



Department for
Energy Security
& Net Zero

Rt Hon Ed Miliband 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
Your ref: 18857/31049436

CC:
All Interested Parties

12 July 2024

Dear Applicant and the Ministry of Defence

Aquind Interconnector

1. The Secretary of State is writing further to the letter of 16th May 2024 seeking views on a proposed process for handling representations from the Ministry of Defence (“MOD”) that may concern sensitive matters of defence and national security.

Proposed Process

2. The Secretary of State is grateful for the responses received and, having considered them in detail, is now writing to confirm that the process below should be followed.
 - 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 the MOD considers any relevant information cannot be shared with the Applicant because of matters of defence or national security, any such confidential information must be submitted as a separate and confidential annex. Any confidential submissions will be provided to officials in the Department of Energy Security and Net Zero (“DESNZ”) who have the relevant level of security clearance (presumed to be developed vetted) for consideration.
 - b) Second, the Applicant will then have the opportunity to respond in writing to any representations from MOD that have been published and shared with the Applicant. Concurrently, DESNZ officials will consider (with legal advice if required) whether the MOD’s submissions, whether confidential or not, raise matters that constitute potentially material planning considerations that may be relevant to determination of the application for development consent. Officials in DESNZ will also consider whether the tests set out in s.95A(1) of the Planning Act 2008 (“2008 Act”) are met in relation to any confidential material.
 - c) Third, if 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, DESNZ will

request the Attorney General (“AG”) to appoint a representative for the Applicant. The appointed representative will need to have the appropriate security clearance (presumed to be developed vetted) and will be bound by the terms of the appointment to protect the confidentiality of the information (and not disclose the content of any confidential information to the Applicant itself, either directly or indirectly). The MOD may make representations directly to the AG on the matter of the appointed representative’s security clearance if it considers this necessary (and any such representations made should be available for the Applicant’s appointed representative to view following their appointment). The Applicant’s appointed representative will then be invited to attend DESNZ’s offices at 55 Whitehall to view those representations and to prepare written representations about them on the Applicant’s behalf. 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 will then be given a final opportunity to comment. This process would only be repeated if in the Secretary of State’s view the information remains incomplete in a significant way, in which case they may request that further information be provided.
- 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 for development consent. Any parts of the decision letter dealing with relevant but confidential representations from the MOD will be redacted and inserted into a separate confidential annex. The confidential annex will only be shared with the MOD and the Applicant’s appointed representative.
- 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 and in light of any representations received (including, for example, any request by the Applicant’s appointed representative regarding the need for technical or specialist expertise).

Timings and Costs

- 3. The Secretary of State has carefully considered the representations made by the Applicant and the MOD on the matter of costs but does not consider it appropriate to make any decisions on the allocation of costs at this point in time and, in particular, before DESNZ is in receipt of MOD’s additional representations.
- 4. The Secretary of State has also given detailed consideration to the issue of timescales given that he wishes to reach a final decision on the redetermination as soon as possible but without prejudicing procedural fairness or the proper consideration of any relevant confidential information that relates to defence or

national security. The Secretary of State has decided that the best approach will be to set deadlines for each individual step as it arises in light of any material received, rather than attempt to set out a full timetable now without information as to the content of any representations. The Secretary of State intends to set deadlines to ensure that this matter is brought to a conclusion as soon as reasonably practicable. The MOD is asked to make its representations under step (a) above no later than six weeks from the date of this letter i.e. Friday 23rd August 2024.

Yours sincerely,



David Wagstaff OBE
Deputy Director, Energy Infrastructure Planning
On behalf of the Secretary of State for Energy Security & Net Zero