

DIRECTION BY THE SECRETARY OF STATE UNDER SECTION 35 OF THE PLANNING ACT 2008 (AS AMENDED) RELATING TO THE H2 TEESSIDE PROJECT

By letter to the Secretary of State received on 5 December 2022, Dalton Warner Davis LLP (DWD) on behalf of H2 Teesside Limited formally requested (“the direction request”) that the Secretary of State should exercise the power vested in him under section 35(1) of the Planning Act 2008 (as amended) to direct that the H2 Teesside Project as set out in the direction request be treated as development for which development consent under the Planning Act 2008 is required.

The following two elements of the H2 Teesside Project constitute the “proposed Project” for the purposes of this direction:

- A low carbon hydrogen production plant of up to 1,200 MW thermal (lower heating value) capacity to be developed in two phases – each up to 600 MW; and
- Hydrogen distribution pipelines that do not constitute nationally significant infrastructure projects (NSIPs) under the Planning Act 2008. These will supply hydrogen to various off-takers on Teesside and within the surrounding area, such pipelines to be utilised in association with the hydrogen production plant. The hydrogen pipelines will run up to tie-in points with the relevant off-taker (likely to be, but not necessarily having to be) at the off-takers’ site boundaries. Any works beyond this tie-in point will be progressed separately by the relevant off-taker and are not the subject of this direction.

The Secretary of State is satisfied that:

- The proposed Project is in the field of energy and will be wholly within England and waters adjacent to England up to the seaward limits of the territorial sea and the Renewable Energy Zone when completed;
- The proposed Project is of national significance;
- The proposed Project does not currently fall within the existing definition of a “nationally significant infrastructure project” and it is appropriate, therefore, to consider use of the power in section 35(1) of the Planning Act 2008; and
- the direction request constitutes a “qualifying request” in accordance with section 35ZA(11) of the Planning Act 2008.

Having considered the details of the direction request as set out in DWD’s letter on behalf of H2 Teesside Limited of 5 December 2022, the Secretary of State is of the view that the proposed Project is nationally significant for the reasons set out in the Annex below. For the avoidance of doubt, if the hydrogen distribution pipelines do constitute NSIPs, the Secretary of State is satisfied that the hydrogen production plant is still on its own nationally significant.

The Secretary of State considers that, if the details of the proposed Project change, before submitting any application to The Planning Inspectorate, H2 Teesside Limited may wish to seek confirmation from the Secretary of State that the development that is the subject of the proposed application is the same as that for which the Direction is hereby given.

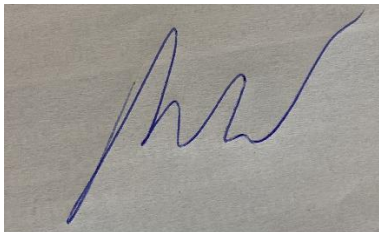
The Secretary of State has taken the decision within the conditions as required by sections 35A of the Planning Act 2008, and issues this Direction accordingly under sections 35(1) and 35ZA of the Planning Act 2008.

THE SECRETARY OF STATE DIRECTS that the proposed Project 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 Planning Act 2008 that an application for a consent or authorisation mentioned in section 33(1) or (2) of the Planning Act 2008 or similar to that described in this Direction for the proposed Project is to be treated as a proposed application for which development consent is required.

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 Project.

Signed by



David Wagstaff
Deputy Director, Energy Infrastructure Planning Delivery
For and on behalf of the Secretary of State for Business, Energy and Industrial Strategy

22 December 2022

ANNEX

REASONS FOR THE DECISION TO ISSUE THE DIRECTION

The Secretary of State is of the opinion that the Direction should be issued because:

- The proposed Project is of national significance, taking into account that it is a large-scale hydrogen production facility with a capacity of up to 1,200 megawatts (MW) thermal.
- The proposed Project will play an important role in enabling an energy system that meets the UK's commitment to reduce carbon emissions and the Government's objectives to create a secure, reliable and affordable energy supply for consumers.
- By progressing the proposed Project through the Planning Act 2008 development consent process, it would provide a fixed timescale for determining any application for development consent that might be brought forward and would allow a single assessment process to be utilised by H2 Teesside Limited.