statement will be prepared and agreed with the University of Portsmouth prior to works to the University Pitches within the redline boundary. The method statement will comprise arrangement of temporary works, reinstatement and programme. The Applicant will work with the University of Portsmouth to realign pitches, if detail design confirms the works can be limited to the eastern edge of the pitch"</i></p>	<p>providing an updated FMPRI, (which was only submitted to the Council by the Applicant as recently as 12 February 2021), PCC has not yet opportunity to review the document and is unable to comment whether it would be amenable to allowing the applicant to undertake works on its land.</p>
N2.11.1	Applicant	<p>It is noted that Article 9 of the dDCO (defence against statutory nuisance) [REP6-015] has been amended. Why is it considered necessary to protect the Proposed Development from statutory noise complaints whilst it is in operation? Please provide details of any made DCO precedents for inclusion of the 'operational' phase of a development in this manner. Please provide details of any made DCO precedents for inclusion of Articles 9(1)(b), 9(2) and 9(3). What does the Applicant believe is specific to this Proposed Development to warrant what appears to be an exceptional approach to a 'Defence to proceedings in respect of statutory nuisance' Article such as this?</p>	<p><i>PCC response at DL7</i> <i>"PCC are of the firm view that this requirement is not necessary as there should not be any statutory noise nuisance caused if Schedule 2 Requirement 15 and Schedule 2 Requirement 20 is followed. It is therefore recommended that this Requirement is removed from the DCO. "</i></p> <p>Why is it considered necessary to protect the Proposed Development from statutory noise complaints whilst it is in operation?</p> <p>RESPONSE FROM APPLICANT: "A significant amount of work has been undertaken by the Applicant to confirm that the operation of the interconnector would not give rise to statutory nuisance and the Applicant would need to comply with the noise management plan approved pursuant to Requirement 20 at all times.</p> <p>The noise management plan will contain objectively assessed noise levels and it would be unfair to require the undertaker to achieve levels in the future which are lower than those which have been assessed if the surrounding environment changes outside of the Applicant's control.</p> <p>The Applicant does not agree that the 'Agent of Change' principle provides comfort that future planning applications would be assessed in planning terms in accordance with the Agent of Change principle, nor that this would in any way prevent a person seeking to bring proceedings in nuisance.</p> <p>Article 9 only provides a defence "where proceedings are brought" and the 'Agent of Change' principle is not part of a defence to proceedings in statutory nuisance under the Environmental Protection Act 1990 (or in common law nuisance).</p> <p>Statutory claims and proceedings could cause significant cause delays to the Project or materially hinder its operation, wholly unnecessarily taking into account the agreed</p>	<p>PCC note the Applicant's response but do not believe the information provided justifies the exceptional approach they have proposed in respect of the operational phase of the ORS. PCC remain of the view that Article 9 should be amended to remove reference to the operational phase of the ORS.</p>

			<p>acceptability if the operational noise impacts, which could have implications for the continued operation of the Project.</p> <p>It is therefore necessary to protect the Proposed Development from statutory noise complaints whilst it is in operation because the Applicant requires certainty that it will be able to operate the Proposed Development without fear of proceedings or needing to take additional measures to address complaints in the future, based on the settled position with regard its Operation at the grant of consent."</p> <p>Please provide details of any made DCO precedents for inclusion of the 'operational' phase of a development in this manner.</p> <p>RESPONSE FROM APPLICANT:</p> <ul style="list-style-type: none"> • Southampton to London Pipeline – Article 41(1)(b) states that it shall be a defence if <i>"the defendant shows that the nuisance is a consequence of the use of the authorised development and that it cannot be reasonably avoided."</i> This would apply during the operation of the scheme. • Norfolk Vanguard – Article 8(1)(b) states that it shall be a defence if the defendant shows that the nuisance: <ul style="list-style-type: none"> ○ <i>"relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project which is being used in compliance with requirement 27 (control of noise during operational phase); or</i> <i>is a consequence of the use of the authorised project and that it cannot reasonably be avoided"</i> • Hornsea Project Three Offshore Wind Farm - Article 7(1)(a)(b) states that it shall be a defence if the defendant shows that the nuisance: <ul style="list-style-type: none"> ○ <i>"relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised project and that the nuisance is attributable to the use of the authorised project in compliance with requirement 21 (control of noise during operational phase); or</i> ○ <i>is a consequence of the use of the authorised project and that it cannot reasonably be avoided"</i> • West Burton C - Article 8(1)(b) states that it shall be a defence if the defendant shows that the nuisance: <ul style="list-style-type: none"> ○ <i>"relates to premises used by the undertaker for the purposes of or in connection with the use of the authorised development and that the</i> 	
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			<p><i>nuisance is attributable to the use of the authorised development which is being used in accordance with a scheme of monitoring of noise agreed with the relevant planning authority as described in requirement 22 (control of noise - operation); or</i></p> <p><i>is a consequence of the use of the authorised development and that it cannot reasonably be avoided”</i></p> <p>Please provide details of any made DCO precedents for inclusion of Articles 9(1)(b), 9(2) and 9(3).</p> <p>RESPONSE FROM APPLICANT: the following made DCOs contain articles of a similar nature:</p> <ul style="list-style-type: none"> • Southampton to London Pipeline – see Articles 41(1)(a)(ii), 41(2) and 41(3). • Norfolk Vanguard – see Article 8(1)(b)(i) and 8(2). • Hornsea Project Three Offshore Wind Farm - see Article 7(1)(a)(b) and 7(2). • West Burton C – see Article 8(1)(b) and 8(2). <p>What does the Applicant believe is specific to this Proposed Development to warrant what appears to be an exceptional approach to a ‘Defence to proceedings in respect of statutory nuisance’ Article such as this?</p> <p>RESPONSE FROM APPLICANT: "As highlighted above, Article 9 is a standard form provision in many made DCOs and this is not considered to be an “exceptional approach”. Nevertheless, for the specific reasons set out above, the Applicant believes that the inclusion of Article 9 in the form included in the dDCO is entirely justified."</p>	
OW2.12.1	Applicant	It is understood that the trenchless technique to be used for HDD-4 will not be HDD, but an alternative trenchless solution known as micro-tunnelling. With respect to preventing groundwater seeping into the tunnel, can the Applicant indicate how this is accounted for and secured within the Onshore Outline CEMP [REP6-036]?	<p>RESPONSE FROM APPLICANT: "The tunnelling process will use a low permeability drilling material such as bentonite slurry to reduce friction as the liner is installed and this will minimise the risk of water ingress during tunnelling. As it is bored, impermeable ducting will be inserted which will ensure no ingress into the tunnel once complete. The Onshore Outline CEMP (REP6-036) was updated to include this statement (submitted at Deadline 6).</p> <p>Ingress of groundwater at the entrance and exit pit will be managed through the use of perimeter sheet piled walls toed into the Chalk, to reduce groundwater ingress from the superficial River Terrace Deposits. Any groundwater seepage at the base of the pits will be sump pumped during operation. More detail is provided in Paragraph 6.2.6.10 of the Onshore Outline CEMP (REP6- 036)."</p>	PCC note the Applicant’s response to this ExA question, but the Applicant’s submitted evidence does not seem to clarify where groundwater seepage would be pumped to in order to show that this proposal will not lead to surface water drainage issues. This is an important factor which needs to be addressed.

OW2.12.5	Applicant Portsmouth City Council	<p>Please could Portsmouth City Council provide the ExA with details of the subsurface drainage system (field drains, mole drains, tile drains, etc) at Farlington Playing Fields, including any maps or diagrams that would assist our understanding?</p> <p>Could any of these systems be severed or otherwise interrupted by the installation of the Proposed Development and, if so, what would be the effects on drainage and playing surface quality?</p> <p>What mechanism would ensure their proper restoration through a CEMP and any DCO?</p> <p>Could any of these drains be compacted or damaged during construction works and, if so, what mechanism would ensure their investigation and restoration through a CEMP and any DCO?</p> <p>The Applicant's Deadline 6 post-Hearing note [REP6-063] refers to planned SI works at Farlington Playing Fields, and to the preparation of a Method Statement in relation to reinstatement that will be submitted 'at a future deadline'. What certainty can the Applicant provide that the relevant information on this matter will be available prior to the close of the Examination and in sufficient time for Portsmouth City Council and other parties to read and comment on it?</p>	<p>RESPONSE FROM APPLICANT: "The Applicant has received drawings of the drainage system from PCC. The drainage system will be interrupted by excavation works including the cable installation, joint bays and HDD. There is also potential for compaction from plant and equipment. If not repaired, this would interrupt drainage and contribute to water-logging of playing surfaces. It is not envisaged that temporary drainage would be required for affected pitches during construction as they are not being used. However, there may be a requirement for temporary drainage if interruption of flow has potential to indirect affect drainage on another pitch still in use.</p> <p>However, proper restoration is secured through the OOCEMP (REP6-036, Rev006) in the following places:</p> <ul style="list-style-type: none"> • Paragraph 1.2.2.13 - <i>where land is used temporarily and returned to the landowner, there will be liaison on working methods and restoration. Should remedial actions become necessary following soil reinstatement, these shall be undertaken as agreed prior to handover back to the landowner.</i> • Paragraph 6.8.2.1 - <i>Farlington Playing Fields have a history of surface water and groundwater flooding due to artificial land. A land drainage survey at pre-construction stage, a reinstatement plan and a post-construction survey must be undertaken in order to monitor the impacts of the Proposed Development.</i> <p>The OOCEMP has been updated at Deadline 7 (document 6.9) to include the following additional measures at Paragraph 6.2.9.4:</p> <ul style="list-style-type: none"> • <i>Land drains will be protected from point loading pressure caused by plant and equipment with the use of track mats. For protection under stone haul roads a geogrid mesh material will be used to reinforce the underlying soil which in turn will mitigate damage caused by wheel loading pressures. Alternatively track matting may also be used as a suitable geogrid / stone haul road alternative.</i> • <i>Any land drains damaged by trenching activities must be repaired in the same working day ahead of subsoil back filling. Land drains damaged during construction of HDD pits and joint bays must be repaired on completion of the works ahead of back filling where the situation is considered an emergency (i.e. if relevant action is not taken, there will be adverse health, safety, security or environmental consequences that in the reasonable opinion of the undertaker would outweigh the adverse effects to the public of taking that action).</i> 	<p>PCC received a copy of a method statement for works at Farlington Playing Fields as part of an updated FMPRI on 12 February 2021. It is understood that it is also to be submitted to the ExA and its currently being reviewed by the Council as noted above.</p>
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			<p><i>Temporary drainage will be provided during construction if pitches still in use are indirectly affected by interruption or damage to the drainage system.</i></p> <p>In respect of the further SI works planned at Farlington Playing Fields, pitch surveys were undertaken on 20-21st January 2021 with a report due to the Applicant by 5th February 2021. The Applicant will provide the updated Framework Management Plan and a Method Statement to PCC by 12th February and this will be submitted into the Examination."</p>	
SE2.15.1	Applicant Portsmouth City Council	<p>What progress has been made with regards to agreeing the reinstatement of the car park at Fort Cumberland?</p> <p>Would the car park be fully re-surfaced and marked out, and, if so, in what timeframe?</p> <p>What proportion of capacity would be lost, and how would the loss of car parking be compensated?</p> <p>If a reinstatement method statement is being prepared for Farlington Playing Fields, should a similar document be prepared for Fort Cumberland Car Park as opposed to using a s106 agreement as proposed by the Applicant?</p>	<p>RESPONSE FROM APPLICANT: "Discussions are currently on-going between the Applicant and PCC, with the Applicant having submitted a proposed car park layout and surface specification to PCC prior to Deadline 7 for comment</p> <p>Car parking spaces are not currently marked in Fort Cumberland Road Car Park with Drawing AQ-UK-DCO-TR-LAY-006 included in Appendix 6 (document reference 7.4.3.6) of this document showing that up to 106 cars could be accommodated within the car park with full use of the central area. The proposed layout for the car park shown on Drawing AQ-UK-DCO-TR-LAY-007 included in Appendix 6, parking capacity for 109 cars whilst taking account of the ORS building and access to the SINC.</p> <p>The Applicant understands it is PCC's preference to the access road for the car park to consist of a tarmacked surface and the car parking spaces to be constructed of an open cell concrete such a Grasscrete.</p> <p>The carpark would need to be reinstated following completion of the works (OOCEMP REP6-036, Rev006) includes measures at 5.12.6.1 and 5.12.4.4.</p> <p>A draft Section 106 Agreement with PCC has been submitted at Deadline 7 (document reference 7.5.26) which includes provision for a specification to be submitted to PCC for resurfacing of the Fort Cumberland car park. The specification will include a method statement and the estimated programme for resurfacing works. The draft Section 106 requires the undertaker to carry out the car parking resurfacing works in accordance with the approved specification prior to the operation of the Proposed Development."</p>	<p>As noted in the main PCC submission at deadline 7c the Council does not believe the Applicant has appropriately assessed the impacts of the loss of capacity at the Fort Cumberland car park.</p> <p>PCC is working with the Applicant to agree the number of lost car parking spaces in consequence of the proposed works. Reinstatement principles will also be agreed and documented either in Methods of Working Schedule (to be appended to the private treaty agreement being negotiated on a Without Prejudice basis) or in the proposed draft s.106.</p>

SE2.15.3	Applicant	<p>Who will be responsible for confirming that the Applicant's reinstatement measures at the various playing fields and sports pitches affected by the Proposed Development have been completed satisfactorily?</p> <p>If any defects are claimed, what will be the mechanism for agreeing them and, if necessary, putting them right?</p>	<p>RESPONSE FROM APPLICANT:</p> <p>"The landowner will be responsible for confirming reinstatement has been completed. There are mechanisms in the Onshore Outline Construction Environmental Management Plan (REP6-036, Rev006), dDCO (REP6-015) and Section 106 agreement for Applicant to correct any defects identified by the landowner. Pitch surveys are being undertaken to confirm existing quality and land drainage and will inform standard of reinstatement.</p> <p>The Onshore Outline Construction Environmental Management Plan (REP6-036, Rev006), paragraph 6.2.3.1 bullet points 15 to 17 states that there will be the <i>"prompt reinstatement of temporary construction areas (including trenches, laydown and construction (including haul road) corridor on completion of the cable route installation as soon as practicable after sections of work are complete. Reinstatement would involve the careful handling of soils and a return to the existing habitat type."</i></p> <p>Paragraph 1.2.2.13 also states that <i>"should remedial actions become necessary following soil reinstatement, these shall be undertaken as agreed prior to handover back to the landowner"</i>. Provisions for reinstatement of land drainage at Farlington Fields are also made at 6.8.2.1.</p> <p>As set out above in response to WQ DCO2.5.10 the Applicant has submitted a draft section 106 with PCC which contains an obligation on the undertaker to submit a detailed Recreational Management Plan to the Council for approval prior to commencement. The Recreational Management Plan must be in accordance with the FMPRI and it would contain specific details relating to the delivery of pitch reinstatement and realignment works which would need to be approved by the Council prior to Commencement. If the works were not carried out in accordance with the approved details, the undertaker would be in breach of a section 106 obligation.</p> <p>In respect of the University of Portsmouth playing fields, the OOCEMP has been updated at Deadline 7 (REP6-036, Rev 006) to include the following paragraph at 6.2.9.11:</p> <p><i>A detailed method statement will be prepared and agreed with the University of Portsmouth prior to works to the University Pitches within the redline boundary. The method statement will comprise arrangement of temporary works, reinstatement and programme.</i></p> <p>Compliance with the OOCEMP is secured by</p>	<p>PCC has shared with the Applicant a draft Method of Working Schedule which will have site specific reinstatement requirements (including for Farlington Playing Fields) and will need to be appended to any private treaty agreement (or S.106 agreement) with appropriate considerations for resourcing within the Local Authority.</p>
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			<p>Requirement 15 of the dDCO (REP6-015). It is also relevant to note that:</p> <ul style="list-style-type: none"> • requirement 22 also secures the restoration of land temporarily used for construction, which further makes the matter subject to enforcement; and <p>requirement 9 (Biodiversity management plan) was updated at Deadline 6 to include an additional clause requiring “.....details of a scheme for the reinstatement of land used as temporary compounds during construction and any replacement planting to replace removed sections of hedgerow or removed trees.” ”</p>	
TT2.16.1	Applicant	<p>On page 5-93 of [REP2-013], the Applicant stated that a Road Safety Audit should be completed. The ExA has not seen this to date, only a Road Safety Technical Note [REP6-071]. When will such an Audit be produced and submitted to the Examination?</p> <p>Will the safety audit be prepared by independent consultants?</p> <p>At this time, can the Applicant set out, with reasons, why it appears that different methods have been applied with regard to assessing accidents and road safety along the onshore cable corridor and the wider study area?</p>	<p>RESPONSE FROM APPLICANT:</p> <ul style="list-style-type: none"> • The Applicant has recently commissioned a Road Safety Audit, which has been undertaken by independent consultants, and submitted in draft to HCC as the highway authority on 20 January 2021. The scope of the Audit includes the following: <ul style="list-style-type: none"> ○ Proposed passing places on Day Lane (as set out in REP6-073) ○ Proposed junction upgrade at the junction of Day Lane / Broadway Lane (as set out in REP1-142); and ○ Traffic management proposals for the management of HGV traffic accessing the Converter Station (as set out in REP6-073 which is also being updated and resubmitted at Deadline 7). • Accidents and Safety in respect to road traffic for both the Onshore Cable Corridor and the wider study area are assessed in the Supplementary Transport Assessment (STA) (REP1- 142), and within the Environmental Statement Addendum (REP1-139). <p>Additional Road Safety Technical Notes for both the local road network under the jurisdiction of Portsmouth City Council (PCC) (REP6-071) and Hampshire County Council (HCC) (REP6-075) were also completed in response to requests from the Local Highway Authorities and to deal with specific concerns raised during the course of the Examination.</p> <p>Portsmouth City Council specifically requested further consideration be given to the road safety implications of increased congestion and traffic queues either on the Onshore Cable Corridor or identified diversion routes in paragraph 5.6.16 of their Local Impact Report (REP1-173) and thus the Road Safety Note (REP6-071) was</p>	<p>PCC consider that the road safety note (REP6-071) provided by the Applicant to consider safety implications on the local road network does not consider likely impacts or mitigation for such impact on minor roads not included within the traffic model (SRTM). This was a matter raised at a meeting between PCC and the Applicant's agent WSP on 21st January 2021 at which agreement was reached that the FTMS / TCTMP would need to be modified to make provision for the assessment of impact on those roads in the section specific CTMPs together with a menu of intervention types which may be required to mitigate those.</p> <p>It remains the PCC position that the development of these section specific CTMPs including interventions to mitigate construction impacts should have been provided by this stage having been informed by early contractor involvement and are necessary to reasonably inform the examination and determination of the DCO.</p>

			<p>completed to address this request. This assessed the road safety implications of increased queue lengths at junctions on the Onshore Cable Corridor and wider study area and at traffic management locations, while separately considering the impact of increased traffic flow on highwaylinks separately to ensure a robust assessment of all impacts associated with construction of the Onshore Cable Route.</p> <p>Hampshire County Council in their Deadline 5 submission (REP5-080) stated that no evidence had been provided by the Applicant of the road safety implications associated increases in traffic flows on links resulting from traffic diverting away from the Onshore Cable Corridor and thus the Road Safety Note (REP6-075) was completed to address this comment.</p>	
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