



Secretary of State for Energy Security & Net Zero

1 Victoria Street

London

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United Kingdom

Sent by email only

21 June 2023

Dear Sir

Planning Act 2008 and The Infrastructure Planning (Examination Procedure) Rules 2010

Application by AQUIND Limited for an Order granting Development Consent for the proposed AQUIND Interconnector (“the AQUIND Interconnector project”)

Secretary of State Re-determination of Application:

Comments on Additional Information Submitted in Response to Secretary of State letter dated 3 March 2023: (deadline for comments: 20 June 2023)

Unique Reference: EN020022

This letter is a revision of the Council's original 20 June 2023 submission and recognises that both National Grid Electricity Transmission Plc and National Grid Electricity System Operator Limited have in fact responded to the Secretary of State's letter of 3 March 2023. The contents of this letter have been adjusted to acknowledge the above. It is requested that this letter now supersedes the letter dated 20 June 2023.

In documents dated 28 April 2023, Aquind made multiple submissions in responses to the questions set out in your letter dated 3 March 2023. Aquind have also sought to revise or update a number of other documents. Winchester City Council (The Council) wishes to make the following observations on these submissions. This letter will take the issues in the same order as set out in the Secretary of States letter of 3 March 2023.

Consideration of Alternatives

Response:

The list of factors that Aquind have put forward regarding a potential landfall and connection to Mannington are noted.

It is also noted that the French landfall point is referred to by Aquind in their submission as Hautot-sur-Mer. This confirms the repositioning of the landfall from the location referred to in the Environmental Statement. This is a matter on which Winchester City Council commented in its letter to the Secretary of State dated 28 April 2023.

The Council considers that Aquind themselves recognise the need for the Hautot-sur-Mer issue to be the subject of further analysis and draw support for that view from Aquinds own submissions. In the ES Addendum 3 document, 7.8.3 dated April 2023, the first part of para 3.1.1.7 states: the following:

*“It should also be noted for completeness that for development of the type of the Proposed Development, being a linear marine and onshore scheme which is required to connect into the NETS, **the consideration of the options for the individual elements cannot be taken in isolation from one another. Changing one aspect will have a bearing on the other aspects of the development** (WCC emphasis) and fixing one aspect of the development will likewise mean certain aspects of the development will then need to flow from this.....”*

Whilst this section is referring to changing the UK landfall location to Mannington, the Council considers that the same logic applies to the actual change that has taken place in the choice of the French landfall location. The section of Paragraph 3.1.1.7 set out above supports the need to a further review of the UK landfall location as outlined in the Councils letter of 28 April 2023.

Winchester City Council (WCC) also notes the concerns raised by Aquind relating to the extended marine cable section in the list of negative factors when considering Mannington. The same concern must also apply to what is now a longer section of marine cable stretching from Hautot-sur-Mer to Portsmouth than from Fecamp to Portsmouth, which was the originally designated landfall in France.

WCC notes the joint response from both National Grid Electricity Transmission Plc and National Grid Electricity System Operator Limited to the Secretary of States letter of 3 March 2023. This comment consists of 3 pages of text on blank pages

with no company heading, address, point of contact or date. Whilst the Council does not dispute any of the information presented, it trusts that the 3 pages came with an email that contained some degree of authenticity so that the Secretary of State can have confidence in the information.

In the light of the questions now arising relating to the appropriate choice of the UK landfall point if the French landfall is Hautot sur Mer, the Secretary of State is requested to seek a further comment from both National Grid Electricity Transmission Plc and National Grid Electricity System Operator Limited. This should address the availability, suitability and deliverability of Ninfield or any other sub station on that section of the coastline which offers the shortest distance to Hautot-sur-Mer as a potential UK connection point.

French Licences and Consents

Response:

Winchester City Council notes the applicant's agreement to the introduction of a new Article (52) into the Development Consent Order (DCO) that limits a start on the UK side until certain French approvals are obtained. This is an approach that the Council has proposed and maintained since it first raised the matter in paragraph 4.6.2 of its Local Impact Report at Deadline 1 of the Examination (REP1-183).

Environmental Information

Response:

Winchester City Council notes the submitted information.

As set out in its 28 April 2023 submission, the Council supports the approach to capping HGV movements in the event Aquind and the Solar Farm scheme are both approved and both implemented at the same time.

Update on Need and Compliance with updated or Emerging Policy

Response:

Winchester City Council notes the submitted information.

Other Matters

Response:

WCC notes and welcomes the applicant's decision to withdraw that part of the application that seeks to use the spare capacity within the Fibre Optic Cable link for commercial purposes. The Council has questioned this inclusion from the time of its Local Impact Report (paragraph 4.6.3.2) and never accepted this commercial use as an appropriate part of the DCO submission. The Council made multiple submissions on this point throughout the Examination. Closer consideration of this withdrawn has raised further points which will be outlined below.

Draft DCO (rev 0012)

Response:

The Council notes the additions to R1 and R17 which are in accordance with discussions between the parties and are fully supported.

The introduction of Article 52 (French Environmental Authorisation) is welcomed. Winchester City Council has been promoting this type of constraint since it was first outlined in the WCC Local Impact Report submitted at Deadline 1.

The Council notes and welcomes the new Requirement (R29 Register of Requirements) that obliges Aquind to run a public accessible register for 3 years. This has been discussed with the applicant and the Council supports its inclusion.

Whilst supporting the general principle of removing the commercial use of the Fibre Optic Cable (FoC), the Council is concerned that on closer examination this offer does not stand up to closer scrutiny and the reality is that the commercial use of the FoC remain an implicit part of the scheme.

Whilst Aquind are now saying that the cable will only need to serve the specific needs of the Interconnector, enquiries would appear to indicate that they intend to retain and use the same cable as originally proposed. Furthermore, they reserve the right (if they so choose) to seek to use the inbuilt spare capacity for commercial use at some time in the future. Previous evidence has shown that the cable would have 129 fibres and that the Interconnector use would only be 20% of that capacity. This leaves 80% for commercial use.

Aquind would appear to be adopting a type of FoC system that facilitates its future use for commercial purposes. With the provision of an excess of capacity already built into the cable, this raises the question of the level of control that the respective Local Planning Authorities would have over the introduction of any commercial use. It would be a questionable point of planning law if the commercial use of the cable itself was development under the meaning of the Planning Act.

It has to be questioned if, by virtue of this spare capacity remaining as part of the proposed cable, whether the commercial use of the FoC has genuinely been withdrawn.

It is also noted that the size of the proposed compound as set out in Table WN5 of R5 as part of the latest revision to the DCO (revision 012) shows that the compound size is only marginally reduced. This would appear to leave the ability to increase the size of the building to accommodate any commercial equipment at a later date.

Furthermore, in the Aquind Deadline 1 submission (REP1-127 point (iv)) it was stated that Aquind had obtained the status of a Code Operator under the Communications Act 2003. There is no reference to this status having been surrendered as well. Code Operator Status may infer permitted development rights potentially removing yet further controls over the introduction of any commercial use at a later date.

Other interconnectors must operate a communications link without a commercial element and the Council sees no reason why Aquind should be any different.

Whilst supporting the general principle of removing the commercial use of the Fibre Optic Cable, for the reasons outlined above, the Council remains concerned that on

closer examination this offer does not stand up to closer examination. By retaining the cable capacity as originally intended, the reality is that the commercial use of the FoC remains an implicit part of the scheme. Under those circumstances, the Secretary of State is asked to note and consider all the previous comments made in relation to that element of the scheme.

The Council considers that the Secretary of State should ensure Aquind use a cable sufficient for the needs of the Interconnector alone. If Aquind do retain some desire for a commercial use, then they should “openly” apply for formal planning consent so any approval could piggy back on the installation of the power cables. The Council is open to a pre-application discussion to such an approach.

Additional Matter: Decommissioning Bond

During the Examination, Winchester City Council sought the inclusion of a Requirement that would secure a decommissioning bond from the applicant.

In the ExA report, the matter was covered in the following paragraphs:

11.3.69.

Winchester City Council went on to propose an additional Requirement to secure a decommissioning bond of some £60m in case the owners went into receivership or liquidation and could not fund the decommissioning requirement [REP8-081]. The Applicant [REP9-014] rejected this, noting that comparable DCOs did not contain such provisions.

11.3.70. The ExA heard no compelling evidence in the Examination for a need for a decommissioning bond, nor did it recognise any substantive difference between this Proposed Development and other similar projects where no such bond had been required in the made Order. The ExA is thus satisfied with the Applicant’s approach to decommissioning and the drafting of Requirement 24.

The Council was disappointed that the ExA did not consider this issue in more depth. Consequently, the Council is now asking the Secretary of State to reconsider the merits of a decommissioning bond in view of the specific circumstances relating to this site, the nature of the applicant company and the time that has now elapsed without any improvement in the applicants position.

The points noted in the Councils submission at REP8-081 remain fully valid today. The following is an extract from that submission:

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. 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

Today, two years on from the Examination, the applicant is still not a trading company, it still holds limited funds and has no experience of power generation or transmission. The outline of the options that the applicant will have to follow to implement any approval remain as outlined above. The risk of a focus on shareholder return remains, with no obvious route for the applicant to build up a financial reserve.

Consideration of the proposed solar farm development on the land southwest and north of the existing Lovedean sub station has emphasized the sensitivity of the ground water in this area, which is considered to be a regionally significance resource. Not only does it serve as the Portsmouth drinking water supply but it is also anticipated to form part of the supply to the Havant Thickets reservoir. In the event of the Converter Station operating company folding, the resultant building if not decommissioned, would have an impact on landscape and also create a potential pollution risk to ground water.

Bonds or guarantees are required in certain circumstances, so the principle does exist. The Council consdiers that the Government's desire to see an expansion in the number of interconnectors is drawing in proposals backed by privately companies with little or no experience in this field, This brings with it the need to look at these schemes afresh and apply safeguards that may not have been thought necessary to impose on schemes proposed by well-established energy companies. Any failure to decommission risks the financial burden falling of the public purse. Whilst no two industries are the same, recent events in the open cast coal mining sector offer a foretaste of what could occur when operators take the benefits of a scheme then cease trading or get into financial difficulties when restoration is required.

The Council invites the applicant to engage in discussion on this issue to reach a positive outcome or to explain how, given its financial circumstances the necessary reserve will be established and the mechanisms that will ensure this occurs.

The Secretary of State is requested to consider the imposition of a bond or the identification of a guarantor at an appropriate stage in the process, to ensure that sufficient resources are in place to guarantee the site is decommission at the end of its life.

Yours faithfully

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