

TEXT_Aquind_OFH3_Session1_19022021

Fri, 2/19 10:49AM • 36:35

00:08

Good morning ladies and gentlemen, and welcome to this open floor hearing for the examination of the application for the Aquind interconnector nationally significant infrastructure project.

00:18

Can I check with the case team, you can hear me and that the recording has started.

00:24

Good morning Mr. Mahon can hear you loud and clear, and the recording has started. Thank you. Thank you, Mr. Jones.

00:32

Could we ask that all participants please remain on mute unless they're invited to speak? And we would also ask you to keep your cameras switched off whilst you're not speaking.

00:42

Hi, I'm Andrew Mahon. And I was appointed on the 12th of February 2020. Under Section 65 of the Planning Act, 2008, under delegation from the Secretary of State, as the lead member of a panel to examine this application,

00:57

I have a background in ecology and environmental impact assessment. And I'm a chartered environmentalist and a chartered landscape architect.

01:06

My fellow panel members were appointed on the same date. And I'll ask them to introduce themselves starting with Mr. Wallis.

01:14

Good morning, everyone. My name is David Wallis. I'm a chartered member of the royal Town Planning Institute. And I have academic qualifications in environmental planning. And now hand over to Mr. Roscoe.

01:27

Good morning. I'm Stephen Roscoe. I have a background in engineering and development and I'm a chartered civil engineer.

01:35

Thank you both. And our planning Inspectorate colleagues working with us this morning, are Hefin Jones, the case manager and our two case officers Jake Stephens and Katie O'Loan.

01:48

You'll find information and documents produced to the examination on the planning Inspectorate national infrastructure website.

01:55

Rule eight letter of the 11th of January 2021 includes the web address.

02:02

This hearing has been held on Microsoft Teams, but note that the chat function is not in operation today. So should you wish to make an urgent comment, you can use the hand up function. Though Please be advised there may be a delay before we see it. And please wait to be invited to speak.

02:19

Any telephone participants should clearly state their name if they wish to make an urgent comment. But again, please wait to be invited before making your contribution.

02:29

Please speak loudly and clearly when you are making submissions, especially if you're using a telephone.

02:36

The applicant has arranged for the hearing to be live streamed on the website of production 78. The chat function on the production 78 webpage is not in use.

02:48

If you participate in this hearing, it is very important that you understand that you will be recorded and live streamed and that the digital recording with subtitles will be published. It will be made available on the project page of the national infrastructure website that I referred to earlier.

03:07

The planning Inspectorate to practice is to retain the recordings for a period of five years from the Secretary of State's decision on the development consent order.

03:16

Because the digital recording is retained and published, it forms a public record that can contain your personal information, and to which the general data protection regulation applies.

03:29

To avoid the need to edit the recordings, please do not provide information that should be kept private and confidential.

03:37

By way of example, this may include addresses details of your home that would make it identifiable personal finance, financial matters, or medical conditions.

03:49

If there is no alternative to the disclosure of such information, we will agree a process to enable it to be made available without it forming part of the public record.

03:59

The normal way to do this will be for you to make a general oral submission today, but to include any private and confidential information in a written document later.

04:09

Whilst that would also need to be published, it can be redacted before publication.

04:16

So I'm moving on to agenda item two, which are the arrangements for the open floor hearing.

04:24

This open floor hearing has been held to hear matters from parties that are affected persons as a result of the applicants inclusion of additional land in the order limits, which we will refer to as change request one and change request to

04:40

it as an opportunity for those persons to make submissions to the examination and also for the examining authority to ask any questions should their eyes

04:51

speakers have the opportunity to provide us with a written summary of their oral submission, together with any supporting evidence or references to documents that they quote?

05:00

By deadline as on the examination timetable, which is Monday, the first of March 2021.

05:08

Now as in previous open floor hearings, you will be allowed five minutes speaking time.

05:14

If you bring up matters which are not relevant to the examination, we may interject and ask you to move on to your next point.

05:22

The applicant will be invited to respond to the points that are made before we close the hearing or in writing by deadline eight. And can I ask who is representing the applicant at this hearing please?

05:37

The IP on behalf of the applicant, Simon Bird Queen's Council instructed by Herbert Smith Freehill together with Mr. Martin Jarvis of Herbert Smith Freehills. And we have with us today and part of the team is Marita Boden, the landscape lead. Ian Ellis, ecology lead.

05:58

And Mr Alan O'Sullivan the band acquisition lead. Thank you.

06:02

Thank you, Mr. Berg.

06:04

And I'm now going to hand over to Mr. Wallis for agenda item three.

06:09

Thank you very much, Mr. Mahon. Agenda item three is just to confirm those who have notified the examining authority have a wish to be heard at the open floor hearing. I have requests today from Mr. Jeffrey Carpenter and Mr. Peter Carpenter. And then Mr. Henry Brice is also in the room. Mr. Brice, could you just confirm your participation in this hearing, please?

06:35

Yes,

06:36

I'd like to speak.

06:40

Okay, thank you. Thank you very much.

06:43

Okay, then moving on to agenda item for all submissions from interested parties.

06:51

Let's start with Mr. Jeffrey Carpenter, would you like to take the floor and you're

06:58

here your representation please,

07:01

I'm going to speak on behalf of Carpenter who's in the room. And these are his words.

07:08

Stone acre copse means more to me and my entire family and they can ever mean to Aquind. I scattered my father's ashes in this copse, as we would never have wanted to leave the farm which was given to him by his father. His work lived off this land for most of his life. Obviously, having such a close and personal connection, I would never want to be able to not visit his final resting place. His family has been owned by my family since 1939. Aquind are planning to encroach upon his or her home with all the noise dustless disruption this because we have absolutely no faith and I think that concessional does, as it amply demonstrates our dealings with constant last minute changes always in their favour in getting its profits and bottom line have always been more important than the small family farm the quiet rural part of Hampshire, adjacent to the South Downs.

08:00

ever since I first involvement they have threatened compulsory purchase of the opportunity. At no point have they openly considered abusers landowners. We have tried to discuss taste the scheme alternatives. However, they tell you that these alternatives do not work. Why do they not tie this to our sisters while they're not telling this to us? They're not talking to us. Or they say into us that these alternatives do not work. But they do not explain mine.

08:28

Having had a massive life changing stroke in 2015. The farm in its surroundings offers a quiet environment, being a daily source of pleasure enjoyment. Watching the young or young grandchildren enjoy the freedom of painstaking the films and cops learn in the country ways as I did, and daily walking off on the dog. Enjoy the simple pleasures of listening to the many birds in the peace and quiet has aided in their full way my continued recovery, physically and mentally. This can never be replaced and valid. When it's gone, it's gone. We never invested time we've not found our family farm to enjoy

09:06

with the written the heart of our family, at least give them the decency to keep as much as we feasibly do not meet that we are not worth more wanted. There have been unscrupulous and underhanded in the way they've handled matters in our opinion, and avoid even outside of our farm. And for that it's costing us a small fortune, you know an ordinary family having to pay money, to fight for our rights to keep on and to constantly until then and amendments that we'd have to pay specifies this to help us understand what that thing actually wants to do. That these documents are not in a way that ordinary late people who understand this focus is so Aquind is forcing us to pay for advice, so we can understand what is going on. This is completely unfair. I know that our sisters and barristers have asked for Aquind to make their documents clearer for ordinary people to find this information. While this has been more

10:01

Watch this except that I'm doing it constantly. Deadlines amendment video calls me for sisters, there's not ask for any of this. Stone acre copse is an ancient woodland. And as such the owners the ownership and management to stay with my family who care for it. Not some company has no personal connection history with it. The Wildlife within the woodland, which returns year on year includes deer,

badgers, owls, red kites, common mammals, like foxes and rabbits, along with the seasonal better play possum of garlic, where the family cherishes woodland,

10:36

and will take far better care of it and advocate, the untold stress that this has caused and through no fault of our own is immense. It has taken over our lives in a very unpleasant way. And when this project has been completed, we will have to live with the consequences when everyone else has moved on. Please remember that your decision affects our lives in a house. I want to consent that whatever personal medical details are given in my statement may be made public.

11:03

Thank you.

11:05

Thank you very much for that. That's

11:09

well understood. I appreciate that final sentence there in your speech. I just like to confirm obviously, there was some personal details, very personal details within there. Do we have your express consent to keep that in the recording? And therefore as part of the public record, please?

11:29

Okay, thank you very much. Thank you for confirming that. I have no further questions. I've understood your position there. I don't believe any of my colleagues have any further questions. So I'd therefore just like to ask if the applicant wishes to respond to those matters now, or whether they wish to respond in writing later on. Mr. Bird.

11:51

So I think the majority of the points which have been raised have already been addressed in our deadlines, seven response and to the extent that we need to add more will do so deadline eight. So I will just touch on the kind of the sensitive family issue in relation to stone acre copse. And just point out that as far as the family's access to stone acre copse is concerned the rights which Aquind are seeking would not prevent that. I can ask Mr. Martin Jarvis to give further explanation of that. But

12:20

I think that would be useful just to make it clear to those listening please.

12:28

Mr. Jarvis?

12:31

Yes, it is the case that the landscaping rights that are sought for woodland management over this area do not prevent access.

12:40

Albeit, I would also just need to consider how the area would be accessed from the

12:47

affected parties property. But I do concerned that the applicant is amenable to ensuring the access can be provided for them to visit the area for in the event the rights are acquired over it. And we'll continue to look to negotiate with the affected party to secure that position with them by way of voluntary agreement. Thank you. So

13:09

thank you very much.

13:12

Although I appreciate it, come maybe come as news to Mr. Bryce. Is that something that you'd like to comment back on now or put in writing later?

13:26

later.

13:29

Okay, thank you very much. And thank you for your contribution there. And now we'd like to call Mr. Peter Carpenter to come and we'd like to hear your representation sir.

13:44

Peter Carpenter.

13:46

I would like to strongly object to compulsory rights being acquired on stone acre copse. Stone acre copse is of significant importance to my family and I there is a special place we enjoy as a family, a safe place for my grandchildren to play rides, ponies, and enjoy the countryside. The resting place of my father in the centre of sorry, except the rest of us my father in a central farm. He worked most of his life. The woodland is beautiful. With a bed of bluebells and wild garlic. I can manage this woodland better than any corporation company who don't care for the land. I know how to deal with ash dieback. I have offered to deal with it and to work with Aquind, my solicitors have already submitted this offer through the examination. But Aquind has remained silent. Not one word. Why? That feels like they are not willing to hear about the alternatives we've put forward. Why are they not talking to us about this? Why can't they explain their position? The grandchildren use the woodland

15:00

as part of their circular arriving routine, which allows them to ride their horses without the need to go on roads. This will be lost if accurate, take overlap or land even the limited service of access. Accurate has taken us scared the horses will require veterinary and blacksmiths attention.

15:22

Anytime we lose would have direct impact on the use of the retained land. We already were already sure grazing and turnout for the horses and livestock. We do not have enough land in for the winter food and bedding. We have to change our farming practice due to the threat of compulsory purchase. It has stopped me from farming the holding as effectively as so efficiently.

15:53

As we do not know when the land will be taken. I bought extra land in 2010 to expand the farming business. Now Aquind will be taking the heart of our farm out ever since Aquind's first contact in 2017. They have started. Yet they have started that this time next year, we will take your land, this constant threat and worry has impacted on my mental health. I know the examining authority plans to come and view foreign property to gain a better understanding of the impact that is going to have on my family and I my family has worked on this land for 18 years. Everything I do is for our family, I put my entire working life into the fitness farm and 60. I'm too old to attain or change career

16:53

Aquind compulsory taking on my land, my business and livelihood for their own capital gain. We want our farm

17:05

we want to farm our land. We do not want to stress and worry

17:12

if the scheme has to go ahead, giving us adequate compensation to buy another farm locally. So we can remain close to our children and grandchildren and continue to farm. As we have done our allies. We own them the most important site of this script for this scheme to work yet.

17:36

We have not had any communications with accurate for many months, other than a barrage of constantly changing information, which is published on the planning inspectors website.

17:48

We and our lawyers have had to read 1000s of pages of information to know what was happening on our farm.

17:59

We have had to spend life savings saved for retirement to afford representations at this decision inquiry to try to keep as much of our farm as possible, we have lived under constant threat for four years. with little or no information from the applicant. The agent is rude and doesn't give a damn about the impact on my family. every stage we have, we have threatened with compulsory purchase, never have they taken on board our views or try to reach any form of agreement with us. Unless it is solely on their terms, they will rely on compulsory purchase.

18:47

They are trying

18:50

to strong arming us into submission. This fulfil behaviour should not be accepted. And landowners should be supported by the Secretary of State, Aquind should not get away with this aggressive behaviour. This scheme is going to change mine and my family's life for considerable worse, I hope that you can take into consideration the impact that your recommendations will have on me and my home, my family and the rest of my life, as well as keeping the heart in the countryside. Thank you.

19:31

Thank you very much, Mr. Carpenter. Appreciate the position that you're in and your comments there. Once again, there were some comments of a personal nature as I expected. If I could just have your confirmation that you give express consent for that to remain in the recording. And on the public record, please. Yes.

19:52

Thank you very much. I have no further questions for you. I don't believe my colleagues have therefore I just like to

20:00

Refer to the applicant. Is there anything you wish to respond to at this time, Mr. Bird?

20:07

Again,

20:09

the majority of the issues are responded to in our deadline seven responses. If I could just set the stage that Aquind does not accept the characterization of the content of the discussions in negotiations with the Carpenters that set out in our deadline seven response, but I would want to make this point that accurate was expressed, instructed by the Carpenters' solicitors not to contact the Carpenters directly, and for all communications to go through this.

20:42

Thank you very much, Mr. Bird. Thank you. There's anything further you wish to say, Mr. Carpenter that you haven't already said?

20:50

No, thank you.

20:54

Thank you very much. Does anyone have any final points of order they need to be made now? rather than as a written submission? Following this hearing?

21:08

Mr. Brice, you're on screen now.

21:12

Ready for to speak.

21:16

Okay, in which case, Mr. Brice, would you like to address this now, please?

21:25

Good morning. I'm a partner of Ian Judd and partners. We serve as barriers and mandated pastors in South Hampshire. We act on behalf of patron Jeffrey Carpenter. What other affected landowners have totally mistaken for him and as an appropriate forum for professional review with the applicant's approach. After having also provide my expert evidence on the fundamentally flawed evaluation gap, seeker compensation and estate supply negotiations. I will not repeat those here. I have been a professional contact for the Carpenters for the last four to five years in relation to what is happening on the ground and well-paced evidence the absence of up and taking any reasonable steps or exploring all reasonable alternatives to compulsory acquisition. And also it's useful enough to believe now to want to acquire rights over static costs. I have been the one that Carpenters have cooled multiple times per week for the last four years to voice their stress, stresses and concerns about this project is having a major impact on their wellbeing

22:26

I also want to witness firsthand outfits behaviour plans, and therefore for purposes of efficiency would like to address three key matters. One,

22:38

the applicant's addition of stone acre copse within the DCO without any prior notification engagement with the landowner. Two, the fact that 96% of effective landowners 49 out of 51 do not agreed on three terms, three Aquind's lack of communication, respect or awareness of the impact the scheme was having. And the constant threat of CPR is happening with landowners.

23:05

One stone acre copse. The applicant stated a few years ago that didn't want to acquire stone acre copse. I'm surprised that five months into the statutory examination period means to acquire rights on that extra land outside of the red line and beyond the limits. The most disappointed that standard cuts hidden are proposed to be created within the DCO learning meeting with documentation. Mr. Sullivan before the submission of the DCO, he himself made it clear to us that he did not want to apply a stone acre copse tool as he had no need for it, in particular, because it's crucial would attract additional management costs to the developer. Yep, the view was that the copse was ancient woodland and the landowners can't remove it, and therefore why would you want to pay for it? This approach supported by the landowners as a cultural special sentiment to them as a special place in the northwest and basically father's assets, subsequently and somewhat surprisingly, most recent in December 2020. Yep. without informing the landowner in advance revised its plan and no one can acquire the rights over this special place to manage the woodland, which they proved they expressly did not want

24:15

this special edge of significant importance for banners. I do not wish to be altered by the applicant. Yep, he did not make any contact me about this. There's been absolutely no discussion with me overland in his tone of voice and posture position in relation to specific jobs since the publication of its requested change, not even explain to anyone why they did not try to engage with us in the first place to avoid their actions has been zero effort by accident to make any attempt to find a white spot agreement. And yet again, if they no attempt to reach agreement, that contempt for I sold them compulsory purchase rights as if they're entitled to use them as a first resort rather than around last resort. As a result

25:00

learners have been forced to continue to object to DCO, incurring the expense of their formal objections

25:06

Point two. Aquind have failed to reach voluntary to tap into felica rich volatility with 96% of effective landowners. Statement of reasons tables Appendix C table two which was amended at deadline seven confirms that despite the lack of allged negotiation with landowners not buyers, only 251 effective landowners or close to the breeder heads of terms and for single option is yet to be completed as 96% of affected landowners have by the evidence not signed up to terms already offered. Given the nature the terms this only the only negotiable term is consideration value, and as such 96 cents of willing sellers but the point is not sufficient. I conclude that the

25:50

Misvalued the land acquisition costs. Point three atmosphere to explore all these alternatives to composter position. Beyond the monetary cost is the emotional cost of the cost and service scheme. Aquind's communication has been terrible. at every opportunity accusations such as compulsory purchase happened to using scare tactics with one impression of me and the Carpenters and thrown around for fear to have set up into terms which substantially undervalue the land. Using thought evidence and spread to the market value of telecommunications also seems to Scott Evans is rude and contemptuous, and shows no understanding or care about the impact this scheme is going to have on the London's affected. He's also either deliberately mischaracterizing my client's case or does not understand it in its presentation to be accepted. At no time ever, I can approach my clients for me to ever discuss alternatives to acquisition

26:44

or to or to include temporary rights to reinstate my clients farm off their construction to enable them to continue their farming activity that is within the farm.

26:56

In reality, the Carpenter losing their family home and 80 years, the access roads within 60 metres of Mr. Carter's caravan, the stress and total proportion purchase forced upon do not respond to communication for many, many months, they sent draft heads of terms without any explanation and engagement. As to why these terms have been proposed. They rely on effective use of tax preparers to take surveys without any real attempt to first reach agreement with a Calvinist on medical terms. For example, on the 14th of September,

27:28

they sent me a graph access licence, the attorney gave 24 hours notice before serving

27:35

notice under this stuff, the powers

27:38

that can be used and still on tactics and act as if they already have these steps are counted but do not happen to trying to scare the counters by behaving as if they already have the DCR in the back. Up in somehow in TOEFL hate this way.

27:53

They know that farmers and laypeople do not know the first thing about how a DCA works. And this is why the columns have been forced to spend a lot of money engaged in lawyers help them make sense of why they've been treated like this

28:05

happened by the former landowners to sell part of the land for less than it's worth for their own profits and willingness to communicate with the landowners legal profession representative to try and move matters forward. Inclusion

28:19

has not paid outstanding fees they refuse to take into the PHP set to rely on compulsory purchase powers. Yet they pay lip service to the exam authority and fund HIPAA the Secretary of State into believing they have tried to buy land and rights by agreement which they clearly have failed to do. So

28:36

I'd like to conclude with this. Well, this external authority turned a blind eye to eye behaviour or they please properly scrutinise what scrutinise what, Jeff, repeat myself are saying today to stop these bully tactics. Proper engagement needs to be sought as soon as possible with the carpenters without the constant threat from policy process, every state.

28:59

Thank you very much, Mr. Price. That was a very succinct

29:03

statement there. Thank you for that. I don't have any questions for you. I don't believe my colleagues have at the moment, therefore refer back to the applicant. Mr. Bird, do you have any comments to raise?

29:18

there? Again, I think the majority of the issues are covered in the deadline seven responses to the extent that we need to say more we'll deal with that deadline eight but I will ask Mr. Jarvis just to clarify

the extent of the rights being sought overstay naked cops, and then perhaps also refer to Mr. Anna no Southern to see whether he has anything he wants to say in response to what he's just heard. Thanks, sir. Thank you very much, Mr. Jarvis. Good morning, sir. And I would just clarify that the applicant is not seeking to compulsorily acquire stone apricot, the applicant seeking to compulsorily acquire rights only over stoning cops for its management to be managed in accordance with a woodland management plan.

30:00

So as to ensure its future viability of the woodland in light of ash die back. Again, I would just repeat the point made by Mr. Bird with regards to contact which is that all contact has to be through solicitors which it has been because of the request by the affected parties solicitors for the same.

30:19

I will now ask Mr. O'Sullivan to respond to the points raised by Mr. Price. Thank you, sir.

30:25

Thank you very much, Mr. Sullivan.

30:29

Thank you, sorry, and good morning.

30:33

Again, I'm the comments I'll make now they will make some references to the points made a deadline seven. And but I'll try not to have too much repetition. So I'm at deadline seven, there were a number of further submissions made by Blake Morgan on behalf of

30:51

Mr. Jeffrey and Peter carpenter. And, again, I do not intend on providing a detailed response to the points raised in those submissions now as the applicant has already set them out and responses provided at

31:04

a deadline seven c rep C, rep seven c dash 014. And would however, like to highlight a number of points and again, heads of terms were first sent to the affected party on the ninth of March 2017. And the submissions made on behalf of the affected party acknowledge that revised heads of terms have been sent to the affected party in a number of occasions. For the avoidance of doubt, the applicant has provided heads of terms on the following dates ninth of March 20 1717 to December 20 1716, to December 20 1815, to November 20 1819, to November 2019, third of November 2020, and the 21st of January 2021.

31:51

The affected party claim that each time revised heads of terms have been provided these constitute a new set of heads of terms and require them to start their consideration again, the fact that heads of terms have been updated to reflect amendments to the scheme as a result of ongoing consultation and

include including reflect feedback received from the affected party themselves, such as in relation to the siting of the attenuation pond, it's not unusual, and it's not something which affects the occupants case.

32:21

It's also worth noting as mentioned by

32:25

both Mr. Byrd and Mr. Jarvis that the affected party solicitor has requested that negotiations are taken forward between themselves and Herbert Smith Freehills. acting on behalf of the applicant and all documentation and discussions was to go through them rather than the heads of terms continuing to be negotiated to land agents as would normally be the case in which

32:48

the normal manner in which discussions proceed.

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And in response to this, the applicant solicitor has regularly requested updates from the affected parties solicitor including requests for meetings to take place to discuss the heads of terms and these requests were made on 30th November

33:11

18 November

33:13

20 22nd of December 2024 to December 2020 and seventh of January 2021.

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Today's the affected parties solicitors have not agreed to any meetings to discuss the heads of terms

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and it was only on the 12th of January 2021 that the affected parties. solicitors responded to the applicant stating that the parties are still far apart to the number of points and the heads of terms, particular issues raised where the extent of the land and rights source and the scope of the DCO and CPO powers.

33:49

In response to this, the applicant confirmed that land and rights

33:54

which the seeking to acquire is the land and rights that are required for the proposed development. And simply it could not construct and operate the proposed development without such land rights. And therefore the extent of the land and rights to be acquired was not a matter which remained open to negotiation at this late stage.

34:16

Just in relation to Mr. Brice's comment about

34:22

his party not receiving notification in relation to stone acre copse.

34:28

The heads of terms which were sent to the effect of property solicitors on the third of November 2020. it explicitly referenced the fact that an easement was being sold over stone acre copse, and again, it just referenced a significant presence of the ash dieback disease and local area.

34:52

And I think that's all for me at the moment, sir. And then again, if there's any other queries, I'm happy to pick them up. Okay.

35:00

Thank you very much, Mr. Sullivan. Thank you for that. And Mr. Brice, although I don't necessarily want to get into a tit for tat sort of approach. I'd be welcome to hear if you've got any further views on that. Yeah, I don't intend to

35:16

leave that to the afternoon. I would just like to make the point. There's a big difference between sending a set of heads of terms and then discussing and negotiating with us. There's been

35:30

over the five years very little discussion, more often than not, it is the applicant dictating terms.

35:42

Okay, thank you very much. Thank you. Mr. Bryson. thank you to both Mr. Jeffrey, Mr. Peter Carpenter for your contributions today. That's much appreciated. I have no further requests to speak on this in which case I will now move to agenda item five for the close of the hearing. The next formal deadline is deadline eight on the first of March 2021. And therefore written summaries of today's all submissions will be welcomed by the examiner authority by that date. Thank you for your contributions to this hearing. There is the compulsory acquisition hearing coming up later today. And we will see you then. Thank you very much. This open floor hearing is now closed.