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Our ref
5567/18857/30985781
Your ref
EN020022
Date
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By email to: aquind@planninginspectorate.gov.uk

Dear Sirs

**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")**

We are writing to you on behalf of our client AQUIND Limited (the "**Applicant**") further to the submissions made by the Applicant on 18 November 2021 and by Interested Parties ("**IP**") in response to the request for information dated 4 November 2021 from the Secretary of State for Business, Energy & Industrial Strategy (the "**Secretary of State**") whereby the Secretary of State requested further information relating to the AQUIND Interconnector Project (the "**Third Information Request**").

This letter addresses three matters, which are as follows:

1. Update in relation to the legal agreements between the Applicant and National Grid Electricity Transmission Limited ("**NGET**") for the Applicant to acquire the necessary land rights over Plot 1-27 required to facilitate the location of the Converter Station within Option b(ii);
2. Clarification in relation to representations by various IP in respect of the consideration of Ninfield Substation as the grid connection point for the AQUIND Interconnector Project; and
3. Clarification in relation to the representations of Blake Morgan LLP on behalf of Mr Geoffrey and Mr Peter Carpenter regarding the proposed Access Road and flood risk at the Converter Station Area.

Update in relation legal agreements between the Applicant and NGET

Further to the Applicant's confirmation at paragraph 5.2 of the Applicant's response to the Third Information Request that the negotiation of the legal agreements required to facilitate the location

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of the Converter Station within the Option b(ii) location were close to finalisation, we now confirm on behalf of the Applicant that the required agreements with NGET were entered into on 3 December 2021.

With those agreements now having been entered into, we confirm that the Applicant is able to commit to the Converter Station being located in the Option b(ii) location. With that being the case, it is confirmed that the Applicant has no objection to the Secretary of State making an Order which removes the Option b(i) location and provides for the Converter Station to be located in the Option b(ii) location.

In this regard, the Applicant has previously submitted draft versions of the Order which remove Option b(i) and provide for the Converter Station to be located in the Option b(ii) location alongside its response to the Third Information Request on 18 November 2021. It is therefore considered that the Secretary of State has the necessary information and draft documents to make an Order which provides for the Converter Station to be located in the Option b(ii) location, however should any further information be required the Applicant asks that the Secretary of State request this at the earliest possible opportunity.

Clarification in relation to the consideration of Ninfield Substation as a grid connection point for the AQUIND Interconnector Project

Within the submissions of various IP in response to the Third Information Request queries are raised regarding the consideration of Ninfield substation as an alternative grid connection point for the Project, with it being suggested that the suitability of Ninfield substation was not considered during the optioneering process.

To assist the Secretary of State in his decision making on the Application, it is identified that the suitability of Ninfield substation to accommodate a grid connection for the Project is addressed within the Consideration of Alternatives chapter of the ES (APP-117) at paragraph 2.4.2.3 and further at paragraphs 4.1.3.1 – 4.1.3.3 of the Supplementary Alternatives Chapter (REP1-152). In particular, within these paragraphs it is identified that:

1. Initial discussions were held with NGET regarding the 400kV transmission network in southern England and the availability of existing electricity substations which could accommodate the import and export of 1800MW and 2000MW of power; and
2. The region to the east of Bolney substation (which as shown on Plate 3 of the Supplementary Alternatives Chapter includes Ninfield substation) was identified by NGET to be too "congested" to accommodate the proposed 1800MW or 2000MW connection. Accordingly, substations to the east of Bolney were identified as not suitable for the additional connection from a new interconnector as the transmission lines in the local region were not capable of evacuating the power from those substations.

On this basis, substations to the east of Bolney substation, including Ninfield substation, would not have provided a realistic prospect of delivering the same infrastructure capacity (including energy security and climate change benefits) as they were not capable of accommodating 1800MW to 2000MW of power and they were not further considered as a grid connection point for the Project.

Clarification in relation to the representations of Blake Morgan LLP on behalf of Mr Geoffrey and Mr Peter Carpenter regarding flood risk at the Converter Station Area

At paragraphs 14(ii) – (iv) of the response submitted by Blake Morgan LLP on behalf of Mr Geoffrey and Mr Peter Carpenter comments are made in relation to policies within NPS EN-1 and the consideration of flood risk at the Converter Station Area. Set out below is a brief response to the points raised in these paragraphs so as to assist the Secretary of State with his consideration



of these matters, which has been produced with input from the relevant technical specialists at WSP UK Limited.

Within paragraph 14(ii), reference is made to paragraphs 5.5.16 and 5.5.17 of NPS EN-1. In the first instance it is highlighted that both of those paragraphs are taken from section 5.5 of the NPS in relation to coastal change impacts. The Converter Station Area, which the Blake Morgan LLP response relates to, is not a coastal area and those paragraphs are therefore not relevant to the consideration of the acceptability of the Converter Station in relation to flood risk.

Nonetheless, the thrust of the points made are that flood risk matters need to be properly considered and, as necessary, mitigation identified to address any risk of increased flooding.

It is confirmed on behalf of the Applicant that full account has been taken of flood risk through the Application's Flood Risk Assessment ("FRA") (APP-439), FRA Addendum (REP1-157) and Sequential Test and Exception Test Addendum (REP1-158). It is also confirmed that these documents and assessment have been developed by taking account of the potential effects of climate change to inform any proposed and proportionate mitigation measures where appropriate.

It is further confirmed that the FRA, FRA Addendum and Surface Water Drainage and Aquifer Contamination Mitigation Strategy ("SWDACMS") as Appendix 3 to the Design and Access Statement ("DAS") (REP8-012) have been developed and informed through consultation with key stakeholders. This consultation has informed the FRA methodology and associated mitigation measures that are embedded into FRA and the SWDACMS. Where appropriate, consultation has been documented and forms the basis of the Statements of Common Ground's with key stakeholders, including the Environment Agency (REP7-055), Portsmouth Water (REP8-039), Hampshire County Council as Lead Local Flood Authority ("LLFA") (REP8-046) and Portsmouth City Council as LLFA (REP8-044).

With regard to the comments which are made at paragraph 14(iii) of the response submitted by Blake Morgan LLP on behalf of Mr Geoffrey and Mr Peter Carpenter regarding the presence of a watercourse and the location of the proposed Access Road across this, it is noted that Table 12 of the FRA provides a summary of key areas identified at risk of surface water flooding. Plate 9 provides an extract of Figure 20.5 and identifies this area of surface water flood risk to be *"winterbourne/ dry watercourse within the natural local terrain which is likely to be present during winter months when the ground is saturated. Low risk of flooding."*

The findings of the FRA have subsequently been considered and taken forward to inform the DAS which includes the SWDACMS. In relation to this overland flow path/ dry watercourse, paragraph 2.6.1.2 of the SWDACMS states:

"A shallow overland flow route is identified on the Environment Agency Long Term Flood Map for events with a return period of 100-1000 years. The flow route intersects with the proposed access road and as such, culverts or other suitable infrastructure shall be incorporated to allow this flow to continue southwest of the road on its existing course. The detailed design shall ensure that there will be no increase in the existing flood risk to local residences from these works."

The FRA and SWDACMS have been agreed with Hampshire County Council as Lead Local Flood Authority as documented within the Statement of Common Ground (REP8-046). Further, requirement 6 (1) contained at Schedule 2 to the draft DCO (REP9-003) which secures the submission and approval of the detailed design of Works No.2 requires matters relevant to the SWDACMS to be submitted to and approved in writing by the relevant planning authority in consultation with the Environment Agency, Portsmouth Water and the lead local flood authority.



It is further noted that within paragraph 14(iii) it is stated that there is *"no evidence ... that flood mitigation measures relating to the proposed permanent access road across the Carpenter's land have been designed to meet Standard S7 in DEFRA Guidance"*. It is understood by the Applicant that reference to *"Standard S7 in DEFRA Guidance"* refers to S7 of the Sustainable Drainage Systems Non-statutory technical standards for sustainable drainage systems (March 2015) which states: *"The drainage system must be designed so that, unless an area is designated to hold and/or convey water as part of the design, flooding does not occur on any part of the site for a 1 in 30 year rainfall event."*

In this regard, it is confirmed that the measures detailed in the SWDACMS (Appendix 3 to the DAS) are required to be designed in accordance with the Sustainable Drainage Systems Non-statutory technical standards for sustainable drainage systems (March 2015), as is noted in paragraph 2.3.1.1 of the SWDACMS. Furthermore, paragraphs 2.4.1.2 & 2.4.1.3 of the SWDACMS provide that:

"The proposal for surface water discharge from the Converter Station Area shall be in accordance with the first priority above, an infiltration system."

Discharge to the ground is restricted by existing ground infiltration rates, and infiltration rates through the water quality control measure of treatment filter media silty clay loam introduced to protect groundwater in agreement with the Environment Agency, Portsmouth Water and Hampshire County Council, and as such, surface water attenuation is to be provided by SuDS features including infiltration drains, filter drains, infiltration swales, a detention basin, infiltration basin and soakaway. Various SuDS features will independently serve separate parts of the Proposed Development within the Converter Station Area, which are the Converter Station and access road. Attenuation shall be designed and provided to prevent flooding or exceedance flows for events up to and including a 100-year return period plus 40% climate change."

Noting the above, it is clear there is no substance to the statements made by Blake Morgan LLP that *"the Carpenter's land would be flooded by the presence of the impeding permanent access road"* or that *"[t]here would also be a breach of NPS EN-1 in relation to flood risk because the location of the permanent road on an area at high flood risk in itself increases the existing high flood risk even further, rather than mitigate or avoid that flood risk"*.

Paragraph 14(iv) of the response submitted by Blake Morgan LLP on behalf of Mr Geoffrey and Mr Peter Carpenter refers to paragraph 5.7.3 of NPS EN-1, which for ease of reference provides as follows:

"The aims of planning policy on development and flood risk are to ensure that flood risk from all sources of flooding is taken into account at all stages in the planning process to avoid inappropriate development in areas at risk of flooding, and to direct development away from areas at highest risk. Where new energy infrastructure is, exceptionally, necessary in such areas, policy aims to make it safe without increasing flood risk elsewhere and, where possible, by reducing flood risk overall."

Having referenced this paragraph, Blake Morgan LLP then seek to establish that the location of the access road across the identified overland flow path is in breach of this paragraph of NPS EN-1.

In this regard, it is confirmed that in accordance with NPS EN-1 and the NPPF a sequential risk based assessment has been applied to the consideration of flood risk for the Project. Further, and as is identified above, the overland flow path located in the Converter Station Area has been assessed as part of the FRA and mitigation has been provided for as part of the SWDACMS. The Applicant therefore rejects the statements that the development is not in accordance with the



requirements of NPS EN-1, as appropriate mitigation measures are secured to ensure that the existing flow path is maintained with no change to the flood risk profile.

Closing Remarks

We trust the information included within this letter is helpful in assisting the Secretary of State in making his decision on the Application.

It is noted that the Secretary of State is currently consulting on the information submitted by the Applicant in response to the Third Information Request, with responses requested from IP by not later 15 December 2021. Noting this consultation is ongoing, the Applicant politely requests that this letter is published on the AQUIND Interconnector project page of the National Infrastructure Planning website as soon as possible, rather than following the 15 December 2021. This will then allow IP to consider the information contained in this letter in a timely manner and for the purpose of any responses to be submitted to the Secretary of State.

Noting this letter provides information in direct response to the representations of Blake Morgan LLP on behalf of Mr Geoffrey and Mr Peter Carpenter, a copy of this letter has been issued to Blake Morgan LLP at the same time as its submission to planning inspectorate.

A copy of this letter has also been issued to Winchester City Council, noting their previous submissions made in relation to the micro-siting of the Converter Station and the agreements with NGET which this letter provides updates in relation to.

Yours faithfully

[Redacted signature block]

Herbert Smith Freehills LLP

Cc Anita Kasseean of Blake Morgan LLP by e-mail: [Redacted]
Stephen Cornwell of Winchester City Council by e-mail [Redacted]