

## CALDERDALE ENERGY PARK

### REQUEST FOR SECTION 35 DIRECTION SUPPORTING STATEMENT

#### 1. BACKGROUND

- 1.1 This statement is prepared by Calderdale Wind Farm Ltd (Company Registration Number: 13200694) (**CWFL**) as a qualifying request for a direction from the Secretary of State under section 35 of the Planning Act 2008 for the Calderdale Energy Park to be treated as development for which development consent is required.
- 1.2 Calderdale Energy Park is a proposed onshore wind farm and energy storage project in England with a generating capacity of more than 100MW (the “**Proposed Development**”). The Proposed Development is anticipated to generate approximately 300MW of renewable energy.
- 1.3 The Proposed Development will be located in Calderdale, West Yorkshire and within the administrative boundary of Calderdale Council. The proposed site is north of Hebden Bridge, to the southeast is the settlement of Halifax and to the west is the settlement of Burnley (as shown edged red on the accompanying indicative location plan). The proposed site comprises approximately 2,300 ha and is currently used as a grouse moor and farmland.
- 1.4 The proposed site is located in the South Pennine Moors Special Protection Area (SPA), South Pennine Moors Special Area of Conservation (SAC) and South Pennine Moors Site of Special Scientific Interest (SSSI). Extensive ecological and ornithological surveys have been undertaken and are ongoing. CWFL and its consultants are considering the Habitats Regulations Assessment and exploring potential compensatory measures.
- 1.5 In September 2023, CWFL submitted a request for a scoping opinion pursuant to the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (reference 23/06010/EIA). A scoping opinion was issued by Calderdale Council in December 2023.
- 1.6 CWFL confirms that no application for a consent or authorisation mentioned in section 33(1) or (2) of the Planning Act 2008 has been made by it in relation to the Proposed Development to which this request relates.
- 1.7 Section 15 of the Planning Act 2008 currently does not include onshore generating stations that generate electricity from wind as nationally significant infrastructure projects (**NSIP**). Paragraph 3.3.23 of National Policy Statement (**NPS**) EN1: Overarching NPS for Energy (November 2023) states that applications “*for onshore wind of all sizes should be consented outside of the Planning Act 2008 process, unless the Secretary of State directs otherwise under section 35 of the Planning Act 2008*”.
- 1.8 The Government removed the de facto ban on onshore wind in England in July 2024. In December 2024, the Government published its *Response to the Proposed Reforms to the National Planning Policy Framework and Other Changes to the Planning System Consultation* (the “**Response**”).<sup>1</sup> In the Response the Government confirmed its

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<sup>11</sup> <https://www.gov.uk/government/consultations/proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system/outcome/government-response-to-the-proposed-reforms-to-the-national-planning-policy-framework-and-other-changes-to-the-planning-system-consultation>

intention to reintroduce onshore wind generating stations over 100 MW into the NSIP regime in order to “*help deliver the government’s Clean Power Mission*”.

- 1.9 The Government stated in its Response that legislative changes would come forward in Spring 2025 and there would be transitional window until the end of 2025. The Response also stated that the “*transitional window does not preclude requests being made by developers for projects to be potentially directed into the Nationally Significant Infrastructure Project regime under Section 35 of the Planning Act 2008*”.
- 1.10 On 12 March 2025, the Government published the draft Infrastructure Planning (Onshore Wind and Solar Generation) Order 2025. This Order will make amendments to the Planning Act 2008 so that onshore wind in England over 100 MW is a NSIP. It is proposed that this Order will come into force on 31 December 2025.
- 1.11 CWFL has consulted with Calderdale Council in relation to CWEL’s intention to submit this request for a section 35 direction and Calderdale Council have not raised any objections to the use of the section 35 process.

## 2. THE PROPOSED DEVELOPMENT

- 2.1 The design for the Proposed Development is actively underway and non-statutory consultation will be carried out in Q2 2025. A request for a Scoping Opinion pursuant to the Infrastructure Planning (Environmental Impact Assessment) Regulations 2017 is anticipated to be submitted in Q2 2025.
- 2.2 The statutory consultation for the Proposed Development is proposed for Q4 2025. The design for the Proposed Development will evolve and take into account consultation feedback.
- 2.3 The Proposed Development is anticipated to include:
  - 2.3.1 an onshore wind turbine generating station with a gross electrical output capacity of over 100 MW including:
    - (a) wind turbine generators;
    - (b) concrete foundations;
    - (c) transformers; and
    - (d) electrical cabling.
  - 2.3.2 associated development including but not limited to:
    - (a) crane pads;
    - (b) access tracks;
    - (c) accesses;
    - (d) underground cables;
    - (e) battery storage units;
    - (f) substation(s);

- (g) grid connection infrastructure;
- (h) anemometry mast;
- (i) borrow pits;
- (j) services;
- (k) temporary construction and storage compound(s) and ancillary infrastructure;
- (l) temporary construction gatehouse;
- (m) drainage and drainage attenuation measures; and
- (n) landscaping and ecological mitigation and enhancement measures.

### 3. **REQUEST FOR SECTION 35 DIRECTION**

#### 3.1 **Section 35 considerations**

- 3.1.1 Under section 35 of the Planning Act 2008, the Secretary of State may give a direction for development to be treated as development for which development consent is required.
- 3.1.2 The conditions under which such a direction can be made are that:
  - (a) the development must either be, or form part of, a project in the fields specified in section 35(2)(a);
  - (b) the development will be in an area set out in section 35(3); and
  - (c) the Secretary of State considers that the project is of national significance, either by itself or when considered with one or more other projects or proposed projects in the same field.
- 3.1.3 In accordance with section 35 of the Planning Act 2008, the Proposed Development is:
  - (a) a proposed project in the field of energy, as the Proposed Development will generate electricity (s35(2)(a)(i));
  - (b) located in England (s35(2)(b)); and
  - (c) a proposed project of national significance for the reasons set out in this supporting statement (s35(2)(c)).
- 3.1.4 Section 3.2 sets out the reasons why the Proposed Development is of national significance.

#### 3.2 **Justification for the section 35 direction request**

- 3.2.1 Paragraph 3.2.11 of NPS EN1 states that “*where an energy infrastructure project is not covered by sections 15-21 of the Planning Act 2008 but is considered to be nationally significant, there is a power under section 35 of*

*the Planning Act 2008...for the Secretary of State, on request, to give a direction that a development should be treated as a nationally significant infrastructure project for which development consent is required.*

3.2.2 Paragraph 3.2.12 of NPS EN1 states:

*“In these circumstances any application for development consent would need to be considered in accordance with this NPS. In particular:*

- where the application is for electricity generation infrastructure not covered by sections 15-21 of the Planning Act, the Secretary of State should give substantial weight to the need established at paragraphs 3.3.4 to 3.3.7 of this NPS...”*

3.2.3 Paragraphs 3.3.20 and 3.3.21 of NPS EN1 state that:

*“Wind and solar are the lowest cost ways of generating electricity, helping reduce costs and providing a clean and secure source of electricity supply (as they are not reliant on fuel for generation). Our analysis shows that a secure, reliable, affordable, net zero consistent system in 2050 is likely to be composed predominantly of wind and solar.*

*As part of delivering this, UK government announced...the requirement in the Energy White Paper for sustained growth in the capacity of onshore wind and solar in the next decade.”*

3.2.4 Paragraph 4.2.4 of NPS EN-1 establishes that there is a critical national priority (**CNP**) for the provision of nationally significant low carbon infrastructure. Low carbon infrastructure for the purposes of this policy includes all onshore renewable generation which includes the Proposed Development.

3.2.5 In considering whether a project is of national significance, the Secretary of State will consider all relevant matters, including:

- (a) whether a project is likely to have a significant economic impact, or is important for driving growth in the economy;
- (b) whether a project is of a substantial physical size.

3.2.6 The Proposed Development is a complex and high value infrastructure project of a substantial size.

3.2.7 The Proposed Development will enable the generation of approximately 300MW of renewable energy to store and supply to the grid.

3.2.8 The Proposed Development will ultimately drive growth in the economy as it will result in approximately £600-700 million of investment into the UK.

3.3 A section 35 direction will enable CWFL to commence the pre-application stages of the DCO process as soon as possible instead of having to wait until the Infrastructure Planning (Onshore Wind and Solar Generation) Order 2025 comes into force at the end of 2025.

3.4 In the event CWFL is unable to acquire all necessary land or rights by voluntary agreement with landowners (for example, in respect of access or grid connection infrastructure), CWFL is likely to seek to secure compulsory acquisition powers to ensure the deliverability of the Proposed Development.

3.5 Without a section 35 direction, a compulsory purchase order would need to be promoted separately under the Electricity Act 1989 and without the benefit of the timelines prescribed by the Planning Act 2008. This has the potential to lead to additional costs and delays that could otherwise be avoided and to hinder the urgent deployment of renewable energy capacity to the national grid.

#### 4. **UK GOVERNMENT LEGAL OBLIGATIONS AND POLICY**

4.1 The need for the Proposed Development and by extension the consequential justification for the Proposed Development as being of national significant, is clear given the country's prioritisation of low carbon infrastructure established by the NPS and as underpinned by the UK Government's legal obligations and policy commitments.

4.2 The Climate Change Act 2008 introduced a legally binding climate change mitigation target for the UK to reduce its greenhouse gas emissions by 80% by 2050, compared to 1990 levels. This was amended to a legally binding target of 100% by 2050 through The Climate Change Act 2008 (2050 Target Amendment) Order 2019. The Committee on Climate Change's (the CCC) sixth carbon budget (running from 2033-2037), which will require a 78% reduction in emissions by 2035, was introduced in April 2021.

4.3 In *Clean Power 2030 Action Plan: A new era of clean electricity* (December 2024), the Government stated that "*successful delivery will require rapid deployment of new clean energy capacity across the whole of the UK, reflecting the shared renewable ambitions of the UK, Scottish and Welsh Governments. In this plan, we are accepting government's central role in steering the creation of this new energy system, setting our expectations for the 2030 capacities of key technologies at national and regional level. We have high ambition. That means...27-29 GW of onshore wind..., significantly reducing our fossil-fuel dependency*" (page 10).

4.4 The Action Plan goes on to say that "*all routes to a Clean Power system will require mass deployment of offshore wind, onshore wind, and solar*" (page 28).

4.5 Page 56 of the Action Plan states that the Government is "*reintroducing onshore wind into the NSIP regime at a new threshold of 100 MW...This will ensure the planning system is efficient with appropriate routes available that are proportionate to a project's scale, impact and complexity*".

4.6 As a large-scale renewable energy project of proven technology, the Proposed Development will make a substantial contribution to securing the delivery of the Government's renewable energy strategy and achieving the legally binding emissions reduction targets.

#### 5. **CONCLUSION**

5.1 In summary, a section 35 direction is sought for the Proposed Development because it meets the legal tests and is of national significance for the following reasons:

5.1.1 it comprises large scale, complex and high value infrastructure project; and

- 5.1.2 it is CNP infrastructure and will deliver substantial renewable energy, which is urgent and essential to deliver the UK's legally binding decarbonisation targets and to contribute to security of supply.
- 5.2 There are major benefits to consenting the Proposed Development via the DCO regime, where:
  - 5.2.1 the Energy NPSs can be given appropriate consideration and weight in the decision-making process; and
  - 5.2.2 the timetabling certainty will allow CWFL to commence pre-application activities now instead of waiting for the proposed amendments to the Planning Act 2008 to be brought into force.