



Department for Energy Security & Net Zero

Rt Hon Claire Coutinho MP
Secretary of State
Department for Energy Security
& Net Zero
55 Whitehall
London
SW1A 2HP

www.gov.uk

To:
AQUIND Limited
The Ministry of Defence

Our ref: EN020022

CC:
All Interested Parties

16 May 2024

Dear Applicant and the Ministry of Defence,

AQUIND Interconnector

1. The Secretary of State is writing in relation to the ongoing re-determination of the development consent application for the AQUIND Interconnector. A recent update on the Planning Inspectorate's website outlined that the Secretary of State had received correspondence from the Ministry of Defence ("MOD") stating that it wished to raise representations relating to sensitive matters of national security and requesting information on how that material would be handled within the planning process. The Secretary of State has stated that she would provide an update on next steps and is now writing to do so.
2. The Secretary of State notes the provisions of section 95A of the Planning Act 2008 (the "2008 Act") which is concerned with circumstances where:
 - i) an Examining Authority's examination of the application takes the form of a meeting or hearing;
 - ii) the Secretary of State is satisfied that the making of particular oral representations at such a meeting or hearing would be likely to result in the disclosure of information as to defence or national security; and,
 - iii) the public disclosure of that information would be contrary to the national interest.
3. In such circumstances, the Secretary of State may direct that representations of a specified description may be made only to persons of a specified description. Further, the Attorney General has the ability to appoint a representative to represent the interests of an interested party who is prevented from being present when the representations are made.

Proposed Process

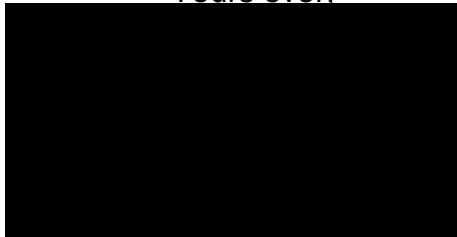
4. Having regard to the principles of that procedure in the context of the circumstances of the application for development consent for AQUIND, i.e. where the examination has already concluded and the application is being re-determined, the Secretary of State proposes the procedure set out below for handling the MOD's representations.

- a. First, the MOD will be required to set out the nature of its concerns and how they relate to the application for development consent. The MOD should do this to the fullest extent it can, in writing, and should note that this should be in a form which can be published on the PINS website. If and to the extent the MOD considers any representations cannot be set out in a form which can be shared with the Applicant because of matters of defence or national security, such representations must be annexed separately in a confidential section. Those confidential submissions will be provided to officials in the Department of Energy Security and Net Zero (“DESNZ”) with the relevant level of security clearance for consideration.
 - b. Second, following receipt of such representations, the Applicant will then be provided with the opportunity to respond in writing to any written representations from the MOD that have been published and shared with the Applicant. In the meantime, officials in DESNZ in receipt of any representations, whether confidential or not, will consider (with legal advice if required) whether the matters raised constitute potentially material planning considerations that may be relevant to determination of the application.
 - c. Third, if and to the extent that any of the confidential representations are considered to raise potentially material planning considerations relevant to the determination of the application and which may affect the determination, the Department will request the Attorney General to appoint a representative for the Applicant. The Applicant’s appointed representative will be invited to attend the Department’s offices at 55 Whitehall to view those representations and to prepare written representations about them on the Applicant’s behalf. The relevant representative will need to have the appropriate security clearance and will be bound by the terms of the appointment to protect the confidentiality of the information (and not to disclose it to the Applicant itself). The intention is that the process will be equivalent to that which would have applied under section 95A of the 2008 Act.
 - d. Fourth, the MOD representative will then be given an opportunity to respond as necessary to such written representations from the Applicant and the Applicant’s appointed representative. The Applicant and the Applicant’s appointed representative may be given a further opportunity to comment, if officials consider that is necessary.
 - e. Fifth, taking account of all representations received (including any which cannot be disclosed in relation to matters of defence and national security and protection of the public interest) as appropriate, the Secretary of State will proceed with determination of the application.
 - f. Sixth, the Secretary of State necessarily reserves the right to vary the process set out above if it is considered necessary to do so in the interests of fairness or the protection of defence or national security.
5. This process is proposed in order to allow the MOD’s representations to be considered in a way that will protect any aspects of them which are inherently confidential in terms of defence or national security and where disclosure of them might be contrary to the national interest, whilst also allowing the Applicant the opportunity to provide representations, as appropriate.

Comments on the Proposed Process and Timings

6. The Secretary of State invites comments from the MOD and the Applicant on the proposed process, as set out above, by 23:59 on 30 May 2024.
7. After the Secretary of State has had an opportunity to consider any views expressed on the steps set out above, the Secretary of State will provide a further update to confirm the process to be followed. The Secretary of State will also provide timings for each stage of the process, and associated information such as cost recovery for the fees and expenses of an appointed representative.

Yours ever,



RT HON CLAIRE COUTINHO MP
Secretary of State for Energy Security & Net Zero