From:
To: Aquind Interconnector
Cc:
Subject: Response from Portsmouth City Council to the further comments from the Applicant at the request of the SoS
Date: 30 September 2021 20:16:53
Attachments: PCC comments re 2nd SoS Request for Further Info from Applicant - September 2021.pdf

Dear Sirs,

Please find attached the response from Portsmouth City Council to the further comments from the Applicant dated 16th September, in respect of the invitation of the Secretary of State of 17th September 2021.

Should I be able to provide any assistance please do let me know.

Yours faithfully

Ian Maguire
Assistant Director, Planning and Economic Growth

Portsmouth City Council
Civic Offices Guildhall Square
Portsmouth PO1 2AY

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Portsmouth
CITY COUNCIL

Ian Maguire
Assistant Director Planning
& Economic Growth
Floor 4, Core 2-4
Guildhall Square
Portsmouth
PO1 2AL

@portsmouthcc.gov.uk

Our Ref: 2021930
Date: 30/09/2021

Via email to
aquind@planninginspectorate.gov.uk

FAO the Planning Inspectorate

Dear Sirs,

RE: Comments from Portsmouth City Council as an Interested Party on the responses to the Secretary of State's 2 September 2021 request to the Applicant in respect of Application by AQUIND Limited for an Order granting Development Consent for the AQUIND Interconnector Project.

We write further to the Secretary of State's invitation dated 17 September 2021 for comments on the Applicant's response to his requests for further information in a letter dated 2 September 2021 ('the Second Information Request'). This of course followed the Secretary of State's first request for information from the Applicant in a letter dated 13 July 2021 ('the First Information Request') and the Interested Parties Please find herein the response to that invitation of Portsmouth City Council ['PCC' or 'The Council'] set out below:

1. Compulsory Acquisition – Comments on specific matters raised in Aquind's response of 16 September 2021

1.1 Despite the clear request in the Secretary of State's First Information Request for the Applicant to provide a version of the draft Development Consent Order (DCO) "excluding those elements which relate to commercial telecommunication" (ie the commercial fibre optic cable ('FOC') elements) and to address how these changes might "affect the compulsory purchase provisions" it was evident to the Council that the Applicant had contrived to maintain that, despite the admitted consequence of reducing the requirement for an optical regeneration station ('ORS') by 2/3, that still meant that the same amount of space and land needed for such was somehow the same and indeed that 2 buildings were still needed as well. The Council considered there was no or no adequate explanation and justification. Similar issues applied to the Applicant's contentions with regard to the complete removal of

the telecommunications building at the northern end of the scheme. The Secretary of State clearly recognised this failure on the part of the Applicant's and has provided a further opportunity to the Applicant to explain why despite these evident anomalies through the Second Information Request.

1.2 The Council will focus upon the Applicant's submissions in respect of the Applicant's further attempts to justify the same amount of land being required for an ORS despite the consequence of the exclusion of the commercial FOC. The Council notes again the continued assertion by the Applicant that, although the size of the ORS (which is described most often as a single station) is "*dictated by the quantity and size of amplification and FOC equipment inside"* (5.5.2.5 of the of the Design and Access Statement (REP8-012)) the ORS would have to be separately housed and in two separate ORS buildings not even a single building . This is despite the fact that there is evidence submitted to the examination of other electricity interconnectors of similar scale (also with more than one set of cables and circuits) not requiring similar satellite installations.

1.3 The Council notes that the Applicant have never addressed this latter point and that, given the admitted reduction in the extent of the ORS facility that would be justified, the Applicant's assertion that two buildings would be necessary for the reduced optical signal strength required for the non-commercial FOC elements is highly questionable.

1.4 The Council considers that the Applicant is trying to avoid the actual consequence of the commercial FOC elements being excluded from the project, which the Council has in principle always considered should be so. The Council also considers that the justification requested by the Secretary of State of the Applicant for the Compulsory Acquisition of the land still said to be required for the ORS, namely that it must be both necessary and as a last resort, has not been met.

1.5 In its attempts retrospectively to seek to find ways to justify the scale of the land sought for the ORS (even in the absence of the commercial FOC) the Council notes that at para 2.19 of its response of 16 September, the Applicant cites the "*UK Fire Safety Regulations* [sic], *namely the Control of Pollution (Oil Storage) (England) Regulations 2001*" ('the 2001 Regulations') and asserts that in order to "*comply with*" these regulations the *" fuel storage tanks"* should be *"located 2m away from the ORS buildings"* as well as the perimeter fence.

1.6 The Council has read the 2001 Regulations carefully. These were brought about through the exercise of the Secretary of State's powers pursuant to sections 92 and 219(2) of the Water Resources Act 1991 and which are quite clearly concerned with preventing water pollution not fire safety. The 2001 Regulations also make no reference to a 2-metre separation distance let alone a 2-metre fire gap.

Guidance on complying with fire regulations for commercial fuel storage can be gained through liaison with the fire service and no record of seeking any such guidance has been provided.

1.7 The Council considers that this error is telling. The Applicant has it seems not only failed to refer to the correct regulations but such discrepancies signal more fundamental issues with the Applicant's approach. Objectively the above calls into question the wider claims made by the Applicant about the feasibility or otherwise of a reduction in land required for permanent acquisition, despite the significant reduction in required capacity of the ORS that would arise. By extension, the explanation at para 2.20 of the Applicant's Second Information Request response that a 10 metre ' separation distance between the "*individual ORS buildings"* is required in order "*to maintain the independence of the fibre optic cables in each HVDC cable circuit, providing greater Resilience"* in the face of various suggested failures or events is also entirely vague and wholly unjustified. In the Council's view the 10m gap is suspiciously arbitrary.

1.8 Further, at para 2.21 of its response the Applicant refers to an 8-metre separation distance "*between the rear of the enclosure for each diesel generator and north perimeter fence*" (or north-western boundary) needing to be maintained. This is said to be "*necessary to minimise the risk of falling trees* [sic] *striking any of the buildings and equipment within the ORS compound*. This claim however is directly undermined by the alternative 2-metre separation distance option to the north-eastern and south-western boundaries shown by the Applicant in the *'Response to Secretary of State Consultation of 2 September - 2.10 Alternative Indicative Optical Regeneration Station(s) Elevations and Floor Plan*. This apparently necessary 8m separation distance within the compound is also wholly undermined by the fact that there is in fact only one small tree in the vicinity of the Fort Cumberland carpark (an Ash tree) which due to its scale and location would be unable to create such a risk. This small tree can be seen in the applicants indicative ORS Landscape Mitigation Plan included within their most recent submission, and it is scarcely credible that this tree could somehow result in the justification for providing a compound effectively twice the size it would otherwise have had to be if it had not included an unjustified, undeveloped area 8m deep and 35m wide within its boundary fence.

1.9 These inconsistencies and questionable assertions in relation to separation distances between the two versions of the ORS related aspect of the scheme (ie with and without the commercial FOC elements) give rise to troubling questions about the credibility of the Applicant's response in relation to ORS technical matters as well as the reliability of the evidence being provided by the Applicant and the expertise of those who drafted it or provided the analysis.

1.10 The above referenced issues , particularly in relation to the purportedly necessary separation distances, as well as the unanswered question as to why this interconnector requires a separate ORS and one that is housed in 2 buildings where others (which are even longer) appear to require neither clearly leads to a further question. Even if an ORS, in the absence of the commercial FOC elements, is required the Applicant still has not adequately explained why the equipment for both cable circuits could not be reconfigured and housed within a single building.

1.11 The reasons given by the Applicant for still needing two separate ORS buildings (which in turn lead to the contrivance of an extended area for the non-commercial related ORS) are vague as set out above. In addition the Applicant has not demonstrated that a single ORS building with appropriate internal compartmentalisation for the equipment of each circuit could not be achieved, most especially in light of the acknowledged reduction requirement

of equipment which would otherwise be proposed by 2/3. A single building could obviously reduce land-take and visual impact.

1.12 As a clear illustration of the Applicant's attempts to find a way to avoid a reduction in landtake and Order Land the Secretary of State is asked to consider the fact that despite a reduction in plan area of 63.5% to the ORS buildings, as measured from the Applicant's latest drawings submitted with its response of 16 September ("Response to Secretary of State Consultation of 2 September - 2.11 Alternative Optical Regeneration Station(s) Parameter Plan"), the reduction in the ORS compound area and overall permanent land-take has only reduced by a minimal extent.

1.13 In light of the foregoing concerns raised in respect of purported basis for 'necessary' separation distances for fuel tanks, Portsmouth City Council also queries why the Applicant has not considered positioning the fuel tanks further south within the compound in light of the reduced ORS building footprints. This would again reduce the overall permanent acquisition of land. This the Applicant should be obliged to do in order to prove that the full extent of land is required and CA is a last resort.

1..14 In relation the Applicant's claimed need for an 8-metre separation from the northern fence to the ORS equipment to protect against falling trees or rather a single tree, PCC would reiterate that the Applicant was clearly content with a 2-metre separation distance in its earlier representation at response Ref: REP1-008. In addition the Council considers that, if it truly is a threat, the Applicant could have designed its scheme to place the ORS further from the single established Ash tree.

2. Materiality of Changes in the Absence of Commercial FOCs

2.1 At paras 5.30-5.31 of Aquind's Second Response to the Secretary of State they anticipate commentary from Interested Parties in relation to the materiality of changes as a consequence of the exclusion of the commercial FOC elements from the scheme and the DCO. PCC has set out its views by reference to the relevant Government guidance set out in the letter of Bob Neil of 28 November 2011 ('the 2011 Guidance') which as the Secretary of State will be aware followed on from the conclusions of Jan Bessell as lead Inspector for the Covanta DCO when changes to a building as part of that scheme had been sought. The Applicant in that case, again as the Secretary of State will know, decided to withdraw the DCO in light of the Inspector's assessment.

2.2 Aquind seeks to ignore the 2011 Guidance, which in fact deals specifically with s114 of the Planning Act 2008 and the Secretary of State's powers to grant a DCO and in different terms to that applied for but instead refers to *Inspectors Advice Note 16* and the *DCLG Guidance on Changes to*

Development Consent Orders. The former of course relates to changes sought by Applicants **during the course of the examination** and does not deal with the circumstances here where the Secretary of State is clearly considering his own powers following an examination. The latter specifically relates to the procedures for making a change to a DCO **after it has been granted** and ***"****covers the two types of change that may be made to a Development Consent Order (****non-material or material****) and the procedures for making such changes****".*** These procedures which are encapsulated in regulations (namely *The Infrastructure Planning (Changes to, and Revocation of, Development Consent Orders) Regulations 2011* ('the DCO Change Regulations') also clearly allow for the Secretary of State to refuse to allow such an application.

2.3 The DCO Change Regulations set out specific procedures to be followed by Applicants when they seek to make either form of change. PCC notes that nevertheless Aquind seeks to rely upon the guidance provided to Applicants in choosing the relevant process (whatever the nature of the change) as being relevant to the matter in hand. This is misplaced. The relevant approach for the Secretary of State to take as a matter of law is that set out by PCC in its letter of 12 August 2021 and taking into account the 2011 Guidance which is the most closely directed at post examination changes to a potential DCO following the ExA's report.

2.4 Before returning to the materiality aspects PCC wishes to highlight and take issue with the Applicant's characterisation of alleged adequacy of 'consultation' it argues took place during the examination in para 5.31 of its response to the Second Information Request.

2.5 There was in fact **no consultation** on the potential removal of the commercial telecommunications development during the Examination, there were only submissions on the topic. There were by contrast requests for changes made by the Applicant **during** the Examination which resulted in actual formal consultation exercises being carried out, even where those changes were reductions in Order limits. Those changes could then be considered within the Examination with the ability for Affected Persons (and Interested Parties) to present concerns orally at hearings, if facilitated by the Examining Authority. Affected Persons and Interested Parties have had no such equal opportunity, if the Secretary of State was to grant the DCO with these further changes. There is of course no opportunity for the Secretary of State to reopen the examination and explore the concerns which might be raised following a proper consultation as they can during the Examination. As such, it is clear that the potential for parties to be prejudiced by any changes made out with the Examination and which PCC submits would, lead to a potential breach of Article 6 of the European Convention on Human Rights (ECHR). This is

reflected precisely in the 2011 Guidance on page 2 which confirms the limitations on making changes to DCO applications.

2.6 The 2011 Guidance also clearly refers to the guidance derived from the *Wheatcroft* case, which essentially requires that anyone affected by amended proposal must have a fair opportunity to have their views heard and properly taken into account regarding them. As PCC stated in its response of 12 August 2021 and in previous submissions to the ExA the time for considering an amendment to the DCO to omit the commercial fibre optic cables, absent the issue of the materiality of that change, was at a relevant point during the examination and if necessary to seek an extension to the time allowed for the examination to allow for time to consider these changes. The Secretary of State's power under s114 is in PCC's submission duly constrained by what took place during the examination and what the ExA has been able to report upon.

2.7 PCC has commented on the appropriateness of relying upon the 2015 DCLG guidance in respect of applications for material and non material changes of a confirmed DCO but to the extent that the Secretary of State does have regard to it PCC agrees that with the Applicant at para 5.19 of its response that the guidance does not purport to list exhaustively the matters which are indicative of material changes. The judgement is for the decision-maker in the given circumstances.

2.8 PCC notes the DCLG guidance suggests that impacts upon local people and businesses are key, to which the Applicant however takes the opportunity at para 5.26 of its response to suggest that the loss of the *"considerable benefits of the commercial telecommunications use*" of the FOCs to local people and business is an important and relevant factor in deciding whether such a change is material. While any such 'benefits' are unquantified in the applicants submission this statement certainly glosses over in PCC's view of the real and material detriment to the general public through land-take in any form at Fort Cumberland and the specific, material impact to the Carpenters' business interests that the inclusion of the commercial FOCs would have.

2.9 The Applicant's position on materiality is plainly linked to its arguments about the 'considerable' commercial benefits of the commercial FOCs and to its submissions in relation to avoiding any measures which prohibit future use for commercial FOCs if they were to be excluded. This in turn is reflected in its insistence that it must acquire Plot 1-32 permanently; in PCC's view the Applicant is nakedly seeking to reserve itself a future option to capitalise on FOCs commercially, even if the requisite rights are not granted as part of any DCO the Secretary of State might make as a consequence of this current application. The common theme is that the prospect of commercial telecommunications FOCs which have been 'inserted' into this electricity

interconnector development has become the tail that wags the dog in this DCO scheme.

2.10 Equally, the Applicant's urgent insistence that the suggested changes to the scheme, removing the commercial FOC elements, would not be material and therefore mean the DCO could still be made does not bear scrutiny and is simply not credible.

2.11 The Council considers that it is through sheer blind refusal to adjust the unnecessary and unjustified scale of land acquisition included in the DCO as currently promoted that the Applicant attempts to make a case that the amendments to the scheme as a consequence of the removal of the commercial FOCs are not material. Any sensible consideration of the appropriate and necessary change in scale of the permanent ORS building and compound within Portsmouth together with the removal entirely of the telecommunications building(s) at Lovedean must lead to a conclusion that the proposal to remove those elements leads to a materially different scheme to that sought by the Applicant in its application. PCC does not repeat but would refer the Secretary of State to section 2 of its response to him of 12 August 2021 which also addresses these points.

3. Requirement Avoiding Exclusion of Commercial Fibre Optic Telecommunications Use.

3.1 The Council notes that the Applicant in its response at paras 5.36 – 5.40 is resistant to a requirement, in any amended DCO which removes the commercial FOC, which would limit the use of any fibre optic cables laid to be confined to facilitating the operational use of the electricity interconnector. The reason given by the Applicant, at para 5.39 of their response, is that such a requirement would subsequently necessitate a revision to the DCO if commercial telecommunications use was authorised by a separate authorisation. The Applicant goes on to suggest, in para 5.40, that the defined term of the cables is adequate to confirm what the DCO is authorising.

3.2 The reason for this resistance by the Applicant is clear and belies the point made above that the commercial FOC ‘tail’, and its considerable financial benefit to the Applicant, is 'wagging' the seemingly less economic case to the Applicant of the interconnector alone. This raises once again the concerns highlighted during the examination about the Applicant’s financial position, its viability and whether adequate evidence had been provided in accordance with the CA guidance to support the justification for CA.

3.3 The Applicant it seems wishes to lay additional FOC cables anyway, or at least continue to use cables with significantly more fibres than they agree to be necessary for the interconnector's purposes. In the event that an amended DCO is made so that, despite a DCO granted excluding the commercial FOC, the Applicant could subsequently use them for commercial purposes in any event without the need for further separate authorisations for their use under

the Planning Act 2008 or the Town and Country Planning Act 1990 as the cables would already be in existence.

3.4 Logically, if it is the Secretary of State's intention to make a DCO that excludes commercial FOC infrastructure and use, it would be perverse and insubordinate for the Applicant to subsequently suggest that the cables installed purely for "the purpose of control, monitoring and protection of the HVDC cable circuits and the converter station" will also be capable of commercial use in the future, nor can it be the suggestion that other cables will be installed. The Applicant is therefore being clear in this response about its intentions, which are that, irrespective of any DCO which excludes the commercial FOC from the DCO the Applicant intends to install additional FOC fibres in any case which are not related to the interconnector. In its refusal to agree a further requirement as suggested by both Winchester and Portsmouth City Councils, the Applicant is therefore making it clear that they consider any DCO made, even if made expressly to exclude commercial FOC uses, allows them nevertheless to install and thus exploit additional fibres purely for their stated intention of leading to a future commercial FOC use. Their rejection of the requirement suggested is therefore a means of avoiding and negating the purpose of the express removal of the commercial FOCs from the proposal, a removal which is necessary to respect the parameters of the Planning Act regime and the Secretary of State's Direction.

4. <u>Matters left unresolved from the Secretary of State's First Questions to the Applicant</u>

4.1 PCC notes that the Applicant has chosen not to comment on the issues raised by PCC in respect of the potential effect of the scheme on PCC’s flood defence scheme. This is despite the serious flaws that were highlighted in relation to the Environmental Statement in para 3.13 of PCC's response of 12 August 2021.

4.2 Further, PCC would take the opportunity to confirm to the Secretary of State that the Applicant has not offered any indication of furthering discussions with the organisers of the Victorious Festival now that this year's festival has concluded.

5. <u>Foreign Consents</u>

4.1 In relation to the Compulsory Acquisition powers sought by the Applicant, in addition to the excessive land-take sought, PCC asks the Secretary of State to note that the justification for any such land-take has diminished since the close of the Examination in a further and important respect.

4.2 During the examination PCC drew specific attention to the implications of the determination of the Commission removing the status of the Interconnector as a Project of Community Interest (PCI) and also a number of decisions from the European Union courts (the CJEU) and the Agency for Co-Operation of

Energy Regulators ("ACER") and its Board of Appeal. PCC is concerned that the Secretary of State has not been updated in respect of these matters since the close of the examination on 8 March 2021

4.3 These decisions all underscore Portsmouth City Council's position that there is clear and unacceptable uncertainty surrounding the necessary approvals for the interconnector on the French side.

4.4 The Secretary of State's specific attention is drawn to the assurances given by the Applicant in its post-hearing note (Library Ref: AS-069, dated 23 February 2021) which PCC can confirm have failed to transpire to date.

4.5 There are two threads of concern - firstly, on 5 March 2021, 3 days before the close of the Examination, it was confirmed that the Applicant's attempt to annul or overturn the latest PCI list which had removed it from its number had failed. The General Court stated in clear terms that Aquind's arguments in that regard were "*manifestly inadmissible*". It was clearly incumbent on the Applicant to draw this to the ExA's attention which they failed to do, whether during or after the Examination, as a material matter scrutinised during the hearings, and in point of fact as a public decision. To that end however it puts a different perspective on the position of the Applicant that the PCI status was only a 'nice to have' and was not important to it but also it is now very clear that the Aquind Interconnector, compared with other British related interconnectors, is not considered a PCI.

4.6 The second matter of concern is Aquind's exemption request which was "re-launched" by ACER's Board of Appeal, but it has now been held that this is an impossible request due to ACER's lack of competence as of 4 June 2021. As set out below the relevant litigation chronologies are as follows:

Fig 4.6.1 - 'Project of Common Interest' list

Date	Case/ Decision Ref	Decision-maker	Details
22 April 2020	T-885/19 R[1]- Interim relief application	General Court	Aquind sought interim relief to annul the new, 2020 Projects of Common Interest list in so far as it excludes them, or else to annul the whole PCI list. Application dismissed for lack of urgency; the PCI list stands.
5 March 2021	T-885/19[2] - Action for annulment	General Court	This was the main application to annul the PCI list permanently in as far as it removed Aquind, or in the alternative the entire PCI list. Action dismissed for being manifestly inadmissible.

[1] https://curia.europa.eu/juris/document/document.jsf?text=&docid=225501&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=5379531
[2] https://curia.europa.eu/juris/document/document.jsf?text=&docid=238966&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=5379531

			France, Germany and Spain intervened to argue against Aquind.
App' made 17 May 2021	Case C-310/21 P	Pending CJEU decision	Appealing Order of the General Court in T-885/19. The Application[3] is the only available document as of 30 September 2021.

Fig 4.6.2 - Exemption Request

Date	**Case/ Decision Ref**	**Decision -maker**	**Details**
18 November 2020	T-735/18[4]	General Court	Board of Appeal decision A-001-2018 of 17 October 2018 annulled because 1) BoA had not brought sufficient scrutiny upon the original ACER decision, and 2) an error of legal interpretation in relation to the possibility of Aquind's eligibility for cross-border cost allocation.
4 June 2021	A-001-2018_R [5]	ACER's Board of Appeal	Board of Appeal 'relaunched' (note the 'R' suffix) its decision in light of the T-735/18 judgment. Board of Appeal decided that it now lacked competence in Aquind's application - the Electricity Regulations govern relationships between Members States, which now excludes the UK. Further, the Withdrawal Agreement and the Trade and Co-Operation Agreement make no provision for ACER (and by extension its Board of Appeal) to be involved in what is a developing regulatory landscape needing negotiation between the EU and UK.
16 July 2021 (interim application) ; Main decision pending	C-46/21 P-R -	CJEU	ACER made the main application on 27 January 2021 to suspend the General Court's decision T-735/18 in Aquind's favour, which annulled the original Board of Appeal Decision A-001-2018 of 17 October 2018 against Aquind On 26 April 2021, ACER made an Application for interim relief[6] to suspend the General Court's decision T-735/18, being the judgment that annulled the original Board of Appeal Decision A-001-2018 of 17 October 2018.

[3] https://curia.europa.eu/juris/document/document.jsf?text=&docid=244553&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=3569515
[4] https://curia.europa.eu/juris/document/document.jsf?text=&docid=233873&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=3505529
[5] https://extranet.acer.europa.eu/en/The_agency/Organisation/Board_of_Appeal/Decisions/A-001-2018_R%20-%20Aquind%20Ltd%20v%20ACER%20-%20Decision%20-%204%20June%202021%20-%20Notification%204.06.2021.pdf
[6] https://curia.europa.eu/juris/document/document.jsf?text=&docid=244527&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=3496105

			The BoA issued its 'relaunched' decision on 4 June 2021, holding that it now lacked competence to entertain an application for an exemption request. Consequently the application for interim relief was refused on 16 July 2021. The main appeal application[7] by ACER on 27 January 2021 to set aside T-735/18 is yet to be determined as of 30 September 2021.
11 August 2021	T-492/21[8]	General Court	An application, *Aquind and Others v ACER*, Case T-492/21, was made on 11 August 2021. The detail of the application was placed on the Curia website in September 2021 showing that Aquind is seeking to annul the Board of Appeal decision of 4 June 2021 via two pleas in law: Firstly that the BoA should have held itself competent and failed to comply with judgment T-735/18; and, secondly that the BoA did not follow its own procedures. No further information available as of 30 September 2021.

4.7 It is clearly important that the Secretary of State is aware of these judgments and decisions, which clearly place Aquind and its progress on the continent in a very negative and weak position. The relevance and importance of these decisions is obvious in respect of the Secretary of State's decision. In PCC's view they show that there are clear questions over the likelihood of the Aquind Interconnector receiving the requisite consents in Europe and in turn places not only the whole scheme in question but also its financial position and whether it can be funded. Given the concerted efforts on the Applicant's part on the one hand to make light of the implications of the above but then on the other to challenge and largely fail, the Secretary of State is urged to seek full and accurate information on these matters.

4.8 It is acknowledged that in both threads appeals are outstanding, which only serves to emphasise the importance of the Secretary of State understanding the issue. To ensure the fullest possible assessment, in addition to these European Union matters the Secretary of State will also need to have information as to any developments or progress with French domestic consents. It is some 7 months since the examination closed and as an example it is not known whether the Applicant has overcome the refusal of Environmental Authorisation of 18 January 2021 by the Seine-Maritime local

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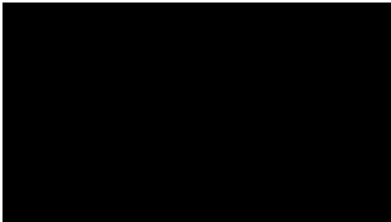
7 https://curia.europa.eu/juris/document/document.jsf?text=&docid=239103&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=3576138
8 https://curia.europa.eu/juris/document/document.jsf?text=&docid=246676&pageIndex=0&doclang=EN&mode=lst&dir=&occ=first&part=1&cid=3406213

authority (see paras 4.1.1 and 4.22 onwards of Library Ref AS-069, 23 February 2021).

4.9 The ‘foreign consents’ and the Applicant’s progress, or otherwise, are evidently important and relevant matters to the Secretary of State’s decision to grant the DCO and indeed are part of the relevant matters to take into account to justify the Compulsory Acquisition powers .

We trust that the above will assist you in your considerations. Should you require any additional information or clarification, please do not hesitate to contact me.

Yours sincerely,



Ian Maguire
Assistant Director Planning & Economic Growth