



**AQUIND Limited**

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## **AQUIND INTERCONNECTOR**

**Deadline 9 Schedule of Changes to the Draft  
Development Consent Order and the  
Applicant's Position**

The Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and Procedure)

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**DOCUMENT: 7.3.10**

**DATE: 05 MARCH 2021**

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## DOCUMENT

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**AQUIND INTERCONNECTOR**

**SCHEDULE OF CHANGES PROPOSED TO THE DRAFT DCO AT DEADLINE 8 BY  
INTERESTED PARTIES AND THE APPLICANT'S POSITION IN RELATION TO THOSE  
PROPOSED CHANGES**

1. **INTRODUCTION**

- 1.1 On 14 November 2019, AQUIND Limited (the ‘**Applicant**’) submitted an application for the AQUIND Interconnector Order (the ‘**Order**’) pursuant to section 37 of the Planning Act 2008 (as amended) (the ‘**Act**’) to the Secretary of State (‘**SoS**’) (the ‘**Application**’).
- 1.2 The Application was accepted by the Planning Inspectorate (‘**PINS**’) on 12 December 2019, with the examination of the Application commencing on 8 September 2020.
- 1.3 This document sets out the proposed changes to the dDCO submitted at Deadline 8 of the Examination requested by the host local planning authorities and highway authorities and other interested parties and the Applicant’s response to those.
- 1.4 Responses are provided by reference to the individual submissions of the relevant interested parties, as this is considered to be the clearest manner in which to explain the position.

2. **PORTSMOUTH CITY COUNCIL**

- 2.1 The Applicant has reviewed Appendix 6 of Portsmouth City Council’s Deadline 8 submission detailing Portsmouth City Council’s comments in respect of the dDCO articles and requirements. The Applicant notes that no new points were raised in this submission which responded to the Applicant’s previous comments provided to Portsmouth City Council in draft in advance of Deadline 8 and therefore it has not been necessary to provide a further response.

3. **MR GEOFFREY AND MR PETER CARPENTER**

- 3.1 The Applicant has also reviewed the draft DCO submitted by Blake Morgan LLP on behalf of Mr Geoffrey and Mr Peter Carpenter (the ‘**AP**’) (REP8-105) and the revised protective provisions (REP8-108).
- 3.2 The Applicant notes these documents are amended in light of the AP’s position in respect of the commercial telecommunications use of the fibre optic cables and their position in relation to the compulsory acquisition of land in their ownership and the development proposed to be located thereon. The Examining Authority will be aware of the Applicant’s position on these matters, and that the Applicant and the AP are not in agreement.
- 3.3 The Applicant does not agree with the amendments proposed to the draft DCO, and further as is explained in the Applicant’s schedule of requested changes to the draft Development Consent Order and the Applicant’s Position in relation to those (REP8-028) the inclusion of the protective provisions requested by the AP would create a position whereby the Proposed Development could not be delivered, because it could not be operated safely without the required permanent Access Road. Furthermore, by seeking to remove land which is required for landscaping and drainage in particular, all of which measures are essential in connection with the Proposed Development to provide necessary drainage measures and landscape mitigations, the Proposed Development could not be drained or landscaped as is necessary. The effect of the protective provisions would therefore be to frustrate the Proposed Development coming forward. A DCO made with the protective provisions requested by the Affected Party would therefore not be capable of sound implementation.
- 3.4 The Applicant notes that various points are also raised in relation to the consideration of reasonable alternatives within REP8-108. The Applicant’s position with regard to the exploration of all reasonable alternatives to compulsory acquisition in accordance with paragraph 8 of the Guidance related to the procedures for the compulsory acquisition of land (Sept 2013, DCLG) in respect of the Proposed Development on land in the ownership of the AP is addressed in section 2 to the Applicant’s response to the submissions of the AP submitted at Deadline 9 (document reference: 7.9.51).

4. **SCHEDULE OF CHANGES REQUESTED BY HAMPSHIRE COUNTY COUNCIL () AND THE APPLICANT’S POSITION**

Relevant provision of the dDCO	Change Requested	Applicant’s Position
Requirement 6(5)	Requirement 6 was requested in previous responses and discussion to be amended to reflect the additional design detail which the Highway Authority require to be prepared in order to approve the proposed cable details and joint bay locations. This has been agreed with the applicant and wording has been provided under requirement 6(5). The Highway Authority considers that reference to certain highway apparatus such as street lighting is missing from the drafting and it is understood that this is to be addressed by the applicant prior to the Deadline 8 submission of the dDCO. The Highway Authority has not had sight of the final dDCO to be able to confirm that this is acceptable.	A new requirement 6(5) was included in the draft DCO submitted at Deadline 8 (REP8- 004) which requires that the construction of any phase of Work No.4 which is located on the highway until written details relevant to that phase have been submitted to an approved by the relevant highway authority. With the list of written details that are required to be provided, limb (f) is “ <i>existing apparatus, including drainage apparatus and street lighting</i> ”. It should be noted that “ <i>apparatus</i> ” is a defined term in Article 2 of the Order, meaning “ <i>unless otherwise provided for, has the same meaning as in Part 3 of the 1991 Act</i> ”. The use of term apparatus within Part III of NRSWA 1991 is very broad, being referable to pipes, ducts, cables and other apparatus within a street whether below, on or above ground. It is also confirmed that this includes any sewer, drain or tunnel (section 89(3)) and any structure for the lodging of apparatus or for the gaining of access to apparatus (section 105(1)). Accordingly, the Applicant considers it has addressed this matter in the draft DCO submitted at Deadline 8.
Article 9A	The Highway Authority is not satisfied with the use of the term “emergency” with regards requirement 9(a) 2(d). The requirement should make reference to the definition of ‘immediate’ not ‘emergency’ as set out in the New Road and Street Works Act 1991 (NRSWA). For clarity under NRSWA there are three definitions for works: <ul style="list-style-type: none"> <li>• Emergency – Threat to life or property</li> <li>• Urgent – reconnect customer out of service.</li> <li>• Immediate – combined term to cover both ‘Emergency’ and ‘Urgent’ work.</li> </ul> The amended draft DCO (dDCO) in circulation ahead of Deadline 8 made the required amendment to Article 9a (d).	It is confirmed Article 9A(2)(d) of the draft DCO submitted at Deadline included reference to immediate works in place of emergency works.  Article 9A(7) was included which defined the term immediate works by reference to emergency works as that term is defined in section 52 of the 1991 Act and urgent works as that term is defined in regulation 3(1) of the Street Works (Registers, Notices, Directions and Designations) (England) Regulations 2007.  It is therefore understood this matter is resolved.

Relevant provision of the dDCO	Change Requested	Applicant's Position
Article 12	<p>Item 3.12 of the ISH4 hearing agenda discussed the applicant's proposed disapplication of Section 58 of NRSWA which would otherwise prevent statutory undertakers from carrying out works for a period of time on those parts of the highway which have been affected by the AQUIND works. The Highway Authority has subsequently set out its position in a Post Hearing Note submitted to the Examining Authority on the 26th February and which can also be found in Appendix 2. This requests amendments to the drafting of the dDCO to ensure that the permit scheme can allow the application of S58a on the works undertaken by Aquind. This has been deemed acceptable by the applicant and amendments have been made in the Framework Traffic Management Strategy (FTMS) under section 2.7.1.2.</p>	<p>To clarify, the Applicant has discussed the disapplication of sections 58 and 58A of the NRSWA 1991 and explained that the disapplication means the Undertaker would not be subject to any moratoria so as to ensure the timely delivery of the authorised development, but that the disapplication does not in any way prevent the highway authority issuing a notice which is to take effect following the authorised development being constructed. It is understood from an exchange of correspondence with the highway authority on 1/03/2021 that this is agreed.</p> <p>Separately, the Applicant has agreed that where works are undertaken on streets subject to an extant restriction on works following substantial road works full or half carriageway reinstatement will be undertaken as agreed with the highway authority.</p> <p>It is therefore understood that both of these matters are resolved.</p>
Requirement 17	<p>The applicant has agreed to include wording at Requirement 17 to require a Construction Traffic Management Plan (CTMP) to be submitted and approved by the Highway Authority prior to any works at Work No.2 (including Work No. 2 (bb)). This will enable the Highway Authority to consider in full the access proposals in this regard and agree the management of works that are required in order to accommodate the safe vehicular access to the site. The proposed wording is as follows:</p> <p><i>"The construction of any phase of Work No. 2 (bb) and the undertaking of Onshore Site Preparation Works in connection with Work No.2 must not begin for the purposes of section 155(1) of the 2008 Act until a construction traffic management plan (in accordance with the framework construction traffic management plan) relating to those works has been submitted to and approved by the relevant highway authority."</i></p> <p>This will also allow the Highway Authority to properly consider the impacts of the use of the access for construction traffic if approved on the public right of way network and ensure any necessary closures are in place.</p>	<p>Requirement 17 was revised in the draft DCO submitted at Deadline 8 (REP8-004) to include a new sub-paragraph (1) which states as follows:</p> <p><i>(1) The construction of any phase of Work No. 2 (bb) and the undertaking of any onshore site preparation works in connection with Work No.2 prior to construction of Work No.2 (bb) must not begin for the purposes of section 155(1) of the 2008 Act until a construction traffic management plan (in accordance with the framework construction traffic management plan) relating to that those works been submitted to and approved by the relevant highway authority.</i></p> <p>This wording, being a further revision of the Applicant's proposed wording included in HCC's representation, was shared with HCC on 28/02/2021 and is slightly amended to relate to onshore site preparation works in so far as they are undertaken before the Work No.2 (bb) is constructed (so in so far as they relate to the use of the Broadway Farm Access). This is appropriate. It is not necessary for a CTMP to be approved for all onshore site preparation works given the levels of traffic associated with this where they use the Work No.2 (bb) access, and it is noted no request has been made to amend what is now requirement 17(2) to require this to also be in relation to onshore site preparation works.</p>
Requirement 18	<p>Requirement 18 relates to the hours of construction of the project. Regrettably it has not been possible to agree wording with the Applicant to address the Highway Authority's concerns relating to its ability to direct out-of-hours working. This matter has been identified in the Post Hearing Note submitted to the ExA within the County Council's written summary of oral submissions to ISH5.</p>	<p>Requirement 18 was updated in the draft DCO submitted at Deadline 8 (REP8-004) in response to HCC's request to allow directions to be given where it is sound to do so.</p> <p>As has been explained, the Applicant is accepting of HCC's request for directions to be provided and they will be accommodated, but only in so far as they do not cause impacts which fall outside the scope of the residual likely significant environmental impacts reported in the environmental statement. The Applicant does not consider it can be ensured environmental impacts outside the scope of those assessed will not occur unless this has been evidenced to be the case.</p> <p>The Applicant has very carefully considered if any further amendments may be made to the wording and particularly whether removing the words "by the relevant highway authority" after the word "evidenced" would assist, but the burden of proof will always be on the persons issuing the direction (the relevant highway authority and the relevant environmental health officer) so it is not considered it would do. This would also make the position less clear, which is not a benefit.</p> <p>The Applicant has provided further comments on this matter in the Schedule of changes proposed to the DCO and the Applicant's position in relation to those submitted at Deadline 8 (REP8-028). Further comment is also provided in the Applicant's Response to Deadline 8 Submissions of other parties (document reference 7.9.49).</p> <p>In summary the Applicant's position remains that directions may be issued but only in so far as they do not give rise to impacts which are worse than the residual effects identified in the ES and on which the Application is to be determined.</p>
Requirement 21	<p>Requirement 21 relates to the preparation and approval of a Travel Plan. The Travel Plan should be approved by the Highway Authority and this has been amended in the current draft that the applicant shared with the Highway Authority prior to Deadline 8.</p>	<p>Requirement 21 was updated at Deadline 8 to confirm the travel plan will be submitted to and approved by the relevant highway authority.</p>

Relevant provision of the dDCO	Change Requested	Applicant's Position
Additional Restriction	<p>The Highway Authority agrees with the representations made by Winchester City Council and others that seeks a requirement to cover the uncertainty about the relevant equivalent consents being forthcoming from the French side of the project. A suitably worded requirement is therefore sought within the dDCO which prevents works being commenced on the UK side unless, and until the approvals set under section 9 of the Statement of Reasons have been obtained by the applicant and evidenced to the local planning authorities and relevant highway authorities.</p>	<p>For the reasons previously explained this is not agreed to. The Applicant has submitted further information on 23 February 2021 in relation to regulatory approvals and French consents (AS-069).</p> <p>As is evident from the information contained therein, the planning and permitting regime in France is complex and subject to examination by a range of institutions and administrative bodies at local, regional and national level. Further, it is clear the Applicant has undertaken the relevant processes to progress the necessary pre-application consultation requirements since 2017, gaining favourable feedback in this regard, and has also initiated the necessary processes to obtain the consents required to construct the Project as is appropriate at the current time. The process for obtaining the consents in France has been purposefully timed to run in parallel with the consenting processes in the UK, so as to seek to ensure the Project wide required consents are obtained in reasonable proximity to one another.</p> <p>Whilst it is the case that all consents required for the Project to be constructed in France have not been obtained at this time, the Applicant has demonstrated the pathway it is following to secure those consents and that there is a reasonable prospect of the relevant applications being successful within a reasonable timeframe. It is not necessary for such a restriction to be included in the DCO.</p> <p>Further information with regard to the Applicant's position is also located at paragraphs 5.10 – 5.13 of the Applicant's written summary of the oral case at Issue Specific Hearing 4 (AS-065).</p>

5. SCHEDULE OF CHANGES REQUESTED BY HAMPSHIRE COUNTY COUNCIL (REP8-081) AND THE APPLICANT'S POSITION

Relevant provision of the dDCO	Change Requested	Applicant's Position
Requirement 7, 8 and 9	<p>The Aquind Interconnector is a complicated proposal dealing with a number of sites where landscaping issues of varying degrees need to be addressed. Using the extensive knowledge of both writing and enforcing conditions, the Council has made details comments on the requirements over a number of deadlines. At the recent meeting, it was apparent that the applicant does not wish to remodel R7, 8 and 9. However, it was agreed that the Explanatory Memorandum would be reviewed to add to it the clarifications that were part of the paper proposed by the applicant as REP7c-013.</p> <p>Whilst the applicant has expressed a reject of the additional requirements proposed by the Council, it is hoped that they will utilise the opportunity presented by Deadline 9 to engage in the consideration of those new requirements and work to formulate them in a way that would enable those new requirements to work if the ExA decides to adopt them. Such an approach by the applicant is not consider any different to the "without prejudice" position that the Council has adopted in its work on the dDCO.</p> <p>In conclusion, the applicant needs to address the absence of detail in the Explanatory Memorandum and the shortfalls in the requirements listed above in terms of the trigger dates. Both actions are necessary to ensure that the proposed requirements meet the relevant tests.</p>	<p>Updates were made to the Explanatory Memorandum submitted at Deadline 8 (REP8-004) in relation to these requirements, as was considered appropriate taking into account the responses previously provided by the Applicant in relation to the comments provided by WCC.</p> <p>In particular, the updates made confirm the landscaping plans to be approved pursuant to requirement 7 will include the timetable for implementation, the management, maintenance and monitoring plans and prescriptions and the management responsibilities. All of these matters are very clearly secured by the requirement itself (see the list of matters required to be included in a landscaping scheme at 7(2)).</p> <p>It is not agreed there are any shortfalls in the requirements. They very clearly detail what must be provided and what needs to be accorded with. It is inevitable that there is a lot of detail which sits behind these requirements, which is detail contained in the OLBS. It is therefore necessary to look to the OLBS in the future when approving the detailed landscaping schemes. This is an entirely appropriate and precise approach to ensuring a range of complex matters are secured through the requirements, which themselves have been drafted to be clear to interpret.</p> <p>The Applicant sees no merit at Deadline 9 of seeking to further comment on the Council's alternative approach. The requirements have been drafted to relate to the control documents that the details to be approved must accord with. Furthermore, the specific information on the timetable for implementation etc. is subject matter that must be agreed in the plan taking into account the measures proposed.</p> <p>The Applicant is content with the form of the three requirements which together ensure a comprehensive set of landscaping and biodiversity protection measures are provided as is necessary in connection with the delivery and operation of the Proposed Development.</p> <p>It is also noted that the Council has otherwise commented it is agreed the requirements would remain as proposed.</p>

Relevant provision of the dDCO	Change Requested	Applicant's Position
Articles 40 and 41	<p>The issue of replanting applies to both Article 40 &amp; 41 but from a slightly different perspective. In Article 40 there is no reference to a replanting provision. In Article 41 the applicant has specifically excluded it.</p> <p>It is the desire of the Council to see a reference in both Articles to replacement planting in the event that the operator returns to a section of the cable route which bisects a hedge and finds it necessary to remove a part of the hedge to gain access to the land or dig down to expose a section of the cable.</p> <p>The potential for a failure that requires the removal of vegetation and excavations is remote, but it still exists. As proposed, the decision of replanting a hedge or filling in the resultant gap with a section of fencing would be left up to the landowner. That would not be an acceptable solution to fill any of the gaps formed during the installation of the cables and there is no justifiable reason why it should be accepted in the future. Of the 7 hedgerows crossed by the cable route within the district, 5 are identified as important hedgerows from an ecological perspective. The remaining two on Anmore Road and Hambledon Road are open to full public view and locations where landscape impact considerations feature strongly. There are therefore compelling reasons why any return to undertake maintenance/repair work should not result in a reduction in the landscape features or character.</p> <p>On the basis the applicant does not wish to see the replacement-planting obligation included in either Article, the Council requests that the ExA include it in the dDCO.</p> <p>The Council believes that the applicant must be seeking to retain some future interest in the condition of these hedgerows, otherwise how will it maintain the embargo on planting trees over the cable circuits that it has referred to in the application. Accordingly the replanting provision is fully justified and achievable within the powers of the DCO.</p>	<p>As the Council identifies, the need to remove any vegetation in the future will be remote. Despite what is stated by the Council, the Applicant has confirmed that it is not the case that it will seek to re-excavate sections of the cables or ducts. The specification of the materials to be used are very resilient. They are designed not to fail. In the very remote circumstance that they do, where a cable failure occurs the cable will be pulled and replaced from a joint bay. The rights to be acquired will ensure access is retained to areas where joint bays are located for in the event of failure. It is not anticipated that it would be necessary to remove vegetation to access those. Further, planting will be restricted over the cables, as is identified in the OOCEMP where it is clearly stated at paragraph 5.3.4.3 "<i>Where features are to be removed, consideration for replanting with like for like species in the locality is required. Hedgerow trees will require repositioning to at least 5 m away from the Onshore Cable Route within the Order Limits. Mitigation may also be achieved by appropriate compensatory tree planting within the locality</i>". As such, there will not be vegetation over the cables that needs to be removed in the future. At Hambledon Road HDD is to be used as the method of installation, thereby largely avoiding hedgerow removal. There will never be any excavation of a section of cables installed via HDD, and therefore no future hedgerow loss as a result.</p> <p>In summary the 'risk' of removal identified by the Council over-estimates any potential future removal. This is therefore not a matter which needs to be specifically addressed in the articles of the DCO or otherwise. As has been explained previously, in the very rare circumstances where any vegetation removal is necessary in the future (with it not being permitted otherwise), the position in respect of compensation/re-planting will be agreed with the landowner.</p> <p>The Applicant will ensure there will be no tree planting over the cables in the future by exercising the property rights it is to acquire which restrict this.</p> <p>No amendment is made to the DCO in this regard.</p>
Requirement 3	<p>The applicant says this not appropriate location to inset sequence obligation, Council would be happy for it to go in at some more appropriate place. The concept of informing the LPA of the sequence of work for the cross country section or that on road has merit. Esso pipeline has such a requirement.</p>	<p>As the Applicant has explained, WCC will be aware of when works are being undertaken and the manner in which they are to be undertaken. It is not considered necessary to secure this by way of a requirement as WCC suggest. The Applicant also notes that requirement 3 of the Southampton to London Pipeline Order is non-binding (i.e. the phasing plan is indicative). Again, taking into account the nature of the scheme and the constraints applying to when works may be undertaken, it is not considered appropriate to include for an indicative phasing plan, or that this would provide any genuine benefit.</p>
Requirement 4	<p>Since the submission of its Local Impact Report (REP1-183) the Council has been clear on its preference for micro siting option B(ii) and its concerns over option B(i).</p> <p>The applicant has also expressed a desire to implement B(ii) over B(i) and indicated the negotiations to achieve this outcome would be completed by the end of the Examination. At this time those negotiations are still outstanding. The Council does not wish to see the dDCO go forward with the two options but wishes the ExA to strike out option B(i). Accordingly, requirement 4 needs revising to reflect this. The following wording is offered but the Council will accept any alternative that achieves the same outcome:</p> <p><i>For the avoidance of any doubt, the Converter Station shall only be constructed in accordance with the perimeter area that is referred to as option B(ii) on the converter station and telecommunications building parameter plan drawing number EN020022-2.6-PARA-Sheet 3 rev02 as listed in Schedule 7 to the Order.</i></p>	<p>The Applicant and NGET have now agreed heads of terms in relation to the land rights required over Plot 1-27, The parties expect that an Option Agreement will be drafted and agreed within 4-6 weeks. The Applicant confirms it will provide updates in relation to this matter following the close of the examination, including where requested to do so by the ExA or the SoS.</p>
Requirement 6	<p>Differences over requirement 6 are resolved with some further adjustments proposed by both parties.</p> <p>The applicant will replace the reference to carrying out onshore preparatory work/ site clearance in 6(1).</p> <p>The reference in the list in 6(1) will refer to foundation design and not just piling</p> <p>The applicant will introduce the prohibition on additional lighting</p> <p>The Council no longer promotes the use of sub headings</p>	<p>All of the requested amendments were included in the draft DCO submitted at Deadline 8 (REP8-004)</p>

Relevant provision of the dDCO	Change Requested	Applicant's Position
Requirement 7	<p>It was agreed that this requirement would remain as proposed.</p> <p>The applicant will add further text to the Explanatory Memorandum to assist in the full understanding of the scope of this requirement.</p>	<p>Further explanatory text was added to the Explanatory Memorandum submitted at Deadline 8 (REP8-006) in response to this request.</p>
Requirement 8	<p>It was agreed that this requirement would remain as proposed.</p> <p>The Council accepted the retention of this requirement that focused solely on R7.</p> <p>Drawing on the comments made in the response document REP7c-013, the applicant agreed to address the issue of the implementation and maintenance of planting resulting from other requirements as this was absent at present.</p> <p>Drawing on the comments made in the response document REP7c-013, the applicant will add further text to the Explanatory Memorandum to assist in the full understanding of the scope of this requirement.</p>	<p>The Applicant does not agree the issue of the implementation and maintenance of planting resulting from other requirements was absent, though has included text to clarify the position in relation to Requirement 9 following a request from WCC. Further text was added to the Explanatory Memorandum submitted at Deadline 8 in respect of Requirements 7 and 9. It was not considered there was a need to amend the explanation of Requirement 8, which already clearly set out that Requirement 8 requires that that all landscaping works must be carried out in accordance with any detailed landscaping scheme approved under requirement 7.</p>
Requirement 10	<p>The applicant confirmed that the requirement would be edited to include the role reversal as discussed at the hearing. The submission will be to the relevant planning authority and the highway authority will be the consultee.</p>	<p>This amendment was included in the draft DCO submitted at Deadline 8 (REP8-004).</p>
Requirement 10	<p>The Council drew attention to the fact that the trigger for requirement 10 (Highway Accesses) related to commencement which meant that the works listed under onshore site preparation works (which included the removal of vegetation) could be undertaken before any details had been submitted and approved. The potential therefore existed for features to be lost before there was any consideration of their removal.</p> <p>During the consideration of the second part of this item the Council sought a clarification of whether the scope of works to be included under the S278 agreement. Would this be extended to cover other access work?</p>	<p>A construction environment management plan is required for all works, including onshore site preparation works, before those works are undertaken. Accordingly, a CEMP is required for all vegetation removal irrespective of Requirement 10. There is no need for Requirement 10 to be revised to capture matters which will already be addressed in accordance with Requirement 15. Furthermore, the highway accesses may not be constructed until details for them are approved and minor works agreements entered into in relation to them. All necessary controls in relation to their delivery, and any vegetation removal in connection with this, are therefore clearly provided for.</p> <p>No amendments are required to the DCO in this regard.</p>
Requirement 15	<p>The applicant has agreed to reverse the ordering of 15(2) and 15(3), which offers a better flow to the requirement.</p>	<p>This amendment was included in the draft DCO submitted at Deadline 8 (REP8-004).</p>
Requirement 24	<p>It has been the Council's view that this requirement as currently drafted is flawed, because the trigger that will start the submission process is too vague and uncertain.</p> <p>In an effort to simplify matters, The Council is now putting forward the following alternative to paragraph 24 (1) above which would now state:</p> <p style="text-align: center;"><i>Within 12 months of the date when the Converter Station ceases to import or export any electricity on a commercial basis <b>and unless agreed otherwise with the local planning authority</b>, the undertaker must submit a written scheme of decommissioning and restoration for that part of the scheme lying within its area.</i></p> <p>The text shown above in red is an attempt to address a concern of the applicant that the Converter Station may go into a period of dormancy to then emerge and recommence operations.</p> <p>The applicant has been in discussion with the Council on a revision to R24. There was a possibility of a new version being submitted but those discussions have not produced a more suitable alternative to date.</p>	<p>The Applicant has genuinely sought to address the comments of the Council and proposed a new form of requirement 24 shortly before the submission of the draft DCO at Deadline 8. The Council declined to pass comment on the proposed revised form of requirement, despite this providing a much clearer trigger for when decommissioning would be required. The Applicant has nonetheless included the revised form of Requirement 24 in the draft DCO submitted at Deadline 8 (REP8-004)</p>
Additional Requirement	<p>A requirement for a decommissioning bond is requested.</p> <p>This is a new requirement to ensure there is the financial backup if for whatever reason the owners go into receivership/liquidation and cannot fund the decommissioning requirement. The Council has listened to the financial data relating to the applicant which if correct shows they have little resources behind them as a company. In the event the scheme is funded by money raised on the money market then presumably those financiers will expect a return which could mean the financial condition of the applicant does not improve over the life of the scheme. This would be different if the scheme was being promoted by a well-established company with a proven record or clear assets behind it.</p>	<p>As previously explained, the Applicant is not agreeable to a decommissioning bond being provided as this is not considered necessary to mitigate the effects of the Proposed Development and therefore this has not been included.</p> <p>In reaching this conclusion the Applicant has considered other projects of similar scale and complexity for which a DCO has been made and notes that, so far as it is aware, none are subject to the need to provide a decommissioning bond.</p> <p>So far as the Applicant is aware, the types of projects which are usually subject to such requirements are nuclear power stations and landfills, reflecting the long term contamination</p>

Relevant provision of the dDCO	Change Requested	Applicant's Position
	<p>Therefore, there are genuine questions if the applicant has the resources to undertake the decommissioning of the Converter Station. Whilst this may not be a normal requirement, this situation with a location in the open countryside and the close proximity to the National Park does justify its inclusion for the reasons outlined above. Even after 40 years it is still expected that the presence of the building will be an effect on landscape character. When the use ceases, to be left with a potentially derelict building and site in such a prominent location which at the time is no longer contributing to the wider economic benefit of the country as a whole is not acceptable.</p> <p>The applicant is invited at deadline 9 to assist in setting the sum that should be secured in the form of a bond as the Council appreciates that the £60ml figure above is only a guide figure taken from construction contracts and highway bonds. In the event that the applicant does not offer any figure then the ExA is invited to refine this sum if it is felt necessary.</p>	<p>liabilities associated with those. These are not a matter relevant to the Proposed Development, or indeed a matter which falls within the remit of the Planning Act 2008 regime.</p> <p>It should also be noted that the authorised development is not temporary development. That it has a design life of 40 years does not mean it will be removed in 40 years' time, and the Applicant has never advanced a position that it would do so.</p> <p>Further, a decommissioning requirement is included (discussed above) and the Undertaker and any funder would be well aware of this, and that to not comply with the requirement would be a criminal offence. As such, it will be necessary for the costs for decommissioning to be factored as a future potential liability.</p>
Additional Requirement	<p>A requirement restricting the commencement of the authorised development until all French consents have been obtained is requested.</p> <p>This would be a new Grampian style requirement. The Council has listened at both sets of hearings to the discussions on the applicant's financial situation and whether obtaining the necessary consents and approval on the European side are simple or complicated. This requirement is considered to cut through any concerns relating to both of those issues and is presented as a sensible way forward.</p> <p>The Council is aware of the more recent submission entitled Post Hearing Note in respect of the non UK planning Consent &amp; approvals required in connection with Aquind Interconnector doc ref 7.9.48 dated 23 February 2021. The Council invites the applicant to propose any more relevant referencing than the one used by the Council above.</p>	<p>For the reasons previously explained this is not agreed to. The Applicant has submitted further information on 23 February 2021 in relation to regulatory approvals and French consents (AS-069).</p> <p>As is evident from the information contained therein, the planning and permitting regime in France is complex and subject to examination by a range of institutions and administrative bodies at local, regional and national level. Further, it is clear the Applicant has undertaken the relevant processes to progress the necessary pre-application consultation requirements since 2017, gaining favourable feedback in this regard, and has also initiated the necessary processes to obtain the consents required to construct the Project as is appropriate at the current time. The process for obtaining the consents in France has been purposefully timed to run in parallel with the consenting processes in the UK, so as to seek to ensure the Project wide required consents are obtained in reasonable proximity to one another.</p> <p>Whilst it is the case that not all consents required for the Project to be constructed in France have been obtained at this time, the Applicant has demonstrated the pathway it is following to secure those consents and that there is a reasonable prospect of the relevant applications being successful within a reasonable timeframe. It is not necessary for such a restriction to be included in the DCO.</p> <p>Further information with regard to the Applicant's position is also located at paragraphs 5.10 – 5.13 of the Applicant's written summary of the oral case at Issue Specific Hearing 4 (AS-065).</p>

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