

DIRECTION BY THE SECRETARY OF STATE UNDER SECTION 35 OF THE PLANNING ACT 2008 RELATING TO THE AQUIND INTERCONNECTOR

By letter to the Secretary of State received on 19 June 2018, AQUIND Limited formally requested that the Secretary of State exercise the power vested in him under section 35 of the Planning Act 2008 (“the Act”) to direct that the proposed UK elements of the AQUIND Interconnector (“the proposed Development”), as set out in the Direction request, be treated as development for which development consent under the Act is required.

The Secretary of State is satisfied that:

- The proposed Development is in the field of energy and will be wholly within England, waters adjacent to England out to the seaward limits of the territorial sea and the Renewable Energy Zone when completed;
- The proposed Development does not currently fall within the existing definition of a “nationally significant infrastructure project” and therefore it is appropriate to consider use of the power in section 35 of the Act; and
- AQUIND Limited’s request constitutes a “qualifying request” in accordance with section 35ZA(11) of the Act.

Having considered the details of AQUIND Limited’s proposals as set out in their letter of 19 June 2018, the Secretary of State decided to request further justification for the inclusion of certain requests that are outside of the usual direction process. This information was requested by the Secretary of State on 28 June 2018. A response was received on 3 July 2018, re-starting the statutory deadline of 28 days from the receipt of this further information.

The Secretary of State is of the view that the proposed Development by itself is nationally significant, for the reasons set out in the Annex below.

The Secretary of State has taken the decision within the conditions as required by sections 35A(2), (4) and (5) of the Act, and issues this Direction accordingly under sections 35(1) and 35ZA of the Act. The Secretary of State has decided that the additional requests sought in the letter for the section 35 Direction should not be included in this Direction as the Secretary of State considers that insufficient reasons were given for the Secretary of State to exercise the discretion in section 35ZA(5) in the manner requested.

The Secretary of State has decided to exercise the discretion in section 35ZA(5) to direct that the Overarching National Policy for Energy (EN-1) should apply to the application as it would to a generating station of a similar generating capacity as the capacity of the interconnector. The Secretary of State considers that doing so would assist in ensuring that the application was treated in a manner consistent with that which governs other applications for Nationally Significant Energy Projects considered under the Planning Act 2008.

THE SECRETARY OF STATE DIRECTS that the proposed Development, together with any development associated with it, is to be treated as development for which development consent is required.

The Secretary of State further directs in accordance with sections 35ZA(3)(b) and (5) of the Act that:

- An application for a consent or authorisation mentioned in section 33(1) or (2) of the Act for development identified in, or similar to that described in, the Request to the Secretary of State for Business, Energy and Industrial Strategy for a Direction under Section 35 of the Planning Act 2008 made by AQUIND Limited on 19 June 2018 is to be treated as a proposed application for which development consent is required; and
- That the Overarching National Policy Statement for Energy (EN-1) has effect in relation to an application for development consent under this Direction in a manner equivalent to its application to development consent for the construction and extension of a generating station within section 14(a) of the Act of a similar capacity as the proposed project so far as the impacts described in EN-1 are relevant to the proposed Development.

This Direction is given without prejudice to the Secretary of State's consideration of any application for development consent which is made in relation to the proposed Development.

Signed by

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Gareth Leigh
Head of Energy Infrastructure Planning
For and on behalf of the Secretary of State for Business, Energy and Industrial Strategy

30 July 2018

ANNEX

REASONS FOR THE DECISION TO ISSUE THE DIRECTION

The Secretary of State is of the opinion that the proposed Development, known as the AQUIND Interconnector, is of national significance having taken into account in particular that:

- The two giga-watt capacity of the proposed Development is similar in terms of electrical capacity to a generating station that would qualify to be considered under the Planning Act 2008 process as nationally significant.
- By progressing the proposed Development through the Planning Act 2008 development consent process, it would provide the certainty of a single, unified consenting process and fixed timescales.
- It will reduce the need to apply for separate consents from the Marine Management Organisation and local planning authorities.