

From: [Janet Dennis](#)
To: [Aquind Interconnector](#)
Subject: Response to submissions
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Response to submissions

FAO Rt Hon Grant Shapps, Secretary of State for Energy Security and Net Zero

With regard to the response from Portsmouth City Council to the request for information from the Secretary of State of 3rd March 2023.

I am writing in support of PCC's submission.

1.1

In addition to providing background information and reminding the SofS of "key important contextual matters which the Council considers should aid and form the basis for his reconsideration of this DCO application", Ian Maguire (PCC Assistant Director Planning & Economic Growth) points to new information and significant changes, which mean that thorough scrutiny and a reappraisal of Aquind's application for a DCO are vital.

Ian Maguire points out that Aquind's submission and the Examining Authority's report are deeply flawed; they are based on inconsistencies, contradictions and misinformation.

He reminds the Secretary of State that our island city is one of the most densely populated cities in the country, surrounded by designated protected habitats and "is particularly sensitive to any development pressures."

1.4

He then addresses some of the potential adverse effects of the proposed DCO as identified by the ExA's report and also those planning harms highlighted by the former SofS, stating that "the Secretary of State's analysis and the conclusions he drew - that due to the combination of adverse impacts from the proposed route through a very densely populated urban area the selected application route resulted in material harm - remain unimpeachable."

1.5.

Other harmful impacts that may have been overlooked ...

In addition, "the Council has consistently identified other harmful impacts, which we consider did not receive sufficient recognition in the ExA's final conclusions and seemingly may have been overlooked by the Secretary of State despite being clearly identified by the ExA."

"We refer in particular to the potential disruption and loss of use of allotments at the Eastney and Milton Piece Allotments in the event of bentonite breakout during subsoil HDD drilling and construction works which was recognised by the ExA but then seemingly dismissed without sufficient reason."

1.6

"It appears to the ExA to be difficult to judge the risk of a breakout accurately and there would therefore be the potential for one or more to occur."

1.7

The ExA then however asserts nevertheless that "remediation measures secured through the Recommended DCO would mean that the level of disruption would be minimal and the effects reversible" despite being unable to assess the level of risk accurately and thereafter describing it as a "small risk and minor inconvenience"

This "runs directly in the face of their earlier conclusions" and the "questionable approach by the ExA" clearly casts doubt on the ExA's report.

1.11

The fibre optic cables (FOC)

Aquind's position that certain spare capacity with the fibre optic cables (FOC), which would be laid within the cables in order to monitor the interconnector DCO scheme, "could be lawfully used for a separate commercial telecommunications purpose unrelated to the principle DCO development", and that this use would qualify as "associated development", has a bearing on the size of the Optical Regeneration Station (ORS) they propose to build on PCC land.

We understand that Aquind have said they have dropped their plans for the commercial telecommunications system. But they have not said they will also reduce the size and capacity of the ORS. How can anyone be sure they will not reintroduce the data cable at a later stage?

1.20

"it appears clear to PCC that the DCO needs to be amended to remove the FOC commercial telecommunications element.

This again also clearly raises the issue of the justification for the compulsory acquisition (CA) of the land said to be required for the ORS given as above two thirds of the size of the ORS relates to the FOC use which must be excluded."

Surely action should be taken to ensure that Aquind cannot introduce a new commercial telecommunications system through Portsmouth, the home of the Royal Navy? It was never part of the original application and was added later, claiming it is an 'associated development' when it is not.

Consideration of alternatives - Mannington

I am very pleased that PCC are still insisting the Feasibility Study requested from NGET in December 2014 be included within the relevant studies you have requested. Aquind has resisted sharing this key document and I trust that you will finally bring it to light, nine years later.

I am similarly happy to note PCC are asking whether feasibility assessments dated January 2016 are sufficiently up to date to be a basis for decision in 2023. Also that PCC is concerned that over 7 years later the basis for that feasibility work is likely to have significantly changed.

2.4

"A significant example of such change is that the original criteria for the scheme, which gave important weight to minimising the length of cable and other factors, led to a location near Le Havre for the landfall in France. This matter was principal in the consideration of the facts in the judgment of Lieven J (see paragraph 9 of the judgment dated 24 January 2023)."

"PCC accepts this could be reasonably described as the shortest marine cable route from a landfall in Portsmouth."

Since that feasibility work, however, the preferred French landfall location has relocated 50km further to the east, to Hautot-Sur-Mer outside of Dieppe.

"This new landfall location adds a significant increase in the marine cable length and also raises queries as to whether the appropriate area for search for UK landfall should also be reconsidered and encompass locations to the east of that considered in 2014/16 in order to ensure the cable route is indeed the shortest one."

So JUSTICE LIEVEN'S DECISION to overturn the former SoS's decision to refuse Aquind's DCO WAS PARTIALLY BASED ON MISINFORMATION, a false premise. Surely this must be challenged? Might it even be the basis for a further JR?

3.

North Portsea Island Coastal Defence Scheme (NPICDS)

3.1

This work is now expected to be completed before Aquind works start (IF they start) But if there are unforeseen delays and the NPICDS programme be delayed to 2025 "then the previous conflict risks would still be very much applicable"

3.3

“The remaining risk to the NPICDS from the Aquind project is the direct impact to the completed works” There are strict measures that must be followed “to avoid any impact to the loading of the new sea wall” There are also obligations regarding the maintenance of planting.

4

French Licenses and Consents

A succession of Aquind’s appeals against regulatory refusals are detailed in this section. They were successful in only one of these (ACER’s Board of Appeal) but that was of no use to them in isolation. A few salient points that have made our campaign group see that the Aquind scheme is now a cable to nowhere.

4.7.

“ there have been a number of judgments from the courts of the European Union where the Applicant has repeatedly lost appeals challenging important and relevant regulatory refusals.”

4.8

“ the high level of risk that the French government considers inherent to the AQUIND scheme in comparison with other interconnector projects.“

“finding that AQUIND had overstated its claim to commercial confidentiality in a number of regards and permitting those aspects to be released.

Extracts from this Order indicate that AQUIND is seriously considering alternate landfall points in other EU Member States due to apparent legal and consenting difficulties in France:”

“Indeed, the Secretary of State is asked to note the General Court's statement at para 65 that ‘The reason why the Commission did not include the proposed AQUIND interconnector in the [PCI list] relates to the French Republic's opposition to that project...’ If the considered view of the General Court is that the French Republic opposes the continental half of this scheme, not only as a Member State of the EU but as a matter of domestic policy, this can only be fatal to the Applicant's ambitions. It would be no wonder if the Applicant is considering other EU Member States to host the continental half of the interconnector”

“FATAL TO THE APPLICANT’S AMBITIONS”

4.15

“In light of the foregoing position of the French government set out in EU court records, it would seem preposterous to continue to argue that the French central government has any intention of declaring the project to be in the public interest.”

4.16.

“The Secretary of State in PCC’s submission should also investigate as a matter of urgency whether the continental route of the project is or is not as stated in the application before him.”

“INVESTIGATE AS A MATTER OF URGENCY WHETHER THE CONTINENTAL ROUTE OF THE PROJECT IS OR IS NOT AS STATED IN THE APPLICATION BEFORE HIM”

4.21

“The AQUIND interconnector project has stumbled at virtually every regulatory hurdle set by the EU institutions and the French government.”

4.22

“This clearly affects the rationale for the Applicant’s consideration of alternatives, which it placed before the Examining Authority and the Secretary of State (as well as the Court).”

4.25

“PCC submits that there are now fundamental changes to the circumstances of this project which mean that the application can be shown to be entirely flawed.”

The French continue to say “non” to Aquind, at local and national level.

5

Environmental Information

The SofS has asked for an update on any new environmental information since the former SoS's decision.

PCC points out there are now "two significant projects occurring in proximity to the proposed scheme route."

5.3

"The first is the A 49.9MW solar development which is currently under consideration on land directly overlapping the termination of the Interconnector Project in Winchester/East Hampshire"

"Secondly, the Council would also draw to attention another DCO project, which will intersect with the AQUIND project. Southern Water are currently undertaking the preapplication steps for the Hampshire 'Water Transfer and Water Recycling Project'. Whilst the application is likely not be submitted to the Planning Inspectorate until Q1 2025, Southern Water have been engaging with the public and relevant stakeholders through a number of consultation exercises and it is clear that the two schemes would conflict in north Portsmouth."

The evidence is overwhelming, the former Secretary of State's decision was unimpeachable and Aquind must be stopped.

Thanking you,

Janet Dennis,
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Sent from my iPad